

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 24, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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The minutes of the council meeting held on May 13, 2013, were unanimously approved.

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0624-01 Minnesota state auditor audit report of the Duluth airport authority for the years ended December 31, 2012 and 2011. -- Received

13-0624-16 Gary Kalligher communication regarding proposed ordinance related to rental licensing (13-041-O). -- Received

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## REPORTS FROM OTHER OFFICERS

13-0624-02 Assessor assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2012, to June 1, 2013, for which the licensed collector has not been reimbursed. -- Received

13-0624-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth Retriever Club on September 1, 2013; (b) St. Margaret Mary Church on September 15, 2013. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0624-04 Duluth parking commission resolutions, pursuant to Section 33-85 of the Duluth City Code:

(a) Prohibiting parking on the south side of Mountain Shadow Drive, enabling everyday parking on the north side (2013-5);

(b) Installing a temporary parking zone for physically disabled persons at 420 North 19-1/2 Avenue West (2013-6);

(c) Increasing the monthly contract parking rates for the Technology Village Ramp (2013-7);

(d) Prohibiting parking on the south side of Water Street between 22nd Avenue East and 23rd Avenue East (2013-8);

(e) Recommending an amendment to Section 33-85 of the Duluth City Code to enable on street parking for up to 48 hours (2013-12). -- Received

13-0624-05 Housing and redevelopment authority of Duluth minutes of April 30, 2013, meeting. -- Received

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At this time, 7:01 p.m., the public hearing on the Minnesota investment fund (MIF) flood recovery grant amendment began. No one appeared who wished to be heard and the public hearing was adjourned at 7:02 p.m.

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Marsh Stenerson expressed his concern about the use of fireworks and that they go off late at night during June and July. He requested the city to enforce existing ordinances about their use.

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Loren Martell commented that in the Duluth School District there are many needs not being met and there is a limited amount of wealth in the district that needs to be guarded very carefully.

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### RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 13-0313, amending Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, amending and adding fees related to animal control, from the table, which motion was seconded and unanimously carried.

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At this time, Councilor Stauber moved to suspend the rules to consider Ordinance 13-040, 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:

BY COUNCILOR STAUBER

13-040 (10234) - AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ANIMAL CONTROL AND LICENSING.

Councilors Julsrud, Krause and Fosle expressed concerns of: the high fees that would be charged at the animal shelter for having a dog picked up for running at large or for not having their dog altered; this plan is not a good approach as an incentive; the fees proposed will not come close to fund facility improvements and the existing shelter will be overflowed with this plan because individuals will not be able to pay the fines and not pick up their animals.

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

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

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Resolution 13-0313 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other charges for 2013 be amended by amending current and adopting new fees related to animal control, pursuant to sections 31-6 and 31-8 of the Duluth City Code, which shall be effective December 1, 2013.

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<b>Clerk</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Pet license - annual compliant		\$10
Pet license - annual altered non-compliant		\$25
Pet license - annual unaltered	\$8	\$75
Pet license - lifetime license - compliant animal		\$60
Pet license - lifetime license - change of ownership		\$5
Pet license - duplicate tag	\$3	\$5
<b>Police</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Animal shelter - impound fee altered but non-compliant		\$75
Animal shelter - impound fee compliant animal	\$41	\$25
Animal shelter - impound fee non-compliant animal		\$350
Animal shelter - nightly board fee		\$15
Animal shelter - microchip program fee		\$25
Animal shelter - quarantine fee - compliant animal	\$170	\$150
Animal shelter - quarantine fee - non-compliant animal		\$500
<b>Public Administration</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Administrative enforcement program - appeal of potentially dangerous or dangerous dog designation		\$250

RESOLVED FURTHER, that the following fees are hereby eliminated:

<b>Eliminated Fees</b>		
<b>Dept./Div.</b>	<b>License, Permit, Fee Name</b>	<b>Current Fee</b>
Clerk	Pet license - altered annual	\$8
Police	Animal shelter - daily board fee	\$35
	Animal shelter - nonresident owner surrender	\$93
	Animal shelter - rabies deposit	\$31
	Animal shelter - resident owner surrender	\$90

Resolution 13-0313 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

Approved June 24, 2013

DON NESS, Mayor

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**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

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

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President Boyle 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. 13-0624-06, which is levied against property to collect delinquent property violation administration penalty citations for the period of March 1, 2012, to March 1, 2013, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 13-0317 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 13-0624-07, which is levied to collect delinquent sewer and water utility fees payable during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 13-0318 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the assessment roll levied for reassessment of a canceled razing (#4949 - Fund 110) at the following location is set forth below:

Plat 2530, Parcel 11420; total assessable: \$2,533.80

The total assessable amount is \$2,533.80 and this assessment roll is hereby confirmed.

Resolution 13-0320 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the assessment roll levied for reassessment of a canceled garbage assessment (#2006310, #2007310 and #2008310) at the following location is set forth below:

Plat 4500, Parcel 00880; total assessable: \$1,396.20

The total assessable amount is \$1,396.20 and this assessment roll is hereby confirmed.

Resolution 13-0321 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Election Systems and Software, LLC, substantially the same as that on file as Public Document No. 13-0624-08 with the office of the city clerk, for the purchase and delivery of optical scan voting system equipment, software and related services, in accordance with the Hennepin County agreement specifications and pricing, for an estimated amount of \$252,941.20 plus \$16,665.77 sales tax, for a combined estimated total of \$269,606.97, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project CE250-E310.

Resolution 13-0344 was unanimously adopted.

Approved June 24, 2013

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:

Hospitality of Duluth, LLC (Aces on First), 113 West First Street for July 12, 2013, (rain date July 13) in conjunction with Downtown Sidewalk Days from 6:00 p.m. to midnight.

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 12, 2013, in conjunction with Downtown Sidewalk Days from 6:00 p.m. to midnight.

Grandma's Sport Bar & Grill, Inc. (Grandma's Sports Garden), 425 Lake Avenue South, for July 25-28, 2013, in conjunction with Tall Ships, with serving ceasing at 1:00 a.m.

Resolution 13-0347 was unanimously adopted.

Approved June 24, 2013

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 off sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals, the payment of sales and property taxes, and further subject to the liquor control commissioner:

Broad Eaves, LLC (Piedmont Liquor), 2818 Piedmont Avenue, Suite C, with Scott Kuiti, 100 percent owner, transferred from Bunsie, Inc. (Spirit Bottle Shoppe), 5801 Grand Avenue.

Resolution 13-0348 was unanimously adopted.

Approved June 24, 2013

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:

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 9-11, 2013, with the serving ceasing at 10:00 p.m. with Clark Coole, manager.

Resolution 13-0349 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants William Michels an interim use permit to operate a vacation dwelling unit located at 1520 Minnesota Avenue and as described by the following:

Lots 71 and 73, Upper Duluth, Minnesota Avenue, and Lot 74, Upper Duluth, Lake Avenue (PID 010-4390-00390); 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

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referred to the city planning commission (PL 13-075); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 11, 2013; and

(f) The city planning commission, at their regular meeting on June 11, 2013, 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 an operational permit has been granted by the Fire Department and a lodging license has been granted by the State of Minnesota; and

(b) 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 of the subject property; and

(c) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(d) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(e) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0336 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund decrease in the federal HOME investment partnerships program, Fund 260, Agency 020, Object 5434, 2013 HUD-funded community development account as set forth below:

2013 HOME Program - Fund 260, Project CD13HM					
Sub-Project	Activity	Project	Amount	New Grant	Difference
GN13	1737	Tenant-based rental assistance administration	\$7,500	\$10,000	\$2,500
GN13	1738	Homeowner rehabilitation housing resource	\$79,619	\$73,244	(\$6,375)
GN13	AD01	Program administration	\$44,450	\$40,582	(\$3,868)
CH13	6915	Hillside Apts-One Roof	\$250,000	\$244,000	(\$6,000)

Resolution 13-0337 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund decrease in the federal HOME investment partnerships program, Fund 262, Agency 020, Object 5434, 2013 HUD-funded community development account as set forth below:

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2013 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD13ES				
Activity	Project	Amount	New Grant	Difference
1244	CHUM emergency shelter	\$31,744	\$28,626	(\$3,118)
2109	MACV - Duluth	\$4,608	\$4,140	(\$468)
2509	Battered women's shelter - Safe Haven	\$19,968	\$18,000	(\$1,968)
2511	Transitional housing - Salvation Army	\$27,136	\$24,648	(\$2,668)
1974	HMIS data collection - Life House	\$7,680	\$6,912	(\$768)
1226	Transitional housing - Center City Housing Corporation	\$31,232	\$28,164	(\$3,068)
1050	Transitional housing and shelter - AICHO	\$10,752	\$9,684	(\$1,068)
6092	HMIS data administration - Wilder Foundation	\$8,000	\$4,000	(\$4,000)
AD-05	Prevention and rapid re-housing assistance	\$64,346	\$20,294	(\$44,052)
AD-04	Program administration - city	\$16,672	\$11,698	(\$4,974)

Resolution 13-0338 was unanimously adopted.  
 Approved June 24, 2013  
 DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund transfers within the 2012 and 2013 CDBG programs thereby decreasing the 2012 HUD-funded community development account by \$225,000 and increasing the 2013 community development account by \$225,000 from accounts as set forth below:

2012 CDBG Program – Fund 262 - Agency 020 - Object 5434 - Project CD12CD

Sub-project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Duluth property rehabilitation program	\$550,659	\$325,659	(\$225,000)

2013 CDBG Program – Fund 262 – Agency 020 – Object 5434 – Project CD13CD

Sub-project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Housing resource connection	\$514,400	\$589,400	\$75,000
HOUS	1091	Weatherization program	\$180,407	\$330,407	\$150,000

Resolution 13-0343 was unanimously adopted.  
 Approved June 24, 2013  
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept an Urban Waters small grant from the U.S. environmental protection agency (EPA), region 5, in the amount of \$60,000, payable into Fund 255 (economic development fund), and to execute

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Assistance Agreement No. UW-00E00119 substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0624-09, in connection therewith.

Resolution 13-0345 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept an additional grant from the state of Minnesota, department of employment and economic development in the amount of \$2,000,000, and to execute an amendment to Grant Agreement No. DRLF-12-0002-V-FY13 (City Contract No. 21824), for the purpose of providing loans to additional businesses impacted by the June 2012 flood, funds to be deposited in Fund No. 235 (Duluth recovery loan program fund).

Resolution 13-0346 was unanimously adopted.

Approved June 24, 2013

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 2012 flood repair project, 45th Avenue East in the amount of \$524,045.80, payable out of disaster recovery fund 225, Department/Agency 125, Object 5403, City Project Number 1250, S.A.P. 118-170-003.

Resolution 13-0315 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Agreement No. 04029, a copy of which is on file with the office of the city clerk as Public Document No. 13-0624-10, with the Minnesota department of transportation to provide compensation to the city of Duluth in the estimated amount of \$3,673.60 for maintenance and road life consumed as part of the T.H. 23 detour, S.P. 6910-82 (T.H. 23 = 185), Federal Project No. STPM 6913 (145).

Resolution 13-0316 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group (DSG), the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meters during fiscal year 2013 for a total of \$64,602 plus \$4,441.39 sales tax, for a combined total amount of \$69,043.39, terms net 30, FOB destination, payable from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object (utility system maintenance supplies) 5227.

Resolution 13-0327 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc. for professional engineering services to provide design engineering for the Tenth Avenue East reconstruction project in the amount of \$134,327, payable from

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Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0753TR.

Resolution 13-0339 was unanimously adopted.

Approved June 24, 2013

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 reconstruction of Vinland Street between Irwin Avenue and Boundary Avenue, City Project No. 1155.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$161,429.02.

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. 13-0624-11, concerning the above referenced grant. Grant monies shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1155, S.P. 118-102-004.

Resolution 13-0340 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, by Resolution of Intent 13-0257, the council requested the administration prepare plans and specifications for the construction of signal and intersection improvements at the intersection of Woodland Avenue and Summit Street.

FURTHER RESOLVED, that said work be constructed and that the estimated total cost of said improvement, as estimated by the city engineer, not exceed \$400,000, with the full amount of these costs assessed to benefitting properties, and payable from Fund 410, Department 038, Object 5530 (special assessment fund, special assessment contracts, improvements other than buildings).

FURTHER RESOLVED, that assessment 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 1.5 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 13-0352 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 1528 East Fourth Street;

in front of 411 North 26th Avenue West.

Resolution 13-0324 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 13-0335, granting an interim use permit for a vacation dwelling unit at 702 North Seventh Avenue East (Charles D. Sill and Linda M. Simmons), was introduced by Councilor Stauber.

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

John Peterson expressed concerns that this neighborhood is already very tight on parking, but that there is space on this property to create off street parking.

Resolution 13-0335 was adopted as follows:

RESOLVED, that:

(a) The city council hereby grants Charles D. Sill and Linda M. Simmons an interim use permit to operate a vacation dwelling unit located at 702 North Seventh Avenue East and as described by the following:

Southerly 45 feet of Lots 1 and 2, Block 10, Norton's Division (PID 010-3490-01450); 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 13-056); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 11, 2013; and

(f) The city planning commission, at their regular meeting on June 11, 2013, 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 an operational permit has been granted by the Fire Department and a lodging license has been granted by the State of Minnesota; and

(b) The applicant shall be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0335 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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Resolution 13-0319, confirming the assessment roll of delinquent stormwater and lights utility fees during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, was introduced by Councilor Hartman for discussion.

Councilor Krause supported the delinquent fee component, but opposed the light utility fee and therefore would oppose the resolution.

Resolution 13-0319 was adopted as follows:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 13-0624-12, which is levied to collect delinquent stormwater and lights utility fees payable during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 13-0319 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved June 24, 2013

DON NESS, Mayor

- - -

Resolution 13-0350, approving job specifications for appointed position of deputy fire chief and specifying contract benefits for same, was introduced by Councilor Gardner.

Councilor Gardner move to return the resolution to the administration as per their request, which motion was seconded and unanimously carried.

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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 11, 2013, 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. 13-0624-13:

### VACATION LEGAL DESCRIPTION:

Beginning at the southeast corner of Block 27, Myers and Whipple's Addition to Duluth; thence easterly on the easterly extension of the southerly line of Block 27 to the southwest corner of Block 26, Myers and Whipple's Addition to Duluth; thence northerly on the west line of Block 26 to the northwest corner of Block 26; thence westerly on the westerly extension of the northerly line of Block 26 to the northeast corner of Block 27; thence southerly along the easterly line of Block 27 to the point of beginning.

### UTILITY EASEMENT LEGAL DESCRIPTION:

Beginning at the southeast corner of Block 27, Myers and Whipple's Addition to Duluth; thence easterly on the easterly extension of the southerly line of Block 27 to the southwest corner of Block 26, Myers and Whipple's Addition to Duluth; thence northerly on

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the west line of Block 26 to the northwest corner of Block 26; thence westerly on the westerly extension of the northerly line of Block 26 for a distance of ten feet; thence southerly on a line parallel to and ten feet westerly of the westerly line of Block 26 for a distance of 105 feet; thence westerly on a line parallel to and 20 feet northerly of the easterly extension of the southerly line of Block 27 for a distance of 56 feet to a point on the east line of Block 27 20 feet northerly of the point of beginning; thence southerly 20 feet along the east line of Block 27 to the point of beginning.

(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. 13-0624-13 showing the platted easement to be vacated.

Resolution 13-0329 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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Resolution 13-0326, by Councilor Krug, regarding prevention of invasive Asian carp entering the Great Lakes, was introduced for discussion.

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

Dave Zenter expressed support for this resolution, noting the biological, economic and recreational damage caused and the need to unify communities around the Great Lakes to communicate the message to federal agencies and Congress.

Resolution 13-0326 was adopted as follows:

BY COUNCILOR KRUG:

WHEREAS, the Great Lakes and St. Lawrence Seaway represent the largest body of surface freshwater in the world and are a vibrant, diverse ecosystem that is critically important to the economic well-being and quality of life of regional citizens; and

WHEREAS, over 180 invasive species have entered the Great Lakes and connecting waterways causing widespread damage and disruption to the natural balance of the ecosystem, as well as significant economic damage; and

WHEREAS, once an invasive species establishes itself in an ecosystem, it is exceedingly difficult, if not impossible, to eradicate, and it often inflicts serious damage on the ecosystem and imposes major costs in efforts to control it; and

WHEREAS, one of the most significant threats presented by invasive species comes from Asian carp, including silver, bighead, and black varieties; and

WHEREAS, invasive carp are threatening to enter the Great Lakes at a number of points across the region including from the Mississippi river system; and

WHEREAS, both Canadian and U.S. citizens across the region have expressed serious concern about the invasive carp, and are demanding prompt action.

THEREFORE, BE IT RESOLVED, that invasive Asian carp in the Mississippi river system pose one of the greatest threats to the economic and ecological integrity of the Great Lakes basin, including Lake Superior, and that preventing Asian carp from entering the basin needs to be approached with a great sense of urgency by all those responsible for addressing this issue.

FURTHER RESOLVED, that the city council hereby urges all involved parties and agencies to identify a preferred solution to prevent invasive Asian carp from entering the Great

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Lakes basin and to move forward to implement that solution with the greatest sense of urgency.

Resolution 13-0326 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of 27th Avenue West between Third Street and 11th Street, City Project No. 1156.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$92,683.30.

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. 13-0624-14, concerning the above referenced grant. Grant monies shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1156, S.P. 118-115-008.

Resolution 13-0341 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

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Resolution 13-0333, awarding a contract to progressive Trail Design, LLC, for the Traverse Trail Phase I - Mission Creek project in the amount of \$240,453; and Resolution 13-0334, awarding a contract to progressive Trail Design, LLC for the Traverse Trail Phase I - Lester Park project in the amount of \$121,409, were introduced by Councilor Larson for discussion.

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

Erik Viken, member of the COGS bicycle group, reviewed how his group works with the parks and recreation staff on trail improvements and issues. He also noted support for this firm's qualifications and the scope of what the resolutions will create.

Councilors Fosle and Krause expressed concerns that: some of the funding for this could be used on parks for youth and maintenance of community centers; the western part of the city has had many community centers closed and there will be maintenance costs down the road with creating these trails.

Chief Administrative Officer David Montgomery commented on how the desires of the public have changed over the years, noting that some community centers have more use than others.

Resolutions 13-0333 and 13-0334 were adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Progressive Trail Design, LLC for the Traverse Trail Phase I - Mission Creek project in the amount of \$240,453, payable from Parks Fund 205, Department/Agency 130 (community

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resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project No. cm205-travrs, Bid No. 13-10DS, Requisition No. 13-0400, City Project No. 1224.

Resolution 13-0333 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Progressive Trail Design, LLC for the Traverse Trail Phase I - Lester Park project in the amount of \$121,409, payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project No. cm205-travrs, Bid No. 13-09DS, Requisition No. 13-0399, City Project No. 1223.

Resolution 13-0334 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause - 2

Approved June 24, 2013

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-044 - AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN EXHAUST FAN TO PROJECT THREE FEET ONTO THE SOUTH SECOND AVENUE EAST RIGHT-OF-WAY.

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INTRODUCED BY COUNCILOR STAUBER

13-045 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO PARK AND OPEN SPACE (P-1), THE WHEELER ATHLETIC COMPLEX LOCATED AT 3501 GRAND, AND THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) TO PARK AND OPEN SPACE (P-1) THE WADE SPORTS COMPLEX LOCATED AT 101 NORTH 35TH AVENUE WEST (CITY OF DULUTH PLANNING DIVISION).

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INTRODUCED BY COUNCILOR JULSRUD

13-043 - AN ORDINANCE REPEALING SECTION 48-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PLUMBING CONNECTIONS MADE BY AUTHORIZED PERSONS.

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

Jeff Daveau, a master plumber, opposed the ordinance for reasons of safety to individuals and property.

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The following ordinance was read for the second time:

BY COUNCILOR FOSLE

13-041 - AN ORDINANCE AMENDING SECTION 29A-27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING RENTAL LICENSING.

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

Dick Florey, Barb Monte and John Peterson opposed the ordinance for reasons of: expanding this just adds another level of confusion; this would be difficult to enforce; note the individual that wants this changed; there would be a whole range of ramifications from this; this would open the door to problems and questioned how a primary residence could be registered.

The ordinance failed upon the following vote (Public Document No. 13-0624-15):

Yeas: Councilors Fosle and Krause -- 2

Nays: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

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

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10234**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ANIMAL CONTROL AND LICENSING.

The city of Duluth does ordain:

Section 1. That Section 6-1 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Altered. That an animal has been surgically sterilized by a veterinarian and/or that the owner is able to provide documentation that a veterinarian has examined the animal and determined that it has been spayed or neutered;

(b) Animal. Includes all mammals, reptiles and fowl kept, harbored, controlled or owned by a person or persons residing in Duluth or business or licensee doing business in Duluth;

(c) Animal control authority. The Duluth animal control officer or designee;

(d) Animal control officer. Any officer employed by the city either part-time or full-time, temporary or permanent, which is responsible for animal control enforcement within the city;

(e) Cat. Includes any male or female domesticated feline animal;

(f) Compliant. The animal is currently vaccinated against rabies and altered;

(g) Dog. Includes any male or female animal of the dog kind;

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(h) Noncompliant. That an animal does not meet any or all of the following requirements: vaccinated against rabies, altered and/or licensed;

(i) Owner. The license holder or any other person or persons, partnership, including limited partnership, nonprofit corporation, firm, association or corporation owning, keeping or harboring an animal. Any person keeping or harboring an animal for five consecutive days shall, for the purposes of this Chapter, be deemed to be an owner thereof;

(j) Unaltered. Any animal for which the owner is unable to provide documentation that the animal has been altered.

Section 2. That Section 6-2 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 3. That Section 6-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-3. Impoundment--authorized; redemption fee of certain dogs.

(a) Police officers and animal control officers shall have the authority to seize, take up and impound all animals:

(1) Which may be found running at large contrary to the provisions of this Chapter. It shall also be the duty of the animal control officers to see that animals required to be licensed are in fact so licensed;

(2) Which are found to be in an environment or subject to conditions which would, to a reasonable person, evidence that the animal's health, safety or well-being is endangered due to adverse weather conditions or in other circumstances set forth in Article VI of this Chapter;

(3) Which constitute a nuisance under this Chapter;

(4) Which are found to be in circumstances, such as the animal exhibiting fresh wounds, scarring, or is observed in a fight, or other indications which, to a reasonable person, evidence that animal has been or will be used, trained or encouraged to fight with another animal, or the owner of such animal has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal;

(b) Any person may seize, impound or restrain any animal which is found running at large in the city of Duluth and hold such animal for the animal control officer or deliver such animal to the city animal shelter;

(c) The animal control officer shall cause to be held such animals until they are claimed by their owners or until disposed of in accordance with Section 6-4 of this Article. All unclaimed animals shall be held for not less than five business days before being disposed of by the animal control authority. However, if it is the opinion of a licensed veterinarian that a critically injured or diseased animal will unnecessarily suffer, such animal may be humanely euthanized prior to the five day holding period even though attempts to locate or notify the owner have been unsuccessful. The owner shall be responsible for the cost of euthanization and/or the reasonable costs of the care and treatment;

(d) Any animal impounded under the provisions of this Article shall be released only upon the payment of the expenses of taking and keeping the animal. If the animal is unlicensed, in addition to the impounding and boarding fee, the animal shall not be released without payment of the prescribed license fee. Impound fees for compliant and licensed animals shall be lower than fees

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for noncompliant animals. The city council shall set the amount of impound and boarding fees by resolution;

(e) The animal control officer shall provide necessary and humane care for all animals impounded and the expenses thereof shall be paid by the owner or the person claiming the same.

Section 4. That Section 6-12 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-12. License fees.

(a) Any person owning or possessing a dog or cat shall pay an annual or lifetime license fee for each such dog or cat. The city council shall, by resolution, set such license fees;

(b) License fees for new residents owning or harboring a dog or cat are due and payable when such owner begins residency in Duluth;

(c) No license shall be required for dogs or cats brought into the city for the purpose of participating in any shows;

(d) Any properly identified service dog which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities and qualifies as a service animal under the Americans with Disabilities Act, 28 C.F.R. §36.104, or successor, or in accordance with the Fair Housing Act, 49 U.S.C. §3601 et. seq, or successor, or the Rehabilitation Act of 1973, 29 U.S.C. §794, or successor, shall be issued a dog license at no charge;

(e) License fees for altered dogs and cats shall be, at most, half the amount of the fee for unaltered dogs and cats;

(f) All proceeds from the license fees set forth in this Section, minus any city administrative costs, shall be placed into a fund from which all expenditures are directed specifically to the operation of the city animal control program. This fund shall supplement animal control operations.

Section 5. That Section 6-13 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-13. License applications.

(a) Dog and cat licenses shall be issued on an annual or lifetime basis;

(b) Before the first day of January of each year, it shall be the duty of the city clerk to send to all dog or cat owners who hold a valid annual license a notice that licenses required herein are due on January first following and informing such persons of the penalties for failure to procure such license. Annual licenses shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All dog and cat licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year;

(c) Lifetime licenses shall be in effect during the lifetime of the licensed pet unless revoked pursuant to this Section. In order to obtain a lifetime pet license, a person must provide proof that the animal is compliant. In order to maintain a lifetime pet license an owner must maintain current rabies vaccinations and file proof of such vaccination with the city. A lifetime license may be revoked if proof of vaccination is not provided. In the event of the transfer of ownership of a pet with a lifetime license, the license may remain with the pet subject to a notice of the transfer of ownership being filed with the city

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and payment of an applicable fee. The city council shall, by resolution, set a fee amount to obtain a transfer of ownership;

(d) When application is made for a license on a spayed female, or a neutered male, said application shall require the owner to supply the name, age, breed, sex, color and markings, and present a statement from a qualified veterinarian to the effect that the dog or cat has been altered;

(e) Owners or persons claiming an impounded and unlicensed cat or dog that is kept in the city of Duluth shall complete a license application and purchase a cat or dog license prior to the release of the animal;

(f) When an owner is seeking to license a dog that has been designated as dangerous pursuant to Article IX, or Minnesota statutes section 347.50, or successor statute, the application shall require proof of public liability insurance in the minimum of \$300,000 and proof of microchip identification;

(g) A dog designated as dangerous shall not be eligible to obtain a lifetime license during the time the dog carries such designation. If a dog carries a lifetime license at the time of such designation, the lifetime license shall be revoked and the owner must obtain an annual license pursuant to the requirements of this Section.

Section 6. That this ordinance shall take effect December 1, 2013. (Effective date: December 1, 2013)

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

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 24, 2013  
Approved June 24, 2013  
DON NESS, Mayor

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