

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 12, 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: -- 0

--

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed at length the status of federal and state funding from the flood in 2012.

--

REPORTS FROM OTHER OFFICERS

13-0812-08 Chief finance officer operational comparison statistics for the cities of Bloomington, Rochester, St. Cloud, Minneapolis and St. Paul, pursuant to Resolution 13-0061. -- Received

13-0812-01 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Holy Family Catholic Church on November 3, 2013 (bingo); (b) Lake Superior Zoological Society on September 19, 2013 (raffle); (c) Lincoln Park Business Group on November 21, 2013 (bingo, raffle). -- Received

--

REPORTS OF BOARDS AND COMMISSIONS

13-0812-02 Duluth airport authority minutes of June 19, 2013, meeting. -- Received

13-0812-03 Duluth citizen review board minutes of June 25, 2013, meeting. -- Received

13-0812-04 Duluth economic development authority minutes of May 22, 2013, meeting. - Received

13-0812-05 Duluth parking commission: (a) Minutes of: (1) April 30; (2) May 31; (3) June 21, 2013, meetings; (b) Resolutions, pursuant to Section 33-85 of the Duluth City Code, to: (1) Establish a monthly contract parking option for the Library/Depot Upper Lot (2013-13); (2) Establish a new hourly parking rate structure for the Library/Depot Upper Lot (2013-14); (3) Prohibit parking in front of Bethany Lutheran Church during Sunday church services (2013-15); (4) Establish event parking rates for city-owned parking facilities for July 25, 2013, through July 28, 2013 (2013-16). -- Received

13-0812-06 Duluth Seaway Port authority minutes of: (a) March 21; (b) April 25; (c) May 23, 2013, meetings. -- Received

13-0812-07 Spirit Mountain recreation area authority minutes of June 20, 2013, meeting. -- Received

--

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 2013

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

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals and any specific restrictions:

AAD Temple Building Association (KIA of Duluth Car Show and Time Trials), 350 Garfield Avenue, for September 7 and 8, 2013, with Ryan Kern, manager.

Resolution 13-0385 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Donald Holm Construction, Inc., for repair work on the skywalk tunnel system connecting the Radisson Hotel and Duluth public library in accordance with city-approved specifications and the vendor's low bid of \$73,285, payable from the General Fund 110, Department/Agency 121 (public administration), Division 1222 (facilities management), Object 5399 (skywalk expenses).

Resolution 13-0413 was unanimously adopted.

Approved August 12, 2013

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, and a one day dance 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), Bayfront Park, for September 20-22, 2013, with Ryan Kern, manager.

AAD Temple Building Association (Haunted Hangar on the Hill), 4960 Airport Road, for October 26, 2013, with Ryan Kern, manager.

Resolution 13-0414 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2013, subject to departmental approvals, and the payment of sales and property taxes:

North Pole Bar, Inc. (North Pole Bar), 5606-5610 Raleigh Street, with Barbara Stevens, 100 percent stockholder, transferred from Scott Sutherland, LLC (North Pole Bar), same address.

Resolution 13-0415 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

license for the period ending August 31, 2013, subject to departmental approvals, and the payment of sales and property taxes:

Wayzata Duluth Hospitality Associates, LLC (Radisson Hotel Duluth Harborview), 505 West Superior Street, with Lee Fundanet, 16.67 percent, Pam Snyder, 16.67 percent, PRS Family Trust, 16.66 percent, Bay Ridge Properties, 10 percent and undesignated currently 40 percent, transferred from TB Duluth, LLC (Radisson Hotel Duluth Harborview), same address.

Resolution 13-0416 was unanimously adopted.

Approved August 12, 2013

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 Duluth East Athletic Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 13-0417 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

College of St. Scholastica (Homecoming Tailgate Party), 1200 Kenwood Avenue, for September 28, 2013, with Carrie Emslander, manager.

Resolution 13-0419 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Jennifer Beckey and Steven R. McDonald an interim use permit to operate a vacation dwelling unit located at 2931 Lake Avenue South and as described by the following:

South ten feet of Lot 213 except north five feet of south ten feet of west 37 feet and all of Lot 215, Lower Duluth, Lake Avenue (PID 010-3100-01090); 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 13-076); the commission gave due notice of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

public hearing and considered the application during a public hearing occurring on July 9, 2013; and

(f) The city planning commission, at their regular meeting on July 9, 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 13-0403 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that 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 shown on Public Document No. 13-0812-09, legal description to include portions of lots 342, 340 and 338, Duluth Proper Second Division, St. Louis County, Minnesota, final legal description be determined pursuant to a survey.

Resolution 13-0405 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that 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 Duluth Heights neighborhood shown on Public Document No. 13-0812-10, legally described as Lot 47, Block 179, Duluth Proper Third Division, St. Louis County, Minnesota.

Resolution 13-0406 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- - -

RESOLVED, that:

(a) The city council hereby grants Connie and Lee Hoffman an interim use permit to operate a vacation dwelling unit located at 611 West Skyline Parkway and as described by the following:

Lot 101 except South 17 feet for boulevard, Block 96, Duluth Proper Third Division (PID 010-1350-02900); 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 13-084); the commission gave due notice of public hearing and considered the application during a public hearing occurring on July 9, 2013; and

(f) The city planning commission, at their regular meeting on July 9, 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 after November 1, 2013, if the applicant has not reduced the parking in front of the home to one car width and returned the remainder to grass and other natural materials; 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 13-0409 was unanimously adopted.

Approved August 12, 2013

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. 13-0812-11, with Senior Service America, Inc. (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$232,177 for the period of July 1, 2013, through June 30, 2014. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Resolution 13-0392 was unanimously adopted.
Approved August 12, 2013
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 10, 2013, municipal and school board primary election and the November 5, 2013, municipal and school board general election, as listed in Public Document No. 13-0812-12.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$8 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.55 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 13-0398 was unanimously adopted.
Approved August 12, 2013
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into six contracts with the Natural Resources Conservation Service (69-6322-13-0-05, 69-6322-13-0-06, 69-6322-13-0-08, 69-6322-13-0-09, 69-6322-13-0-11 and 69-6322-13-0-12) for bank stabilization and removal of debris and sediment from public waters in the estimated amount of \$761,920, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5503 (engineering services), City Project No. 1186.

Resolution 13-0397 was unanimously adopted.
Approved August 12, 2013
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year contract with Venture Fuels for the purchase and delivery of up to 56,000 tons of western sub-bituminous coal per year to the Duluth steam plant, located at One Lake Place Drive, for calendar years 2014, 2015 and 2016 in accordance with city-approved specifications and the vendor's bid of \$46.67 per delivered ton at an estimated cost of \$2,613,520 per year, beginning with 2014, terms net 10, FOB destination, payable from Steam Fund 540, Department/Agency 920 (steam department), Organization 1490 (steam production), Object 5387 (coal).

RESOLVED FURTHER, that the total estimated contract value of 168,000 tons for fiscal years 2014, 2015 and 2016 is \$7,840,560, payable from the steam fund.

RESOLVED FURTHER, that the base price is subject to changes in diesel fuel prices, indexed rail prices and other price adjustments as indicated in the vendor's proposal.

Resolution 13-0404 was unanimously adopted.
Approved August 12, 2013
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-1 Excavating, Inc., for the 2012 flood repair project on Bridge 69K15 on Triggs Avenue in the amount of \$202,589.75, 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. 1145, S.A.P. 118-080-045.

Resolution 13-0410 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that two out of four property owners signed a petition to pave Plum Street from Ninth Avenue East to Skywood Lane, with 72 percent of frontage signed.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said contract as estimated by the city engineer is \$29,000, payable from Special Assessment Fund 410, Department 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 1061, with 100 percent of the costs assessable to the benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in ten annual installments at municipal bond index plus 1.50 percent interest.

Resolution 13-0412 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Barr Engineering for professional engineering design services for stream restoration, bank stabilization and debris removal as a result of the June 2012 flooding in the estimated amount of \$198,500, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 13-0421 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Limnotech for professional engineering design services for stream restoration, bank stabilization and debris removal as a result of the June 2012 flooding in the estimated amount of \$207,000, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 13-0422 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council approved a three-year contract with Venture Fuels for the purchase and delivery of coal to the Duluth steam plant with passage of Resolution 10-0495 on September 27, 2010; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

WHEREAS, the city council approved Resolution 13-0040 on January 28, 2013, authorizing an increase of \$250,000 to Contract C21251 to fully cover price adjustments as provided in the contract and increased fuel consumption; and

WHEREAS, the city now finds that it requires a second increase of \$550,000 because (a) the previous resolutions did not include an estimate for coal to be purchased in November and December of 2013, and (b) the overall cost of coal is higher than anticipated.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to implement a second increase of \$550,000 to Contract C21251 with Venture Fuels for the purchase and delivery of coal in November and December of 2013, for a new estimated contract total of \$8,440,640 to be paid from Steam Fund 540, Department/Agency 920 (steam department), Organization 1490 (steam production), Object 5387 (coal).

Resolution 13-0424 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a second amendment to the agreement for services between the city of Duluth and the city of Superior, whereby the city of Superior as fiscal agent of a 2011 child sexual predator program grant from the community oriented policing services (COPS) of the U.S. department of justice, provides reimbursement funding for one officer position with the city of Duluth police department; said second amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0812-13, extending the termination date to January 30, 2014, reimbursement funds to be deposited in Fund Number 215-200-2203-4210-02 (federal pass through city of Superior revenues).

Resolution 13-0396 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from individuals, civic groups, corporations and other groups for the establishment of a police department mounted patrol in the Downtown Duluth area; and that such donations are committed for the establishment of the mounted patrol and shall be deposited in Fund 210-030-3135-4660 (special projects fund, finance mounted patrol, gifts and donations).

Resolution 13-0407 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept grants from the Minnesota board of firefighter training and education in the amount of \$26,600 and \$13,965 (2013) \$13,053.95 and \$13,546.05 (2012) 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 13-0411 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

in front of 2705 West Second Street

Resolution 13-0426 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed in the office of the city clerk as Public Document No. 13-0812-14 between the city of Duluth and Bentleyville Tours of Lights, Inc., a Minnesota nonprofit corporation, providing a permit to Bentleyville Tour of Lights, Inc., the exclusive use of the Bayfront Festival Park for production, promotion and management of the 2013, 2014 and 2015 Bentleyville Tour of Lights, fees to be deposited into the city's Fund 0237, Agency 015, Revenue Source 4623 (Bayfront Festival Park fund, public administration department, rent of land).

Resolution 13-0427 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0399, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2014 debt service tax levy, was introduced by Councilor Hartman.

Councilor Hartman moved to remove the resolution from the agenda and return it the administration for further review, which motion was seconded and unanimously carried.

- - -

Resolution 13-0402, authorizing a contract with Astleford International Trucks for the purchase of three 2014 International Model 7500, 4x2 single axle cab and chassis units for street maintenance in the amount of \$281,256.47, was introduced by Councilor Krause for discussion.

Councilors Fosle and Stauber expressed concerns that: the vehicles being replaced should still last a long time before they need to be replaced and the city has high maintenance costs that they charge back.

Mr. Montgomery and councilors discussed at length the issues of maintenance costs and vehicle replacement timing.

Resolution 13-0402 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with Astleford International Trucks for the purchase of three 2014 International Model 7500, 4x2 single axle cab and chassis units for street maintenance in accordance with Minnesota State Contract 60983, Release T-647(5), specifications and pricing for a total of \$263,583.54, plus \$17,132.93 for vehicle sales tax (6-1/2 percent), plus \$540 for license, registration, and tax exempt plates, for a combined total amount of \$281,256.47, terms net 30, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0402 was adopted upon the following vote:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Nays: Councilors Fosle and Stauber -- 2
Approved August 12, 2013
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, 2013, subject to departmental approvals and the payment of sales and property taxes:

Hacienda Del Sol, Inc. (Hacienda Del Sol), 319 East Superior Street, with Kevin Deutsch, 100 percent stockholder.

Resolution 13-0408 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

Resolution 13-0418, approving the permanent expansion of the on sale intoxicating liquor license of the Flame Nightclub, Inc. (Flame Nightclub), 28 South First Avenue West, was introduced by Councilor Krause for discussion.

President Boyle noted that he discussed with one of the owners the concerns that the police department has raised and the owner stated that he is working with the police department and, if this is not approved at this time, they would reapply later in the year after their new procedures have been reviewed by the police department.

Resolution 13-0418 failed upon the following vote (Public Document No. 13-0812-15):

Yeas: Councilors Gardner and Hartman -- 2

Nays: Councilors Fosle, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 7

- - -

Resolution 13-0425, by Councilor Larson, of support for an assessment of the main Duluth public library facility, was introduced for discussion.

Councilor Fosle expressed his concerns of: the cost for the "needs" assessment; there are many buildings that are much older that need repairs and the library is open, but some community clubs are closed which could be used by the youth.

Councilors and the administration discussed the issue of needs to city buildings at length, use of buildings energy efficiencies and that this is just the first step to assess the condition of this building.

Resolution 13-0425 was adopted as follows:

BY COUNCILOR LARSON:

WHEREAS, the main Duluth public library facility was designed more than 30 years ago, when library services and needs were much different than they are today; and

WHEREAS, the main library was used nearly 275,000 times in 2012; and the public computers, which did not exist when the building opened, were used approximately 64,000 times; and

WHEREAS, concerns have been raised that the facility requires significant improvements in order to meet the needs of the community now and in the future; and

WHEREAS, at its meeting on April 23, 2013, the Duluth public library board recommended hiring a consultant to establish a citizen committee and conduct an assessment of needs and to recommend steps for improving the facility; and

WHEREAS, the library board further recommended utilizing funds from the 2011 capital budget for this purpose; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

WHEREAS, the city council is supportive of this initiative.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests city administration begin the process of hiring a consultant to establish a citizen committee, conduct an assessment of needs and recommend steps for improving the facility per the recommendation of the library board.

Resolution 13-0425 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved August 12, 2013

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-052 - AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-051 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET (NORTHWOOD CHILDREN'S SERVICES).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-047 - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hartman moved to table the ordinance so that the administration could rebid this and the next ordinance, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$875,000 OF THE CITY OF DULUTH TO FINANCE CROSS CITY TRAIL PHASE I UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

Nays: Councilor Fosle -- 1

- - -

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

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 26, 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: -- 0

--

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0826-10 The following communications regarding the proposed regulation of electronic cigarettes (13-059-O and 13-060-O): (a) Yvonne Anderson; (b) Amy Burke; (c) Alex Carlson; (d) David Dallmann. -- Received.

--

REPORTS FROM THE ADMINISTRATION

13-0826-11 Mayor proposed 2014 levy and budget. -- Received

--

REPORTS OF BOARDS AND COMMISSIONS

13-0826-01 Alcohol, gambling and tobacco commission minutes of: (a) June 5; (b) July 3, 2013, meetings. -- Received

13-0826-02 Duluth housing and redevelopment authority minutes of June 25, 2013, meeting. -- Received

13-0826-03 Spirit Mountain recreation area authority minutes of July 18, 2013, meeting. -- Received

--

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeffrey Maas, representing the Duluth Children's Museum, reviewed how they have been granted ten minutes to talk to the astronauts aboard the International Space Station and that it has been a wonderful learning experience for the children to prepare for this event.

--

Linda Ross-Sellner expressed her concern about two purchases of road salt, questioning if there was duplication and why one resolution is a tax-exempt purchase.

Chief Administrative Officer David Montgomery explained that there is no duplication and that one resolution is for the anticipated amount of salt that will be needed yet this year and that the larger purchase is for 2014, with the new state law that allows municipalities to purchase certain items without having to pay Minnesota sales tax on the purchase.

--

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

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

charges for 2013 be amended by adding the following, pursuant to Section 84 of the Duluth City Charter, which shall be effective August 28, 2013.

Public Administration	
License, Permit, Penalty or Other Charge Name	2013 Fee
Franchise failure to comply liability - per day	100.00

Resolution 13-0423 was unanimously adopted.

Approved August 26, 2013

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:

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for August 29, 2013, from 4:00 p.m. to 8:00 p.m.

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for September 1, 2013, from 1:30 p.m. to 3:30 p.m.

Resolution 13-0432 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 84 on sale intoxicating liquor, 85 on sale Sunday intoxicating liquor, seven additional bar, 18 on sale dancing, and 36 2:00 a.m. beverage licenses, for the period beginning September 1, 2013, and ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, as listed on Public Document No. 13-0826-04.

Resolution 13-0433 was unanimously adopted.

Approved August 28, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 14 on sale wine licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-05.

Resolution 13-0434 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of seven on sale club liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-06.

Resolution 13-0435 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 20 off sale intoxicating liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-07.

Resolution 13-0436 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of five brewery malt liquor off sale intoxicating liquor licenses and two brewery malt liquor on sale intoxicating liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-08.

Resolution 13-0437 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with North American Salt Company for the purchase and delivery of 8,900 tons of road salt for year 2014 in accordance with Minnesota State Contract 62343, Release S-803(5) specifications and pricing at \$59.16 per ton for a total amount of \$526,524, terms net 30, FOB destination, 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).

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

Resolution 13-0447 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment of Phil Rolle by Mayor Ness to the housing and redevelopment authority of Duluth for a term expiring on January 1, 2018, replacing Teresa O'Toole, is confirmed.

Resolution 13-0428 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that the appointment by Mayor Ness of Andy McDonald to the Duluth parking commission for a term expiring on March 31, 2016, replacing Debbie Isabell-Nelson who resigned, is confirmed.

Resolution 13-0429 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are authorized to accept \$7,340 in cooperative agreement funding from the U.S. department of housing and urban development under the authority of City Contract No. 20095 in award funds providing for enforcement of federal fair housing laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 13-0826-09, funds to be deposited in Fund 110-110-1104-4209-02 (general, legislative and executive, attorney and human rights).

Resolution 13-0448 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc. for the East Third Street and Bent Creek down drain project in the amount of \$68,891, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1197.

Resolution 13-0441 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc. for the East Fourth Street and Old Howard Mill Road storm down drain repair project in the amount of \$39,828, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1264.

Resolution 13-0442 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC for the 108th Avenue West culvert replacement project in the amount of \$109,405, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1260.

Resolution 13-0443 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Urban Companies, LLC for the 43rd Avenue East creek outlet repair project in the amount

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

of \$70,600, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1198. Resolution 13-0444 was unanimously adopted.

Approved August 26, 2013
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for grants from the Minnesota state transportation fund for reconstruction at various locations, City Project No. 1173.

FURTHER RESOLVED, that the grants have been approved.

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 these grant agreements concerning the above-referenced grants. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Object 5403 (street repair and maintenance), City Project No. 1173, S.P. Nos. 118-167-006 and 118-169-008.

LOCATION	S.P./S.A.P NO.	FLOOD BOND AGREEMENT NO.	AMOUNT
52nd Avenue East	S.P. 118-167-006	3779	\$134,234.58
47th Avenue East	S.P. 118-169-008	3778	\$263,247.76

Resolution 13-0445 was unanimously adopted.
Approved August 26, 2013
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 29, 2013, 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 13-0431 was unanimously adopted.
Approved August 26, 2013
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with L-3 Communications Mobile-Vision, Inc., for the tax-exempt purchase and delivery of ten MVD-FB3DVS Flashback 3 in-car digital video systems for Duluth police emergency vehicles in accordance with Minnesota State Swift Contract 15951, Release I-57(5) specifications and pricing in the amount of \$59,899.50, payable from Capital Equipment Fund 250,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1302.

Resolution 13-0439 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0438, authorizing a contract with North American Salt Company for the purchase of road salt for October through December 2013 in the amount of \$252,909, was introduced by Councilor Krause.

Councilor Krause moved to table the resolution to have the wording reviewed and clarified, which motion was seconded and unanimously carried.

- - -

Resolution 13-0399, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2014 debt service tax levy, was introduced by Councilor Hartman for discussion.

Mr. Montgomery reviewed at length the purpose and intent of this resolution.

Councilors Fosle, Krause and Stauber expressed concerns of: that funding is still owed on long term retirees healthcare; that the city rating by the bonding companies has been lowered over the years; the balance in the community investment trust fund has gone down over the years, being spent on debt rather than actual street improvements as it was intended; paying this bill should have been planned for prior to this; there has been a change in how debt is paid from this fund versus levying for it; that this reduction could adversely affect the city's bond rating and, other than raising the levy, the city has been adding new special fees.

Councilors and the administration discussed at great length the merits of this resolution, other options and the recently council-approved change as to how street improvements are funded to resolve this issue.

Resolution 13-0399 failed upon the following vote (Public Document No. 13-0826-12):

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

Nays: Councilors Fosle, Krause and Stauber -- 3

[Editor's Note: A 7/9ths vote was required for passage of this resolution.]

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

INTRODUCED BY COUNCILOR HARTMAN

13-047 (10238) - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

Councilor Fosle expressed his concerns of: adding more debt; street repair is not being done and now the city is creating bicycle trails.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

13-061 - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND IN CENTRAL HILLSIDE PARK, AMENDING SECTIONS 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-054 - AN ORDINANCE AMENDING SECTION 33-97.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PARKING CAMPER TRAILERS AND RECREATION VEHICLES.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-055 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON OR IN THE DULUTH HEIGHTS NEIGHBORHOOD TO ETHAN C. AND LAURA L. COLE FOR \$1,600.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-056 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N), FOR PROPERTIES LOCATED AT THE NORTHWEST CORNER OF COMMONWEALTH AVENUE AND EAST CARTERETT STREET (SMR ACQUISITIONS COMPANY, LLC).

- - -

INTRODUCED BY PRESIDENT BOYLE

13-057 - AN ORDINANCE AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OR DESIGNEE TO EXECUTE AGREEMENTS WITH ARTISTS FOR THE DISPLAY OF ARTWORK.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-058 - AN ORDINANCE AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE INGESTION OF PROHIBITED SUBSTANCES.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-059 - AN ORDINANCE AMENDING SECTIONS 28-63 AND 28-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE USE OF ELECTRONIC CIGARETTES.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-060 - AN ORDINANCE AMENDED CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF ELECTRONIC CIGARETTES.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Brian Annis expressed concerns about the regulation of electronic cigarettes in that: they are helpful to stop smoking; there are no health risks; use of them in public places would encourage others to switch to them; they do not violate the Minnesota Clean Indoor Air Act; potential tax dollars are not being seen because they are being purchased online and banning the sampling at stores would reduce sales.

Jill Doberstein, American Lung Association, noted that: the state law does not prohibit cities from further regulating this form of smoking; there already are FDA approved smoking cessation techniques and devices; these devices normalize the behavior of smoking to youth; with the many flavors, it will encourage new and traditional smokers to smoke everywhere and anywhere and local businesses have been requesting electronic cigarette users not to use them in their places of business.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-049 - AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING NOTICE OF DEMOLITION ORDERS.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-050 - AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TRANSFERRING JURISDICTION OF LOCAL BUILDING CODE APPEALS TO THE STATE APPEALS BOARD.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-052 (10239) - AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

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

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

Nays: Councilor Krause -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

13-051 (10240) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET(NORTHWOOD CHILDREN'S SERVICES).

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

- - -

The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10238

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH 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. That Ordinance No. 10181 is hereby repealed and replaced as follows:

Section 2. BOND PURPOSE AND AUTHORIZATION.

2.01 The City Council has determined it to be necessary and expedient and in the public interest that the city extend the Lakewalk pursuant to the Lakewalk East Extension Phase V plan (the "Project").

2.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, 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 that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. The city has been awarded grants of state and federal funds for the Project, and it is estimated that such funds, together with the proceeds of bonds issued by the city in an amount not to exceed \$850,000 plus other city funds, will be sufficient to pay the total project costs of \$2,520,328, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

2.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Lakewalk Extension Bonds of the city in an amount not to exceed \$850,000, 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.

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 provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 4. REVENUES AND ACCOUNTS.

4.01 The city has created and maintains the lakewalk construction account in the capital improvement fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with any additional funds which may be available and are appropriated for the Project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

4.02 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 5. TAX LEVY.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

5.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on 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 2013 lakewalk extension bonds 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 and on any other bonds which have been or may be issued and made payable from said account. 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. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis county the fact and 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. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 6. CERTIFICATE OF PROCEEDINGS.

6.01 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.

6.02 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 7. EFFECTIVE DATE.

7.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: September 28, 2013)

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 26, 2013
Approved August 26, 2013
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- - -

ORDINANCE NO. 10239

AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

The city of Duluth does ordain:

Section 1. That Section 1-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 1-7. General penalty; continuing violations.

Whenever in this Code or in any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not to exceed \$1,000, or less if specifically set in accordance with Section 31-8 of this Code.

Every day any violation of this Code or any other ordinance of the city shall continue shall constitute a separate offense.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 28, 2013)

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

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

Nays: Councilor Krause -- 1

Passed August 26, 2013
Approved August 26, 2013
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10240

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET (NORTHWOOD CHILDREN'S SERVICES).

The city of Duluth does ordain:

Section 1. That the 38 acres of the subject property located at 4000 West Ninth Street, and as more particularly described in Exhibit A and by the following:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-2700-00260	010-4590-01150	010-4750-01330
010-2700-00270	010-4590-01160	010-4750-01360
010-2700-00390	010-4590-01220	010-4750-01370
010-2700-00400	010-4590-01390	010-4750-01380
010-2700-00430	010-4590-01440	010-4750-01390
010-2700-00435	010-4590-01450	010-4750-01450
010-4590-00200	010-4590-01460	010-4750-01460
010-4590-00270	010-4590-01470	010-4750-01470
010-4590-00280	010-4590-01530	010-4750-01480
010-4590-00440	010-4590-01540	010-4750-01490
010-4590-00490	010-4590-01850	010-4750-01810
010-4590-00600	010-4590-02190	010-4750-01850
010-4590-00670	010-4590-02230	010-4750-01860
010-4590-00870	010-4590-02420	010-4750-01870
010-4590-00950	010-4590-02480	010-4750-01930
010-4590-01040	010-4590-02530	010-4750-01940
010-4590-01080	010-4590-02540	010-4750-01950
010-4590-01090	010-4590-02550	010-4750-02310
010-4590-01100	010-4590-02560	010-4750-02350
010-4590-01110	010-4590-02580	010-4750-02360
010-4590-01120	010-4590-02590	010-4750-02370
010-4590-01130	010-4590-03140	010-4750-02380
010-4590-01140	010-4590-03290	

be reclassified from RR-1 to MU-I, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

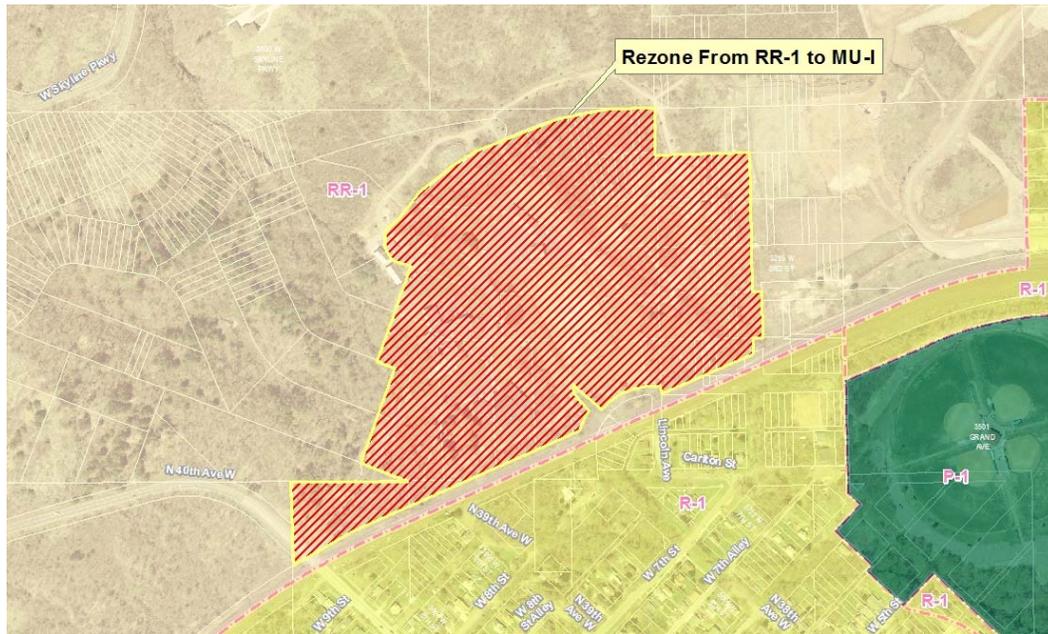


Exhibit A
(Ref. File No. 13-077)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 28, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 26, 2013
Approved August 26, 2013
DON NESS, Mayor

- - -