



CITY
OF
DULUTH
**PROCEEDINGS OF THE
CITY COUNCIL
2012**

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, January 17, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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ELECTION OF OFFICERS

Councilor Boyle nominated Councilor Hartman for the office of president of the Duluth City Council for the year 2012, which motion was seconded and unanimously carried.

President Hartman nominated Councilor Boyle for the office of vice president of the Duluth City Council for the year 2012, which motion was seconded and unanimously carried.

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REPORTS FROM OTHER OFFICERS

12-0117-01 Public works and utilities director report on truck loading zone request at 132 East Superior Street, pursuant to Section 33-87 of the Duluth City Code. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0117-02 Commission on disabilities minutes of December 7, 2011, meeting. -- Received

12-0117-03 Duluth airport authority minutes of October 18, 2011, meeting. -- Received

12-0117-04 Duluth human rights commission minutes of November 9, 2011, meeting. -- Received

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12-0117-07 Duluth public utilities commission resolutions, pursuant to Section 2-187 of the Duluth City Code, establishing rates for:

- (a) Automatic adjustments of sanitary sewer rates to reflect sewer charges imposed by the Western Lake Superior Sanitary District;
- (b) Natural gas second rate tier in the northern expansion area and Fond du Lac;
- (c) Wastewater facilities customer and user changes;
- (d) Water. -- Received

12-0117-05 Duluth transit authority: (a) Minutes of October 26, 2011, meeting; (b) September 2011 income statement. -- Received

12-0117-06 Housing and redevelopment authority of Duluth minutes of November 29, 2011, meeting. -- Received

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At this time, 7:18 p.m., the public hearing on tax abatement bonds (Spirit Mountain recreation area project) was opened.

No one appeared who wished to be heard and the public hearing was closed at 7:19 p.m.

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RESOLUTION TABLED

Councilor Larson moved to remove Resolution 11-0681, authorizing the city to enter into a joint powers agreement with Independent School District 709, Duluth Public Schools, to provide for community education and recreation programs through collaboration and coordination of resources, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 12-0117-08, with the Historic Union Depot, Inc., (Depot), in an amount not to exceed \$151,800, payable from Fund 258, Agency 030, Account 5436-03 (tourism taxes, finance, tourism tax allocation Historic Union Depot).

Resolution 12-0003 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the city acting through the city treasurer, shall make available to the Spirit Mountain recreation area authority (authority) a line of credit up to \$350,000, to be drawn upon as needed, to assist in the management of cash flow within the approved budget, with an interest rate

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of 2.50 percent per annum charged on drawn funds.
Resolution 12-0006 was unanimously adopted.
Approved January 17, 2012
DON NESS, Mayor

- - -

RESOLVED, that Resolution 11-0347 is amended by changing the interest rate charged on drawn funds from 4.00 percent per annum to 2.50 percent per annum effective January 1, 2012.
Resolution 12-0007 was unanimously adopted.
Approved January 17, 2012
DON NESS, Mayor

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RESOLVED, that the assessment roll levied for confirmation to defray the assessable portion of 1008 North 54th Avenue East street construction and eight inch watermain (#7116 – Fund 440) (assessable amount is \$18,000) is hereby confirmed.
Resolution 12-0018 was unanimously adopted.
Approved January 17, 2012
DON NESS, Mayor

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

Section 1. Authorization and recitals.

1.01. The city, pursuant to Minnesota Statutes, Sections 469.1812 to 469.1815, as amended (the “act”), is authorized to grant an abatement of the property taxes imposed by the city on a parcel of property, if certain conditions are met, through the adoption of a resolution specifying the terms of the abatement.

1.02. The city proposes to undertake improvements to public facilities consisting of improvements to the Spirit Mountain Recreation Area, including lift improvements, parking lot improvements and a new chalet on Grand Avenue (the “project”).

1.03. Pursuant to the act, on the date hereof, the council conducted a public hearing on the desirability of granting an abatement of property taxes on certain properties expected to be benefitted by the proposed project, which properties are identified on the list on file in the office of the city clerk as Public Document No. 12-0117-09 (the “properties”). Notice of the public hearing was duly published as required by law in the *Duluth News Tribune*, the official newspaper of the city, on January 5, 2012, which date is no fewer than ten and no more than 30 days prior to the date hereof.

Section 2. Findings. On the basis of the information compiled by the city and elicited at the public hearing referred to in Section 1.03, it is hereby found, determined and declared:

2.01. The project is in the public interest because it will provide or help acquire and construct public facilities.

2.02. The city expects that the benefits of the proposed abatement are not less than the costs of the proposed abatement. The public benefits that the city expects to result from the abatement are the provision of an improved Spirit Mountain Recreation Area for the benefit of residents of the city and to promote tourism within the city.

2.03. The properties are not located in a tax increment financing district.

2.04. The granting of the proposed abatement will not cause the aggregate amount of abatements granted by the city under the act in any year to exceed the greater of (i) ten percent of the city’s net tax capacity for the taxes payable in the year to which the abatement applies, or (ii) \$200,000.

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2.05. It is in the best interests of the city to grant the tax abatement authorized in this resolution.

2.06. Under Section 469.1813, subdivision 9, of the act, it is not necessary for the city to obtain the consent of any owner of any of the Properties to grant an abatement.

Section 3. Granting of tax abatement.

3.01. A property tax abatement (the "abatement") is hereby granted in respect of property taxes levied by the city on the properties for 15 years, commencing with taxes payable in 2013 and concluding with taxes payable in 2027. The abatement will reduce all of the city's portion of the taxes for each of the properties, and the abatement will not exceed \$500,000 per year and a total aggregate amount of \$7,500,000.

3.02. The city shall retain the abatement and apply it to payment of all or a portion of the costs of acquiring or constructing the project or to the payment of bonds of the city issued to finance costs of acquiring or constructing the project.

3.03. The abatement may be modified or terminated any time by the council in accordance with the act.

Resolution 12-0019 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation tax abatement bonds, Series 2012A, in the approximate amount of \$6,975,000 (the "bonds"), pursuant to Minnesota Statutes, Section 469.1814, and Chapter 475, for the purpose providing funds for improvements to the Spirit Mountain Recreation Area, including lift improvements, parking lot improvements and a new chalet on Grand Avenue;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-0117-10. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0020 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of chief gas controller, which were approved by the civil service board on January 3, 2012, and which are filed with the city clerk as Public Document No. 12-0117-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its

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supervisory unit employees and compensated at Pay Range 1080-1090.

Resolution 12-0022 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of gas and energy coordinator, which were approved by the civil service board on July 5, 2011, and which are filed with the city clerk as Public Document No. 12-0117-12, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, and that the pay range will change from Pay Range 32 to Pay Range 33. The proper city officials are authorized to execute and implement for employing one or more unit members consistent with this resolution.

Resolution 12-0023 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that pursuant to Resolution 09-0342 adopted on May 26, 2009, the city council confirms the appointments by Mayor Ness of the following individuals to the Duluth economic development authority:

City Councilor Dan Hartman for a term expiring on January 6, 2014.

City councilors Jay Fosle and Emily Larson for terms expiring on January 4, 2016.

Resolution 12-0032 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officers are hereby authorized to execute a license agreement substantially in the form as filed with the city clerk as Public Document No. 12-0117-13 with the Minnesota Land Trust granting the trust a license for access across city property to radio tower bay for removal of wood pilings and concrete structures located in the bay, at no cost to the city.

Resolution 12-0017 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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

(a) That Resolution 11-0336 was approved by the city contingent upon the dedication of any right-of-way easements for street and sidewalk purposes to provide for vehicular and pedestrian circulation; and

(b) The city has received an easement agreement and easement sketch for the relocation of utilities and to provide for access purposes.

FURTHER RESOLVED, that the city council of the city of Duluth accepts, on behalf of the general public, the dedication for street and highway purposes of those easements described in Public Document No. 12-0117-14.

Resolution 12-0025 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that Contract C20811 with MSA Professional Services, Inc., for design and construction services for the Lakeside interceptor sanitary sewer overflow facility - Basin No. 2 be and hereby is amended for additional construction inspection time due to the extension of contract completion dates, and work associated with Lift Station No. 6 pump replacement, in the amount of \$41,443.54 for a new total of \$697,169.27, payable from Fund 532, Agency 500, Object 5536 (clean water fund, public works and utilities, utility infrastructure replacement), City Project No. 0696SN.

Resolution 12-0009 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that by Resolution of Intent No. 11-0170 the council did request the administration to prepare plans and specifications for the construction of approximately 600 feet of low pressure sanitary sewer in Columbia Street beginning at North Central Avenue and extending westerly.

FURTHER RESOLVED, that by Resolution No. 11-0685 the city entered into an agreement with Kurtis and Yonhui Martin (5612 Columbia Street) and Scott Solem (5618 Columbia Street) for the owners to pay the costs of the work through an agreed-upon assessment.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer is \$30,000, payable from Fund 410, Department 038, Object 5530 (special assessment, contracts, improvements other than buildings), City Project No. 1001SN; and of these costs \$30,000 will be assessed to the benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the bond fund index plus 1.50 percent.

FURTHER RESOLVED, that the city council order in subject project in accordance with the provisions of the City Charter, and that said improvement be hereby ordered.

Resolution 12-0012 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Hawkins, Inc., for the purchase and delivery of 110 tons of hydrofluorosilicic acid in accordance with specifications and the vendor's low bid of \$620 per ton for a total of \$68,200 plus 6.875 percent sales tax of \$4,688.75, for a combined total amount of \$72,888.75, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-03(chemicals hydrofluorosilicic acid).

Resolution 12-0013 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Thunder Bay Chemicals, Ltd., for the purchase and delivery of 125,000 gallons of liquid aluminum sulfate in accordance with specifications and the vendor's low bid of \$1.2829 per gallon for a total of \$160,362.50 plus 6.875 percent sales tax of \$11,024.92, for a combined total amount of \$171,387.42, terms net 30, FOB destination, payable from the Water Fund 510,

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Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-04 (chemicals liquid aluminum sulfate).

Resolution 12-0014 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Hawkins, Inc., for the purchase and delivery of 85,000 gallons of caustic soda in accordance with specifications and the vendor's low bid of \$2.01 per gallon for a total amount of \$170,850 plus 6.875 percent sales tax of \$11,745.94 for a combined total amount of \$182,595.94, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-05 (chemicals - liquid caustic soda).

Resolution 12-0015 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., to provide professional engineering services for the design of the Lakewalk East extension, phases IV and V, from 60th Avenue East to Brighton Beach, payable from Capital Improvement Fund 450, Department/Agency 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0645TR, in the amount of \$185,800.

Resolution 12-0016 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept an emergency management planning grant agreement for Grant No. 2010-EMPG-00644, a copy of which is on file in the office of the city clerk as Public Document No. 12-0117-15, from the Minnesota department of public safety, homeland security and emergency management division, in the amount of \$20,000, said funds to be deposited in Fund 210-030-3164-4210-02 (special projects fund, finance department, homeland security, pass-thru federal grants operating), for the purpose of assisting and supporting the city in maintaining adequate local emergency management programs.

Resolution 12-0028 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2011-FO-06175 from the U.S. department of homeland security, federal emergency management agency, assistance to firefighters grant program, operations and safety grant, a copy of which is on file in the office of the city clerk as Public Document No. 12-0117-16, in the amount of \$184,509, said funds to be deposited in Fund 210-special projects fund, Agency 030-finance, Organization 3174-FEMA grant, Revenue Source 4209-02, for the purpose of purchasing 16 automated external defibrillators (AEDs) and 16 thermal imaging devices, and committing \$46,127 as the city's local share cost of said grant, said sum to be paid from the city's 2012 capital equipment notes.

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Resolution 12-0029 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2011-FO-01291 from the U.S. department of homeland security, federal emergency management agency, assistance to firefighters grant program, operations and safety grant, a copy of which is on file in the office of the city clerk as Public Document No. 12-0117-17, in the amount of \$480,000, said funds to be deposited in Fund 210-030-3169-4209-02 (special projects fund, finance department, FEMA assistance to firefighters, direct federal grants operating), for the purpose of purchasing a new fire truck, and committing \$120,000 as the city's local share cost of said grant, said sum to be paid from the city's 2012 capital equipment notes.

Resolution 12-0030 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 12-0001, authorizing execution of an agreement with Visit Duluth to provide advertising and promotion services to the city of Duluth for the years 2012-2014, was introduced by Councilor Julsrud for discussion.

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

Karen Pionk, chair of Visit Duluth, reviewed that based on the task force report, the board is making changes to their procedures, structure and bylaws and has reviewed their current goals while setting new goals for 2012.

Resolution 12-0001 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Visit Duluth, substantially in the form on file in the office of the city clerk as Public Document No. 12-0117-18, for advertising and promotion services to the city during the years 2012-2014 at a cost to the city not to exceed \$1,600,000 annually, payable from Fund 258, Agency 030, Object 5436-02 (tourism taxes, finance, tourism tax allocation Visit Duluth).

Resolution 12-0001 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0002, authorizing an agreement with Duluth Sister Cities International, Inc., in the amount of \$20,000, was introduced by Councilor Julsrud for discussion.

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

Koresh Lakhani and Irina Haller thanked the council for their support of Sister Cities International, Inc., as these dollars are vital for them to operate and this organization allows for an opportunity for citizens of Duluth to interact with people that are from different cultures.

Councilor Krause reviewed that the history of support for the organization was to wear it from receiving any of the city's money.

Councilor Fosle stated that this money could be used for other tourist attractions in Duluth that receive no money from the city.

Resolution 12-0002 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement,

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substantially in the form on file in the office of the city clerk as Public Document No. 12-0117-19, with Duluth Sister Cities International, Inc., (DSCI) in an amount not to exceed \$20,000, payable from Fund 258, Agency 030, Account 5436-05 (tourism taxes, finance, tourism tax allocation sister cities).

Resolution 12-0002 was adopted upon the following vote:

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

Nays: Councilors Fosle and Krause -- 2

Approved January 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0004, authorizing an agreement with Great Lakes Aquarium in the amount of \$300,000, was introduced by Councilor Julsrud for discussion.

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

Dennis Lamkin and Jack Lavoy stated the aquarium is a great community resource that has made great strides over the past years and is an important part of tourist attraction in Duluth which includes educational programming for the students in grade school.

Councilor Krause reviewed that the council has had previous discussions that the aquarium was to become self sufficient but the amount given to the facility has risen over the past couple of years.

Resolution 12-0004 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 12-0117-20, with the Lake Superior Center, dba Great Lakes Aquarium, in an amount not to exceed \$300,000, payable from Fund 258, Agency 030, Account 5436-08 (tourism taxes, finance, tourism tax allocation Great Lakes Aquarium).

Resolution 12-0004 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved January 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0005, authorizing an agreement with Duluth Public Arts Fund, Inc., in the amount of \$30,000, was introduced by Councilor Julsrud for discussion.

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

Jonathan Lee, president of the Duluth public arts commission, explained the primary purpose of the commission and the arts fund is continuing maintenance and restoration of the sculptures throughout the city that have been commissioned or purchased throughout the history of the commission. He continued explaining that they coordinate with a professional conservator to see that these pieces are suitably maintained.

Resolution 12-0005 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0117-21, with the Duluth Public Arts Fund, Inc., (DPAC), in an amount not to exceed \$30,000, payable from Fund 258, Agency 030, Account 5436-04 (tourism taxes, finance, tourism

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tax allocation Duluth public arts).

Resolution 12-0005 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0008, authorizing city officials to transfer \$129,241.35 from the tourism tax fund balance to the Great Lakes Aquarium to satisfy overdue utility bills, was introduced by Councilor Julsrud for discussion.

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

Jack Lavoy explained that these are legacy bills left over from the previous managing company and they need to pay these bills in order to move forward and apply for grant money to have new plans and exhibits for the aquarium developed.

Resolution 12-0008 was adopted as follows:

RESOLVED, that the proper city officials are authorized to transfer \$129,241.35 from the undesignated fund balance in the tourism tax fund to the Great Lakes Aquarium to satisfy overdue utility bills incurred prior to 2010.

Resolution 12-0008 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved January 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0024, approving budget and cost sharing formula of Minneapolis-Duluth/Superior passenger rail alliance and authorizing payment of city's cost share of \$30,875, was introduced by Councilor Julsrud for discussion.

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

Ken Buehler thanked the council for their past support to return rail passenger service to Duluth as it will produce a large economic impact by connecting Duluth to the seven county metro area.

Councilor Fosle stated there are other entities in Duluth that do not receive any tourism dollars that could use this money.

Councilor Krause stated that one of the challenges of this project is that tourists going further up the North Shore or to the Boundary Water Canoe Area Wilderness would not use the train as they would not have transportation to continue on or be able to carry their equipment on the train. He also voiced concern that federal support for high speed rail would not be available for this project.

Resolution 12-0024 as adopted as follows:

RESOLVED, that the city council hereby approves the 2012 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail alliance, a copy of which is on file in the office of the city clerk as Public Document No. 12-0117-22, as approved for in paragraph V-E. of that certain joint powers agreement on file as City Agreement No. 20580.

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the city's share of sail alliance's 2012 budget in the amount of \$30,875 in conformance with Section VI-A. of City Agreement No. 20580, said sum to be payable from Fund 258-030-5436-09.

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Resolution 12-0024 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Julsrud, Krause and Stauber -- 4

Approved January 17, 2012

DON NESS, Mayor

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Resolution 12-0026, by Councilor Boyle, appointing _____ to the Duluth public utilities commission, replacing Daniel Hartman, was introduced for discussion.

Councilor Boyle moved to amend the resolution by appointing Jennifer Julsrud to the commission, which motion was seconded and unanimously carried.

Resolution 12-0026, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby appoints Jennifer Julsrud (city councilor) to the Duluth public utilities commission for a term expiring on March 31, 2013, replacing Daniel Hartman.

Resolution 12-0026, as amended, was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

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Resolution 12-0021, authorizing agreement with Madden Galanter Hansen, LLP for legal services related to labor negotiations in an amount not to exceed \$45,000, was introduced by Councilor Gardner for discussion.

Councilor Gardner stated the city should not hire outside negotiators as the city has the tools and staff in the attorney's office to negotiate with the unions.

Councilor Stauber stated that there are great local law firms in Duluth that would be able to do this job and it would have kept the city's money local.

Resolution 12-0021 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0117-23, with Madden Galanter Hansen, LLP, to provide legal services related to labor negotiations with city's collective bargaining units in an amount not to exceed \$45,000, which shall be payable from Fund 110-700-1407-5304 (general, transfers and other functions, miscellaneous.)

Resolution 12-0021 was adopted upon the following vote:

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

Nays: Councilors Gardner and Stauber -- 2

Approved January 17, 2012

DON NESS, Mayor

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Resolution 12-0031, setting legislative initiatives for the 2012 legislative session, was introduced by Councilor Gardner for discussion.

Councilor Julsrud moved to amend the resolution by adding the following language:

"(e) Other council priorities:

(1) Support funding from the public facilities authority drinking water revolving fund for projects like the replacement of the West Duluth reservoir drinking water storage facility roof,"

which motion was seconded for discussion.

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Councilor Julsrud stated this would show the citizens that the city is putting the needs in front of the wants when applying for bonding money.

Councilor Stauber stated that the state only has so much money to bond, and the city needs to set its priorities and the resolution needs to show that the roof on the water tank is the top priority for the city.

Chief Administrative Officer David Montgomery reviewed that the state usually does not fund local water supply projects, so if the resolution lists the water tank roof as the city's top priority, it would be unlikely the city would receive any bonding money this year.

Councilor Julsrud's amendment carried upon a unanimous vote.

Councilor Stauber moved to amend the resolution by adding the following language:

"(2) Support legislation providing the city the ability to create a street light tax as a replacement for the current street light fee,"
which motion was seconded for discussion.

Councilor Stauber explained that if the street lighting fee is considered a tax, it is tax deductible for the residents.

Mr. Montgomery explained that if this fee is changed to a tax, the city would lose revenue from the tax exempt businesses which make up about four to five percent of the fee base.

Councilor Fosle stated it should remain a fee as you can explain to people what they are getting for this fee, and the amount of money citizens would get back on their taxes from an approximate \$40 a year tax would be negligible.

Councilor Stauber's amendment carried upon the following vote:

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

Nays: Councilors Fosle, Krause and Krug -- 3

Councilor Krause expressed his concern that with the limited resources the state has, the resolution lists too many projects that the city wants funding for, so the city will not get any projects.

Councilor Stauber moved that the amendment adding the water tank roof to the resolution be moved above Wade Stadium as a higher priority, which motion was seconded.

Councilor Stauber's amendment failed upon the following vote:

Yeas: Councilors Julsrud, Krause and Stauber -- 3

Nays: Councilors Boyle, Fosle, Gardner, Krug, Larson and President Hartman -- 6

Councilor Stauber moved to amend the resolution by removing item (d), "Support improving and strengthening current legislation banning the evolving use and sale of synthetic drugs," from the resolution. The motion failed for lack of a second.

Resolution 12-0031, as amended, was adopted as follows:

The city council finds as follows:

(a) The city administration and council wish to establish a clear set of legislative initiatives which the city supports in the 2012 legislative session;

(b) The city administration and council have devoted meeting time and discussion to the city legislative initiatives;

(c) The city administration and council choose to express support for legislative initiatives that are of vital interest to the community.

NOW, THEREFORE, BE IT RESOLVED, that city administration and elected officials express city support for the following projects of regional significance:

(a) Support for up to \$6 million in state bond proceeds for the Duluth Transit Authority

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

multi-modal transportation facility;

(b) Support for up to \$4 million in state bond proceeds for the renovation of Wade Stadium;

(c) Support for bonding requests from the following agencies providing public infrastructure:

(1) Public facilities authority - wastewater infrastructure fund;

(2) Minnesota department of transportation - port development assistance;

(3) Minnesota housing finance agency - public housing rehabilitation;

(4) Minnesota housing finance agency - housing infrastructure bonds;

(5) Department of employment and economic development - innovative business infrastructure program;

(6) Department of employment and economic development - Greater Minnesota business development infrastructure;

(d) Support improving and strengthening current legislation banning the evolving use and sale of synthetic drugs;

(e) Other council priorities:

(1) Support funding from the public facilities authority drinking water revolving fund for projects like the replacement of the West Duluth reservoir drinking water storage facility roof;

(2) Support legislation providing the city the ability to create a street light tax as a replacement for the current street light fee.

Resolution 12-0031, as amended, was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved January 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that Contract No. C20886 with MSA Professional Services, Inc., for Highland pump station improvements and Highland one million gallon elevated water tank projects, be and is hereby amended for additional tasks performed, including additional inspection time due to construction duration, redesign of site piping, the addition of a SCADA building, antenna relocation and installation coordination, pump station retaining wall, lead remediation for the paint from the old towers, MCC rehabilitation design for West Duluth booster for Lakewood WTF lagoon sludge analysis in the estimated amount of \$106,350.83 for a new total of \$689,865.83, with \$31,030.53 payable from Water Bond Fund 511, Department 500, Object 5532, City Project No. 0765WA, and \$75,320.30 payable from Fund 511, Department 500, Object 5532, City Project No. 0768WA (water bond fund, public works and utilities, capital improvements - bond).

Resolution 12-0010 was unanimously adopted.

Approved January 17, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCED BY COUNCILOR JULSRUD

12-001 - AN ORDINANCE AUTHORIZING ESTABLISHMENT OF FEES AND FINES BY RESOLUTION, AMENDING SECTIONS 31-1 AND 31-6 AND ADDING A NEW SECTION 31-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-003 - AN ORDINANCE AUTHORIZING THE GRANT OF AN EASEMENT ALONG WITH THE DULUTH AIRPORT AUTHORITY, AS GRANTORS, IN FAVOR OF MINNESOTA POWER (LEGALLY INCORPORATED AS ALLETE) FOR UNDERGROUND ELECTRICAL UTILITY PURPOSES.

- - -

The meeting was adjourned at 10:08 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 30, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and Vice President Boyle -- 8

Absent: President Hartman -- 1

- - -

Vice President Boyle presided over the meeting in the absence of President Hartman.

- - -

The minutes of council meetings held on October 24 and November 14, 2011, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0130-01 Minnesota state auditor Duluth/North Shore Sanitary District audit report for the year ended December 31, 2010. -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-0130-02 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Animal Allies Humane Society on April 18, 2012; (b) Lincoln Park Business Group on June 16, 2012; (c) Minnesota Bluegrass and Old Time Music Association on March 24, 2012; (d) Pheasants Forever on April 27, 2012; (e) St. John's School on March 31, 2012; (f) St. Mary Star of the Sea Church (bingo also) on: (1) March 25; (2) November 18, 2012; (g) United Northern Sportsmen Club. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0130-12 Alcohol, gambling and tobacco commission minutes of: (a) September 7; (b) October 5; (c) November 2, 2011, meetings. -- Received

12-0130-03 Charter commission minutes of October 12, 2011, meeting. -- Received

12-0130-04 Duluth transit authority: (a) Minutes of November 30, 2011, meeting; (b) November 2011 income statement. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer spoke of his concerns about the proposed high speed passenger rail train noting: the amount of subsidy that Amtrak is receiving; that all rail systems in the world require subsidies; this train will not pay for itself; with no federal and state funding, where will the funds come from and the proponents attitude is that they have to force individuals to ride on the trains.

- - -

Loren Martell felt that a Duluth School District No. 709's prior superintendant left a divided city and a broke school district, where there was a great deal of spin and misinformation and that the reserve fund is being depleted.

- - -

Kim Crawford, executive director of Life House Duluth thanked the city, mayor and councilors for their assistance this past year and reviewed their programs and the amount of youth

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

that have been served.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that Resolution 11-0632 adopting license, permit and fee charges for 2012 be amended by amending the golf fees listed below, pursuant to Section 35-15 of the Duluth City Code, effective immediately.

Parks and Recreation			
Fee Name		Previous 2012 Fee	New 2012 Fee
Golf - tax not included			
	Season Pass		
	Adult individual unlimited	\$650.00	\$660.00
	Family unlimited	\$1,040.00	\$1,050.00
	Senior family dual (ages 62+)	\$800.00	\$840.00
	Senior unlimited (ages 62+)	\$450.00	\$470.00

RESOLVED FURTHER, that the following fees are hereby eliminated:

Eliminated Fee		
Dept./Div.	Fee Name	Current Fee
Parks	Golf - Golf Cart	
	Season restricted 5 day	\$550.00
	Season unlimited	\$750.00

Resolution 12-0027 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a renewal of the terms and conditions for banking services in year 2012 as listed in Agreement 21491 with M&I Marshall & Ilsley Bank for an estimated amount of \$86,000, payable as follows:

(a) \$22,360 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) \$33,540 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);

(c) \$19,780 from Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);

(d) \$10,320 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services).

Resolution 12-0033 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the following penalties are hereby set for violation of the provisions of Section 48-227 of the Duluth City Code, 1959, as amended regarding damage to underground utilities, pursuant to Section 31-8 of the Code:

Public Works and Utilities	
Fee Name	New 2012 Fee
Damage to underground utilities	
Violation of Duluth City Code Section 48-227	
First violation within any 12 month period	\$00.00
Second violation within any 12 month period	\$750.00
Third violation within any 12 month period	\$1,500.00
Fourth and subsequent violation within any 12 month period	\$3,000.00

Resolution 12-0044 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials from the management information services division are hereby authorized to contract with All Computer Services for proprietary consulting services (\$70,000), as well as hardware maintenance support (\$26,512.44) for mainframe operations during year 2012 for a total combined amount of \$96,512.44, payable as follows:

(a) \$70,000 from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5319 (other professional services);

(b) 26,512.44 from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5404 (equipment/machinery repair and maintenance).

Resolution 12-0048 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

RESOLVED, that city officials are hereby authorized to implement a one-year extension of the city's annual contract with Liscomb Hood Mason Company for property insurance from February 16, 2012, through February 16, 2013, covering 51 city-owned structures, miscellaneous equipment and business personal property in accordance with its quote of \$91,260, terms due upon receipt, payable from Fund 610 - self insurance liabilities fund.

Resolution 12-0049 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute the third addendum to the administrative services agreement with RTW, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-05, together with supporting documents, for third-party administration of the city's self-funded workers' compensation program effective February 1, 2012, through February 1, 2013, in the amount of \$52,000; payable from Fund 605, Agency 036, Organization 1651, Object 5441 (self-insurance-workers' comp, insurance accounts, insurance - general city).

Resolution 12-0061 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a contamination cleanup program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-06, with the state of Minnesota acting through the department of employment and economic development (DEED) in the amount of \$357,811 payable into Fund 255 (economic development), Agency 020 (planning), Object 4220-02 (state of Minnesota operating), related to the Rohlving of Duluth project.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a sub-recipient funding agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-06, with Rohlving of Duluth, Inc. (Rohlving), in the amount of \$357,811, payable from Fund 255 (economic development), Agency 020 (planning), Object 5458 (payment to developer).

Resolution 12-0038 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend and execute joint powers Agreement No. 20604 with the Duluth entertainment and convention center authority for the operation of the Minnesota Slip pedestrian draw bridge for year 2011 for a total amount not to exceed \$35,628.69, terms net 30, payable from General Fund 110, Department/Agency 500 (public works and utilities), Division 1930 (engineering), Cost Center 2310 (moveable bridges), Object 5455 (pedestrian bridge operations).

Resolution 12-0037 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the city of Duluth (city) act as the legal sponsor for the safety, shoulder and rehabilitation improvements to North Shore Scenic Drive as contained in the grant program application to be submitted prior to February 3, 2012, and that the mayor and clerk are hereby authorized to apply to the Minnesota department of transportation for a grant from the local road improvement program in the amount of \$500,000 for funding of this project.

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

FURTHER RESOLVED, that the city hereby commits to provide no less than 100 percent of the project cost contribution in excess of any grant provided by the local road improvement program.

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

FURTHER RESOLVED, that upon approval of its application by the state, the mayor and clerk may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Permanent Improvement Fund 411, Department 035 (capital project accounts), Object 4220-01 (state of Minnesota capital), and that the city certified that it will comply with all applicable laws and regulations.

FURTHER RESOLVED, that the mayor and clerk are authorized to execute such documents as are necessary to implement the project on behalf of the city.

Resolution 12-0040 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into the third amendment to city Contract No. 21070, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-07, with Infor Global Solutions (Michigan), Inc., to extend the term of the agreement to December 31, 2014, increasing the amount of the contract by the amount not to exceed \$130,000, payable as follows:

(a) \$32,500 from Water Fund 510, 500 (public works and utilities), 1915 (utility general expense), 5201 (computer supplies/software);

(b) \$32,500 from Gas Fund 520, 500 (public works and utilities), 1915 (utility general expense), 5201 (computer supplies/software);

(c) \$32,500 from Sewer Fund 530, 500 (public works and utilities), 1915 (utility general expense), 5201 (computer supplies/software);

(d) \$32,500 from Stormwater Fund 535, 500 (public works and utilities), 1915 (utility general expense), 5201 (computer supplies/software).

Resolution 12-0043 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, city officials are hereby authorized to make quarterly payments to St. Louis County for shared access to software and services associated with NEMESIS (Northeastern Minnesota Enforcement Safety Information System) including Shield UF, eMerts Suite, Records Management Service (RMS), MDC Paasthu CJDN-Nemesis, and Port Fee connection, during year 2012, for a total annual amount of \$109,407.40, terms net 30, payable from General Fund 110, Department/Agency 160 (police), Division 1610 (administration and investigation), Object

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

5404 (equipment/machinery repair and miscellaneous).

Resolution 12-0011 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

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

In front of 1825 West First Street;

In front of 116 West Fifth Street.

Resolution 12-0035 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0058, approving proposed specifications for the civil service classification of volunteer coordinator and specifying contract benefits for same, was introduced by Vice President Boyle for discussion.

Councilor Fosle expressed his concerns that he felt the citizens of Duluth did not realize that the city was going to increase the number of positions with the recently approved referendum, but were going to take care of library hours and parks.

Councilors Gardner and Larson spoke of the need for this position to effectively use the services of volunteers.

Mayor Ness reviewed the budget of the parks division and noted that it is comprised of full time and temporary employee positions that are funded.

Resolution 12-0058 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of volunteer coordinator, which were approved by the civil service board on January 3, 2012, and which are filed with the city clerk as Public Document No. 12-0130-08, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 131. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0058 was adopted upon the following vote:

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

Nays: Councilors Fosle and Stauber -- 2

Absent: President Hartman -- 1

Approved January 30, 2012

DON NESS, Mayor

- - -

Resolution 12-0060, appointing members to the Duluth parking commission, was introduced by Vice President Boyle.

Vice President Boyle moved to table the resolution, which motion was seconded and unanimously carried.

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth economic development authority (DEDA), substantially in the form of that on file in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the office of the city clerk as Public Document No. 12-0130-09, pursuant to which certain DEDA property will be insured under the city's property and boiler insurance policies for the period from February 16, 2012, to February 16, 2013, and for which DEDA shall reimburse the city in an amount not to exceed \$15,254, to be deposited in Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (insurance DEDA), Object 4904 (liability insurance charges).

Resolution 12-0039 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a three-year license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-10, with the Duluth economic development authority (DEDA), to allow the city to operate DEDA Lots B, C and D in Bayfront for vehicular parking and to allow the city use of DEDA-owned property adjacent to Lot B for Bayfront Festival Park-related purposes, the annual license fee for 2013 and 2014 in the amount of \$62,000 and the annual license fee for 2012 in the amount of the difference between \$62,000 and the sum DEDA receives under its agreement with Bentleyville Tour of Lights, Inc. ("Bentleyville"), all payable from Fund 505 (parking fund), Agency 015 (administrative services), Organization 1481 (meters and municipal lots), Object 5447 (payments to other government agencies), with any amounts to be paid by DEDA to the city relating to amounts over \$62,000 paid to DEDA by Bentleyville 2012 for the event, payable into Fund 505 (parking fund), Agency 015 (administrative services), Organization 1481 (meters and municipal lots), Object 4654 (other reimbursements).

Resolution 12-0047 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

RESOLVED, that the St. Louis County board desires to turn back a portion of CSAH 1, a portion of which that road hereinafter described should be designated a municipal state aid highway under the provisions of Minnesota law.

FURTHER RESOLVED, by the city of Duluth, that the road described as follows, to wit:

Cirrus Drive from Airport Road to the Duluth city limits, approximately .06 miles be, and here is established, located and designated a municipal state aid highway of said city, subject to the approval of the commissioner of transportation of the state of Minnesota.

FURTHER RESOLVED, that the city clerk is hereby authorized and directed to forward two certified copies of this resolution to the commissioner of transportation for his consideration, and that upon his approval the designation of said road or portion thereof, that same be constructed, improved and maintained as a municipal state aid highway of the city of Duluth, to be numbered and known as Municipal State Aid Highway 199.

Resolution 12-0034 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

Resolution 12-0045, authorizing the acceptance of a grant in the amount of \$250,000 for the Duluth Traverse Trail Phase I project, was introduced by Councilor Larson for discussion.

Councilor Larson moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Jim Shoberg, membership coordinator with Cyclists of Gitchee Gumees Shores (COGGS), reviewed the history of their organization and the role that the organization would serve on the trails.

Resolution 12-0045 was adopted as follows:

WHEREAS, the city of Duluth has been awarded a grant from the Minnesota department of natural resources for the legacy trail grant program. The Duluth Traverse Trail Phase I project will construct approximately 15 miles of single track trails in the Duluth Traverse Trail system throughout the city of Duluth; and

WHEREAS, the city of Duluth recognizes the ten percent match requirement for the project cost for the legacy trail grant program and has secured matching funds.

RESOLVED, that the city of Duluth agrees to accept the grant award and enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations as stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson
City Auditor
City of Duluth
411 West First Street
Duluth, MN 55802

FURTHER RESOLVED, that the city of Duluth hereby assures that the Duluth Traverse Trail will be maintained for a period of no less than 20 years.

Resolution 12-0045 was unanimously adopted.

Approved January 30, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-007 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2012; ADDING THE PARKS FUND CREATED THROUGH THE APPROVAL OF DULUTH VOTERS ON A REFERENDUM BALLOT IN NOVEMBER OF 2011.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-005 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, URBAN-RESIDENTIAL, TO MU-N, MIXED USE-NEIGHBORHOOD, ON THE PROPERTY LOCATED AT 1400 WOODLAND AVENUE (ST. LUKE'S).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-006 - AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF THE EXTERIOR STORAGE OF PROPANE TANKS IN A LOCKABLE METAL STORAGE CONTAINER TO PROJECT INTO THE MICHIGAN STREET RIGHT-OF-WAY.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-001 (10132) - AN ORDINANCE AUTHORIZING ESTABLISHMENT OF FEES AND FINES BY RESOLUTION, AMENDING SECTIONS 31-1 AND 31-6 AND ADDING A NEW SECTION 31-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-003 (10133) - AN ORDINANCE AUTHORIZING THE GRANT OF AN EASEMENT ALONG WITH THE DULUTH AIRPORT AUTHORITY, AS GRANTORS, IN FAVOR OF MINNESOTA POWER (LEGALLY INCORPORATED AS ALLETE) FOR UNDERGROUND ELECTRICAL UTILITY PURPOSES.

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

- - -

The meeting was adjourned at 7:56 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10132

AN ORDINANCE AUTHORIZING ESTABLISHMENT OF FEES AND FINES BY RESOLUTION, AMENDING SECTIONS 31-1 AND 31-6 AND ADDING A NEW SECTION 31-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 31-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 31-1. Applicability of chapter.

(a) All licenses and permits required by the provisions of this Code and all fees, fines and penalties authorized by the provisions of this Code except where otherwise specifically set out in this Code, shall be issued in accordance with the provisions of this Chapter;

(b) This Chapter shall be deemed to be administrative in effect and shall not be construed to increase, decrease or modify any power of the city found in any other Chapter of this Code with respect to the issuance, suspension or revocation of licenses and permits.

Section 2. That Section 31-6 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 31-6. Fees for issuance of license.

(a) The fees for all licenses and permits issued pursuant to this Code shall be set by city council resolution and shall be based on the city's cost of regulating the activity for which the license or permit is issued. At least annually, on or before December 20, the city council shall consider the adjustment of all license fees to reflect changes in administrative and enforcement costs in accordance with appropriate economic indicators as determined by the city council. Changed fees

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

shall be calculated by changing the existing fee in the same proportion as the proportional change in the implicit price deflator for gross domestic product, government consumption expenditures and gross investment, state and local, during the 12 months prior to August 1 of the previous year. The implicit price deflators for gross domestic product, government expenditures, state and local, is produced and published by the U.S. department of commerce, bureau of economic analysis, or its successor. The following are excepted from the application of the implicit price deflator:

- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another index, such as uniform building codes, a state index or federal law;
- (3) Fees for events, attractions or recreation opportunities (for example, golf rates are adjusted annually based on business goals, rates of surrounding courses or other factors. Additionally, these rates are reviewed and approved by boards and commissions before they go to the city council);
- (4) Fees and charges associated with the public utilities;
- (5) Any other fee that the council elects to determine by a different method.

The fee amount for the excepted fees shall be determined by the council by ordinance or resolution as provided for.

The city clerk shall maintain copies of a schedule of current city license fees for distribution to the general public and shall, if feasible, maintain a schedule of city license fees on the internet for public inspection;

(b) If the license is not issued for any reason, the clerk shall refund license fees collected except the police investigation fee authorized in Subsection (c) below;

(c) The police department shall charge a fee, which shall be set in accordance with Section 31-6(a) of this Code, for performing a background investigation of any applicant for a license authorized by this Code or a state statute, except where such a fee is prohibited by law. The fee may be collected by either the police department or the city clerk.

Section 3. That Chapter 31 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 31-8 which reads as follows:

Sec. 31-8. Other fees, fines and penalties.

(a) The amount of all other fees and of all fines and penalties authorized under the Charter or this Code, except as otherwise specifically provided for, shall also be set by city council resolution. At least annually, on or before December 20, the city council shall consider the adjustment of all such fees, fines and penalties to reflect changes in the city's administrative and enforcement costs in accordance with appropriate economic indicators and to promote compliance with the requirements of the Code, all as deemed most appropriate by the city council. Unless other changes to any fees, fines or penalties are determined by the council to be appropriate to a specific fee, fine or penalty amount, changes to such fees, fines and penalties shall be calculated by changing the existing fee, fine or penalty in the same proportion as the proportional change in the implicit price deflator as described in Section 31-6 above. The following are excepted from the application of the implicit price deflator:

- (1) A rate increase that would amount to less than \$1;
- (2) Fees that are tied to another state index or federal law;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (3) Fees and charges associated with the public utilities;
- (4) Any other fee, fine or penalty that the council elects to determine by a different method;
- (b) The fee amount for the excepted fees, fine and penalties shall be determined by the council by ordinance or resolution as provided for;
- (c) The city clerk shall maintain copies of a schedule of current city fees, fines and penalties for distribution to the general public and shall, if feasible, maintain a schedule of such fees, fines and penalties on the internet for public inspection.

Section 4. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: March 1, 2012)

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

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

Nays: None -- 0

Absent: President Hartman -- 1

Passed January 30, 2012
Approved January 30, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10133

AN ORDINANCE AUTHORIZING THE GRANT OF AN EASEMENT ALONG WITH THE DULUTH AIRPORT AUTHORITY, AS GRANTORS, IN FAVOR OF MINNESOTA POWER (LEGALLY INCORPORATED AS ALLETE) FOR UNDERGROUND ELECTRICAL UTILITY PURPOSES.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to grant, along with the Duluth Airport Authority, as grantors, an easement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-11, across, under or through the following described property in St. Louis County, Minnesota, for underground electrical utility purposes, the grant of said easement being subject to receipt of a release of easement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0130-11:

A 10.00 foot easement across, under or through part of Section 1, Township 50 North, Range 15 West of the Fourth Principal Meridian, St. Louis County, Minnesota. The centerline of said easement is described as follows:

commencing at the southeast corner of said Section 1; thence north 00 degrees 49 minutes 10 seconds west, bearing based on Minnesota North State Plane, along the east line of said Section 1, a distance of 772.10 feet; thence south 89 degrees 10 minutes 50 seconds west, at a right angle, a distance of 33.00 feet to the intersection with the west right-of-way line of County Road No.966, said intersection being the beginning of the centerline to be described; thence north 31 degrees 46 minutes 39 seconds west a distance of 46.90 feet; thence north 01 degrees 11 minutes 45 seconds east a distance of 53.60 feet; thence north 65 degrees 44 minutes 12 seconds east a distance of 24.20 feet to the intersection with the west right-of-way line of said County Road No. 966, and said centerline there terminating.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Together with a 10.00 foot easement for utility purposes across, under or through the above described property. The centerline of said easement is described as follows:

commencing at the terminus of the above described line; thence north 00 degrees 49 minutes 10 seconds west along the west right-of-way line of said County Road No. 966 a distance of 1121.02 feet to the point of beginning of the centerline to be described hereon; thence north 05 degrees 30 minutes 32 seconds west a distance of 60.66 feet; thence north 70 degrees 59 minutes 09 seconds west a distance of 21.49 feet; thence south 87 degrees 43 minutes 44 seconds west a distance of 50.97 feet; thence north 82 degrees 20 minutes 46 seconds west a distance of 188.80 feet; thence south 85 degrees 30 minutes 31 seconds west a distance of 247.71 feet; thence north 57 degrees 35 minutes 09 seconds west a distance of 149.81 feet; thence north 85 degrees 27 minutes 51 seconds west a distance of 303.59 feet; thence north 74 degrees 23 minutes 55 seconds west a distance of 113.03 feet; thence north 77 degrees 51 minutes 01 seconds west a distance of 328.66 feet; thence north 64 degrees 29 minutes 25 seconds west a distance of 405.54 feet; thence north 58 degrees 24 minutes 57 seconds west a distance of 171.89 feet; thence north 53 degrees 59 minutes 51 seconds west a distance of 200.69 feet; thence north 80 degrees 53 minutes 55 seconds west a distance of 468.59 feet; thence north 78 degrees 08 minutes 36 seconds west a distance of 276.13 feet; thence north 87 degrees 35 minutes 10 seconds west a distance of 356.70 feet; thence north 89 degrees 45 minutes 26 seconds west a distance of 131.17 feet; thence north 84 degrees 34 minutes 46 seconds west a distance of 212.13 feet; thence north 20 degrees 25 minutes 52 seconds west a distance of 210.64 feet; thence south 70 degrees 59 minutes 27 seconds west a distance of 333.80 feet; thence north 26 degrees 26 minutes 23 seconds west a distance of 71.77 feet; thence south 61 degrees 32 minutes 04 seconds west a distance of 117.30 feet; thence north 87 degrees 09 minutes 57 seconds west a distance of 38.81 feet; thence north 68 degrees 18 minutes 03 seconds west 19.44 feet; thence north 26 degrees 44 minutes 54 seconds west a distance of 43.91 feet; thence north 79 degrees 50 minutes 39 seconds east a distance of 18.55 feet; thence north 01 degrees 49 minutes 08 seconds west a distance of 33.19 feet; thence north 21 degrees 13 minutes 59 seconds west a distance of 211.72 feet; thence North 18 degrees 43 minutes 32 seconds west a distance of 288.13 feet; thence north 20 degrees 58 minutes 03 seconds west a distance of 32.35 feet; thence northerly a distance of 214.00 feet, along a tangential curve concave to the east, having a radius of 186.00 feet and a central angle of 65 degrees 55 minutes 20 seconds; thence north 44 degrees 57 minutes 17 seconds east a distance of 161.49 feet; thence northeasterly a distance of 234.63 feet, along a tangential curve concave to the northwest, having a radius of 993.79 feet and a central angle of 13 degrees 31 minutes 39 seconds; thence north 31 degrees 25 minutes 37 seconds east a distance of 277.07 feet; thence north 18 degrees 16 minutes 37 seconds east a distance of 51.70 feet; thence north 70 degrees 50 minutes 55 seconds east a distance of 54.95 feet; thence south 39 degrees 01 minutes 35 seconds east a distance of 6.01 feet; thence north 32 degrees 16 minutes 19 seconds east a distance of 79.87 feet; thence north 48 degrees 52 minutes 56 seconds east a distance of 102.00 feet; thence south 89 degrees 25 minutes 21 seconds east a distance of 69.44 feet; thence north 74 degrees 57 minutes 18 seconds east a distance of 31.02 feet; thence north 85 degrees 23 minutes 16 seconds east a distance of 81.68 feet; thence north 71 degrees 05 minutes 13 seconds east a distance of 225.43 feet; thence south 22 degrees 07 minutes 08 seconds east a distance of 271.99 feet, and said centerline there terminating.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2012)

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

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

Nays: None -- 0

Absent: President Hartman -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed January 30, 2012

Approved January 30, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 9, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0209-01 Duluth Police Union communication regarding the proposed ordinance relating to civil service (11-060-O). -- Received

- - -

MOTIONS AND RESOLUTIONS

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

Section 1. Bond Purpose and Authorization.

1.01 A. The Spirit Mountain Recreation Area Authority (the "Authority") has proposed to the City improvements to the Spirit Mountain Recreation Area, including lift improvements, parking lot improvements and a new chalet on Grand Avenue (the "Project") and that the City provide funds to finance the Project.

B. Pursuant to Minnesota Statutes, Section 469.1812 through 469.1815 (the "Act"), the city council may grant an abatement of the taxes imposed by the City on parcels of property, subject to certain conditions set forth in the Act.

C. To pay the costs of the Project or principal of and interest on the general obligation bonds to be issued by the City to pay for the Project, the City Council by Resolution 12-0019R adopted January 17, 2012 (the "Abatement Resolution"), has granted an abatement of property taxes imposed by the City on certain parcels in the City pursuant to the Act for a period of 15 years commencing with property taxes payable in 2013 and concluding with property taxes payable in 2027 in a total aggregate amount of \$7,500,000 (the "Tax Abatement"). The revenues received by the City from such Tax Abatement are herein referred to as the "Tax Abatement Revenues."

D. The city council has determined to issue its General Obligation Tax Abatement Bonds, Series 2012A, in the amount of \$7,055,000 pursuant to Minnesota Statutes, Section 469.1814 and Minnesota Statutes, Chapter 475, to pay for the Project and costs of issuance of the bonds (the "Bonds") and to pledge the City's full faith and credit and power to levy direct ad valorem taxes, and the Tax Abatement Revenues to pay the principal of and interest on the Bonds.

1.02 Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Bank of America Merrill Lynch of New York, New York (the "Purchaser"), to purchase the Bonds at a cash price of \$7,069,704.07, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2014	\$350,000	2.000%
2015	355,000	2.000%
2016	365,000	2.000%
2017	370,000	2.000%
2018	380,000	2.000%
2019	385,000	2.000%
2020	395,000	2.000%
2021	400,000	2.000%
2022	410,000	2.000%
2023	415,000	2.250%
2024	425,000	2.375%
2025	435,000	2.500%
2026	450,000	2.625%
2027	460,000	3.000%
2028	475,000	3.000%
2029	485,000	3.000%
2030	500,000	3.000%

2.02 A. The Bonds maturing in the years 2014 through 2022 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2023 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2012. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 A. In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

B. Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

C. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds

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from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

D. DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

E. The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) With respect to notices of redemption; and
- (ii) With respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

F. All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond

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shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

R-_____ \$_____

CITY OF DULUTH
GENERAL OBLIGATION TAX ABATEMENT BOND, SERIES 2012A

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____	February __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2012. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond

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registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$7,055,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Section 469.1814, and all other laws thereunto enabling, and pursuant to Resolution No. 12-0066R adopted by the governing body of the City on February 9, 2012 (the "Resolution"), for the purpose of financing improvements to the Spirit Mountain Recreation Area, for payment of part of the interest cost of said bond issue and for costs of issuance of the Bonds.

The Bonds of this series maturing in the years 2014 through 2022 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2023 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is

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redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond

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registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
2/___/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

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NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Revenues, Accounts and Covenants.

4.01 The City hereby creates a separate 2012 Spirit Mountain Capital Improvement Fund, to which there shall be credited \$7,065,000.00 of the proceeds of the Bonds. The funds from this account shall be used solely to pay the costs of the Project and the costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 A. Until the Bonds are fully paid or duly called for redemption or otherwise discharged, the City will also maintain a separate debt service account designated as the Series 2012A Bonds Debt Service Account (the "Debt Service Fund") in the City's debt service fund created by Section 54(a) 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.

B. There is hereby pledged to the Debt Service Fund the Tax Abatement Revenues pursuant to the Abatement Resolution as received by the City.

C. The Treasurer shall credit to the Debt Service Fund the rounding amount of the Bonds (\$4,704.07), all Tax Abatement Revenues received by the City pursuant to the Abatement Resolution, subject to the right of the City to appropriate other funds on hand to payments due on the Bonds and to cancel such Tax Abatements; the Tourism Taxes pledged in Section 4.03 hereof; the ad valorem taxes levied, if any, pursuant to Section 4.04 hereof; and any other funds appropriated by the city council for payment of the principal of and interest on the Bonds.

4.03 A. The City imposes sales taxes on certain sales of food and beverages and lodging within the City pursuant to Laws of Minnesota 1977, Chapter 438, and Laws of Minnesota

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

1980, Chapter 511, Section 1, Subdivision 2 and Section 3, as amended (the "Tourism Taxes"). The City pledges \$201,546.44 of Tourism Taxes to be deposited in the Debt Service Account on or before July 1, 2012 and \$500,000 per year of Tourism Taxes to the repayment of the principal of and interest on the Bonds commencing in 2013 and continuing each year thereafter until the Bonds are paid in full.

B. On or prior to the delivery of the Bonds, the mayor and city clerk are hereby authorized and directed to execute on behalf of the City a pledge agreement (the "Pledge Agreement") with the Spirit Mountain Recreation Area Authority (the "Authority") in substantially the form now on file with the city clerk as Public Document No. 12-0209-02. The execution and delivery of the Pledge Agreement by the mayor and the city clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor deems advisable, is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. The City shall deposit the revenues of the Authority paid pursuant to the Pledge Agreement, in the Debt Service Fund.

4.04 A. The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as follows:

Levy Year	Collection Year	Gross Tax Levy	Tourism Tax Revenue	Net Tax Levy
2011	2012	\$165,540	\$165,540	\$0
2012	2013	\$543,815	\$500,000	\$43,815
2013	2014	\$541,715	\$500,000	\$41,715
2014	2015	\$544,760	\$500,000	\$44,760
2015	2016	\$542,345	\$500,000	\$42,345
2016	2017	\$545,075	\$500,000	\$45,075
2017	2018	\$542,345	\$500,000	\$42,345
2018	2019	\$544,760	\$500,000	\$44,760
2019	2020	\$541,715	\$500,000	\$41,715
2020	2021	\$543,815	\$500,000	\$43,815
2021	2022	\$540,455	\$500,000	\$40,455
2022	2023	\$541,150	\$500,000	\$41,150
2023	2024	\$541,052	\$500,000	\$41,052
2024	2025	\$545,383	\$500,000	\$45,383
2025	2026	\$543,480	\$500,000	\$43,480
2026	2027	\$544,740	\$500,000	\$44,740
2027	2028	\$540,278	\$500,000	\$40,278
2028	2029	\$540,750	\$500,000	\$40,750

Said levies are such that if collected in full they, together with the Tourism Taxes pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of the Tax Abatement Revenues, pledged Tourism Taxes and said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

4.05 Proceeds of the Bonds on deposit in the 2012 Spirit Mountain Capital Improvement Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the city clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 11-1114-32.

Section 6. Tax Covenants; Miscellaneous.

6.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

6.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in such debt service

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby represents that with respect to the gross proceeds of the Bonds, the following schedule is expected to be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 7. Certificates of Proceedings.

7.01 The city clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

7.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

7.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 12-0066 was unanimously adopted.

Approved February 9, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

ORDINANCE TABLED

INTRODUCED BY COUNCILOR BOYLE

11-060 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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

Nays: Councilor Stauber -- 1

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

Tom Maida, representing the police union, stated that after several meetings with the administration, it was clear that there were differences in what role the civil service board should have in the hiring process for the city. He continued saying that he would like to submit an alternative version of the ordinance for consideration by the council that incorporates many of the administration's changes but includes the civil service board in more of the decision making [see *Public Document No. 12-0209-01*].

Councilor Gardner moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 5:36 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 13, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of council meetings held on November 28, December 5, 15 and 19, 2011, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0213-10 Damiano Center communication regarding the proposed 2012 community development block grant (CDBG) recommendations (12-0075R). -- Received

- - -

REPORTS FROM THE ADMINISTRATION

12-0213-01 Mayor order of appointment of Linda Krug as acting mayor. -- Received
Chief Administrative Officer David Montgomery reported that the new citywide labor management committee has been established and read their mission statement.

- - -

REPORTS FROM OTHER OFFICERS

12-0213-02 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Holy Family Catholic Church on: (1) March 25, 2012 (bingo); (2) September 22, 2012 (raffle); (b) St. Margaret Mary Church on April 1, 2012 (raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0213-04 Civil service board minutes of December 6, 2011, meeting. -- Received
12-0213-03 Duluth airport authority minutes of December 20, 2011, meeting. -- Received
12-0213-05 Duluth human rights commission minutes of December 14, 2011, meeting. -- Received
12-0213-06 Duluth public arts commission minutes of: (a) November 14; (b) December 12, 2011, meetings. -- Received
12-0213-08 Entertainment and convention center authority minutes of December 14, 2011, meeting. -- Received
12-0213-09 Housing and redevelopment authority minutes of: (a) October 25; (b) December 27, 2011, meetings. -- Received
12-0213-07 Library board minutes of November 22, 2011, meeting. -- Received

- - -

REPORTS OF COUNCIL OPEN ISSUES

To Councilor Krause's prior inquiry, Mr. Montgomery reported that the user charge for excess police services is covered under Article 3, Section 40-9, of the City Code. He reviewed the type of situations where the charges would be implemented.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer expressed his concerns about the national debt and how it is increasing.

- - -

Loren Martell commented at length on how he felt that the Duluth School District No. 709's reserve fund has been not going to classroom expenditures but into debt service. He also felt that the results of a small survey supplanted a citizen vote on this issue.

- - -

RESOLUTION TABLED

Councilor Boyle moved to remove Resolution 12-0060, appointing members to the Duluth parking commission, from the table, which motion was seconded and unanimously carried.

Councilor Boyle moved to amend the resolution by inserting as the council representative Councilor Krug, which motion was seconded and unanimously carried.

Councilor Boyle reviewed how Mr. Goldfine has apologized for not being available tonight for his interview, but would still appreciate to be considered.

Councilors expressed their support for Mr. Goldfine's knowledge and what he would bring to the commission and not needing to interview him.

Resolution 12-0060, as amended, was adopted as follows:

RESOLVED, that the following appointments by Mayor Ness to the Duluth parking commission are hereby confirmed:

NAME	TERM EXPIRATION DATE
Craig Chilcote (at large)	3/31/2013
Steve LaFlamme (at large)	3/31/2014
Andy Goldfine (at large)	3/31/2014
John Simpson (at large)	3/31/2015
Mary Cameron (at large)	3/31/2015

BE IT FURTHER RESOLVED, that the appointment of Linda Krug by the city council president to the Duluth parking commission for a term expiring on March 31, 2015, is hereby confirmed.

Resolution 12-0060, as amended, was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

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

Mill and overlay at Fourth Avenue West from Second Alley to Fourth Street (Contract #7117; total assessable amount: \$18,084.80).

Resolution 12-0050 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

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

Mill and overlay at East First Street from Tenth to 21st avenues East (Contract #7118; total assessable amount: \$123,390.15).

Resolution 12-0051 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Mill and overlay at Arrowhead Road to Kenwood Avenue (Contract #7120; total assessable amount: \$143,097.76).

Resolution 12-0052 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Mill and overlay at Morgan Park, 88th Avenue West and Idaho Street (Contract #7121; total assessable amount: \$167,010.28).

Resolution 12-0053 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Mill and overlay on Swan Lake Road from Arrowhead to Mulberry (Contract #7119; total assessable amount: \$167,021.67).

Resolution 12-0054 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Street reconstruction on Glenwood Street from 43rd to 60th avenues East (Contract #7108; total assessable amount: \$515,215.88).

Resolution 12-0055 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Street reconstruction on 36th Avenue East from Superior to Fourth streets (Contract #7115; total assessable amount: \$117,054.50).

Resolution 12-0056 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

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

Street reconstruction on Ivanhoe from 49th to 54th avenues East (Contract #7122; total assessable amount: \$209,500).

Resolution 12-0057 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that Resolution 11-0632 adopting license, permit and fee charges for 2012 be amended by adding the fees listed below, pursuant to sections 10-5, 47-17.5 and 40-10 of the Duluth City Code, 1959, as amended, effective immediately.

Building Safety	
Fee Name	2012 Fee
Building appeal board - Appeal	\$120.00
Clerk	
Fee Name	2012 Fee
Taxicab - Vehicle identification medallion replacement	\$5.00
Police	
Fee Name	2012 Fee
Excessive consumption of police services - Police service fee	
Minimum	\$250.00
Maximum	\$1,000.00

Resolution 12-0063 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a contract with Ziegler, Inc., for the purchase and delivery of two Caterpillar Model 257B3 multi-terrain loaders with options for the fleet services division in accordance with Minnesota State Contract 29815, Release T-631(5), specifications and pricing in the amount of \$90,420 plus \$6,216.38 sales tax for a total amount of \$96,636.38, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year - 2012), Object 5580 (capital equipment), Project No. CE-250-V1206.

Resolution 12-0036 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with InfoSend, Inc., for mailing services (\$45,000) and postage (\$142,000) during year 2012 in the amount of \$187,000, payable as follows:

- (a) Mailing Services - \$45,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Amount	Fund	Dept./Agency (Public Works & Utilities)	Div./Cost Ctr. (Customer Services/ Customer Accounts)	Object (Contract Services)
\$11,700	510 Water	500	1940-2400	5310
\$17,550	520 Gas	500	1940-2400	5310
\$10,350	530 Sewer	500	1940-2400	5310
\$5,400	535 Stormwater	500	1940-2400	5310

(b) Postage - \$142,000

Amount	Fund	Dept./Agency (Public Works & Utilities)	Div./Cost Ctr. (Customer Services/ Customer Accounts)	Object (Postage)
\$36,920	510 Water	500	1940-2400	5322
\$55,380	520 Gas	500	1940-2400	5322
\$32,660	530 Sewer	500	1940-2400	5322
\$17,040	535 Stormwater	500	1940-2400	5322

Resolution 12-0046 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2012 currency exchange license to The Title Loan Company, Inc., dba MoneyXchange, 22 North Second Avenue West.

Resolution 12-0059 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with St. Louis County for 12 months of internet service during year 2012 in the amount of \$42,000, payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5320 (data services).

Resolution 12-0067 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with St. Louis County for maintenance of the city assessor's property tax system during year 2012 in the amount of \$26,887.52, payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5201 (computer supplies/software).

Resolution 12-0068 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Holy Family Catholic Church and does

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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 12-0070 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

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

Marshall School (Marshall Auction), 1215 Rice Lake Road, for May 5, 2012, with Beth Tessier, manager.

Resolution 12-0071 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to renew the contract with Aramark Uniform Services, Inc., the third year of a potential five-year contract, running March 1, 2012, through February 28, 2013, for laundry services and the rental of uniforms and other miscellaneous items during 2012 for various city of Duluth users at various locations for an estimated amount of \$80,000, terms net 30, pickup and delivery service, payable from various funds.

Resolution 12-0077 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a contract with Holiday Stationstores for the purchase and delivery of service station fuels as needed during year 2012, a one-year contract from April 1, 2012, through March 31, 2013, with four possible one-year renewal options, for an amount not to exceed \$1,325,000, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

Resolution 12-0079 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a contract with Inter-City Oil Company, Inc., for the purchase and delivery of bulk fuels as needed during year 2012, a one-year contract from March 1, 2012, through February 28, 2013, with four possible one-year renewal options, for an amount not to exceed \$200,000, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

Resolution 12-0080 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to extend the current contract with Inter-City Oil Company, Inc., for the purchase and delivery of service station fuels through March 31, 2012, for an amount not to exceed \$175,000, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0081 was unanimously adopted.
Approved February 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the reappointment of Mary Rennie by Mayor Ness to the housing and redevelopment authority of Duluth for a term expiring on January 2, 2017, is confirmed.
Resolution 12-0064 was unanimously adopted.
Approved February 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city planning division requesting the partial vacation of an unimproved portion of Wren Avenue between Terrace Street and Swan Lake Road; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission (PL 11-126) and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned partial vacation of Wren Avenue is useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its January 10, 2012, regular meeting, recommended approval of the partial vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following-described street and depicted on Public Document No. 12-0213-11:

(1) Street right-of-way to be vacated which lies adjacent to Lot 1, Block 2, Highland Gardens Second Division.

That part of the west half of Wren Avenue adjacent to Lot 1, Block 2, Highland Gardens Second Division, which lies northerly of the westerly extension of the south line of the north 140.00 feet of Lot 6, Block 1, Highland Gardens Second Division, and south of the south right-of-way of Terrace Street;

(2) Street right-of-way to be vacated which lies adjacent to the northerly 140.00 feet of Lot 6, Block 1, Highland Gardens Second Division.

That part of the east half of Wren Avenue adjacent to the northerly 140.00 feet of Lot 6, Block 1, Highland Gardens Second Division, which lies northerly of the westerly extension of the south line of the north 140.00 feet of Lot 6, Block 1, Highland Gardens Second Division, and south of the south right-of-way of Terrace Street.

RESOLVED FURTHER, 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 showing the rights-of-way to be vacated.

Resolution 12-0042 was unanimously adopted.
Approved February 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a new Lidar hand-held laser speed detector, manufactured by Kustom Signals, Inc., model Pro Laser 3, Serial #P132522, which laser speed detector was awarded to the Duluth police department through the 2011 Toward Zero Deaths program, in which program the Duluth police department participates.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0069 was unanimously adopted.
Approved February 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a renewal grant from the state of Minnesota, commissioner of public safety, office of justice programs in the amount of \$310,813 and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0213-12, for the purpose of supporting the operations of the Lake Superior drug and gang task force for the period beginning January 1, 2012, and ending December 31, 2012, funds to be deposited in Fund 215-200-2263-4210-02 (Duluth police grant programs, police, narcotic/gang task force-state), and authorizing said officials to execute all documents necessary thereto.

Resolution 12-0082 was unanimously adopted.
Approved February 13, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0076, authorizing the purchase and delivery of three Chevrolet Colorado pickup trucks from Thane Hawkins Polar Chevrolet for a total amount of \$65,679.19, was introduced by Councilor Krause for discussion.

Councilor Fosle commented on the information of the vehicles being replaced and the reported high maintenance costs to other divisions. He questioned how the city could have calculated that they incurred those high costs.

Mr. Montgomery reviewed the age and "wear and tear" for these vehicles. He further noted that the city's labor rate that is used for costing is below the public sector rates.

Resolution 12-0076 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of two Chevrolet Colorado 4x4 crew cab pickup trucks and one Chevrolet 4x4 extended cab pickup truck in accordance with Minnesota State Contract 37909, Release T-642(5), specifications and pricing, for a total of 61,433.70 plus \$3,993.19 sales tax plus \$252.30 license, registration, and tax exempt plates and fees, for a combined total amount of \$65,679.19 payable from the following accounts:

(a) \$45,542.74 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1250;

(b) \$20,136.45 - Gas Fund 520, Department/Agency 520 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment).

Resolution 12-0076 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved February 13, 2012
DON NESS, Mayor

- - -

Resolution 12-0083, authorizing pay plans for the communications and policy officer and community relations officer appointed positions pursuant to Chapter IV, Section 18, of the Duluth Home Rule Charter, was introduced by Councilor Boyle for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Mr. Montgomery reviewed that this position was authorized by the voters in 2009 and has been budgeted for, but not filled for the last two years. He further noted that at this time the administration is only looking at filling only one position, which is the lower paid position.

Councilors Stauber, Fosle and Gardner expressed concerns of: there are not financial resources for these positions; personal appointments should be reviewed by the civil service board to insure they have the necessary experience; a couple years ago the mayor stressed what dire straits the city was in and questioned how this has since changed and voters supported the rational for these positions, without fully understanding what the financial repercussions would be.

Resolution 12-0083 was adopted as follows:

RESOLVED, that pursuant to passage by citizen referendum vote held during the city general election on November 9, 2009, Chapter IV, Section 18 of the Duluth Home Rule Charter was amended to provide the mayor the ability to appoint a communications and policy officer and a community relations officer.

FURTHER RESOLVED, that until the mayor's term of office ends on January 4, 2016, the proper city officials are hereby authorized to execute employment documents necessary to compensate the appointed communications and policy officer monthly salary at Pay Range Number 1105-1110 for job title communications and policy officer, Job Title Number 1324, and benefits not to exceed those found in articles 7, 9, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23, 24, 25 and 28, inclusive, of the 2011 collective bargaining agreement between the city and City of Duluth Supervisory Association, which is on file in the office of the city clerk as Public Document No. 11-0718-02.

FURTHER RESOLVED, that until the mayor's term of office ends on January 4, 2016, the proper city officials are hereby authorized to execute employment documents necessary to compensate the appointed community relations officer monthly salary at Pay Range Number 1045 and benefits not to exceed those found in Articles 7, 9, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23, 24, 25 and 28, inclusive, of the 2011 collective bargaining agreement between the city and City of Duluth Supervisory Association, which is on file in the office of the city clerk as Public Document No. 11-0718-02.

FURTHER RESOLVED, that all above-described compensation to the communications and policy officer and community relations officer, if the positions are filled, is payable from Fund No. 110-110-1102-5100 (general, legislative and executive, mayor's office).

Resolution 12-0083 was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Approved February 13, 2012

DON NESS, Mayor

- - -

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the FY 2012 action plan portion of the FY

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 12-0075 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 12-0074 and 12-0073 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

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

Resolution 12-0072 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0072, adopted February 13, 2012, approved FY 2012 annual action plan portion of the 2010-2014 consolidated plan; and

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

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

2012 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD12ES

<u>SUB</u>		
<u>PROJECT</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
1244	CHUM stabilization services for homeless	\$ 31,124
2109	MACV - Duluth	\$ 4,540
2509	Battered Women's Shelter programs-Safe Haven	\$ 19,578
2511	Transitional housing-Salvation Army and/or CCHC	\$ 26,606
1974	Transitional housing - Life House	\$ 7,530
1226	Transitional housing - Center City Housing Corporation	\$ 30,622
AD-04	Program administration - city	\$ 4,465
	Total	\$124,465

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

Source of Funding

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

2012 ESGP grant	<u>\$124,465</u>
Total	\$124,465

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

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

Resolution 12-0073 was unanimously adopted.

Approved February 13, 2012

DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0072, adopted February 13, 2012, approved FY 2012 annual action plan portion of the 2010-2014 consolidated plan; and

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

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

2012 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD12HM

<u>SUB</u>			
<u>PROJECT</u>	<u>ACTIVITY</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
GN12	1736	Homeless rental assistance program (TBRA) - HRA	\$125,000
GN12	1737	TBRA administration - HRA	\$ 11,450
CH12	2270	Housing predevelopment - NCLT	\$ 12,890
CH12	1226	Housing redevelopment - Center City Housing	\$ 12,890
CH12	2271	Rehabilitation - resale - NCLT	\$316,839
GN12	AD03	Program administration (city)	\$ 40,500
Total			\$519,569

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

Year 2012	HOME grant	\$519,569
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BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0074 was unanimously adopted.
 Approved February 13, 2012
 DON NESS, Mayor

- - -

Resolution 12-0075, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2012 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies, was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to amend the monetary amounts of the public service projects portion of the resolution as follows, which motion was seconded and unanimously carried:

Project Name	Delete	Insert
Duluth hunger project - CHUM	\$64,855	\$64,703
Primary health care services - Lake Superior Community Health Center	\$66,632	\$66,480
Clothes That Work and social services - Damiano Center	\$17,769	\$17,617
Homeless stabilization services - CHUM	\$30,207	\$30,055
LIFELINE Expressway of Youth Services - Life House	\$31,095	\$30,943
Permanent supportive housing - Center City	\$15,992	\$15,840
Battered Women's Shelter program - Safe Haven Shelter	\$17,769	\$17,617
Transitional housing program - Salvation Army	\$17,769	\$17,616
Feeding Kids Through Youth programs - YMCA	\$21,322	\$21,170
Services for Homeless Veterans - MACV	\$13,327	\$15,000
Transitional housing program - Center City	\$19,546	\$19,394
Oshki transitional housing - AICHO	\$ 4,442	\$ 4,290

Councilor Larson noted that she would be abstaining on voting on this resolution because there is a category within the funding that interacts with a couple of grants that she works with and is funded by.

Resolution 12-0075, as amended, was adopted as follows:

WHEREAS, City Council Resolution No. 12-0072, adopted February 13, 2012, approved FY 2012 annual action plan portion of the 2010-2014 consolidated plan; and

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

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

2012 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK

GRANT (CDBG) PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD12CD

SUB

PROJECT ACTIVITY AMOUNT PROJECTS

HOUSING PROJECTS

HOUS 1734 \$750,659 Duluth property rehabilitation program - HRA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

HOUS	1291	\$ 55,000	IDA housing counseling/downpayment assistance - Community Action Duluth
HOUS	1091	\$171,320	Duluth weatherization program - AEOA
<u>ECONOMIC DEVELOPMENT PROJECTS</u>			
ECDV	2412	\$112,000	SOAR Duluth At Work - SOAR Career Solutions
ECDV	1244	\$ 72,000	CHUM Support Services for Employment - Churches United in Ministry
ECDV	2805	\$ 16,000	NYS JET (jobs, education and training) - Neighborhood Youth Services
ECDV	2264	\$ 64,000	Growing Neighborhood Businesses - Northeast Entrepreneur Fund, Inc.
ECDV	1974	\$ 24,000	Futures program - Life House
ECDV	1291	\$ 56,000	Circles of Support -Community Action Duluth
<u>PUBLIC FACILITY IMPROVEMENT PROJECTS</u>			
PFAC	PF01	\$313,790	Soup kitchen renovation - Damiano Center
PFAC	PF02	\$ 50,000	Lincoln Park School redevelopment - Boys & Girls Club
<u>PUBLIC SERVICE PROJECTS</u>			
PSVC	1244	\$ 64,703	Duluth hunger project - CHUM
PSVC	1929	\$ 66,480	Primary health care services - Lake Superior Community Health Center
PSVC	1348	\$ 17,617	Clothes That Work and social services - Damiano Center
PSVC	124A	\$ 30,055	Homeless stabilization services - CHUM
PSVC	1974	\$ 30,943	LIFELINE Expressway of Youth Services - Life House
PSVC	1226	\$ 15,840	Permanent supportive housing - Center City
PSVC	2509	\$ 17,617	Battered Women's Shelter program - Safe Haven Shelter
PSVC	2511	\$ 17,616	Transitional housing program - Salvation Army
PSVC	1168	\$ 21,170	Feeding Kids Through Youth programs - YMCA
PSVC	2109	\$ 15,000	Services for Homeless Veterans - MACV
PSVC	122A	\$ 19,394	Transitional housing program - Center City
PSVC	1050	\$ 4,290	Oshki transitional housing - AICHO
<u>PLANNING/PROGRAM ADMINISTRATION</u>			
ADMC	AD01	\$476,330	CDBG program administration
ADMC	AD02	\$ 20,000	Neighborhood revitalization planning

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

SOURCE OF FUNDING

Year 2012	CDBG grant - city	\$2,138,165
Resolution 11-0679		\$ 343,659

Total		\$2,481,824
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BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

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

Resolution 12-0075, as amended, was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

Approved February 13, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR BOYLE

12-010 - AN ORDINANCE AMENDING SECTIONS 13-1, 13-2, 13-3, 13-5.5, 13-6, 13-11, 13-19, 13-22, 13-24.1, 13-28, 13-29, 13-30, 13-36, 13-38, 13-39, 13-41, 13-42, 13-43, 13-45, 13-47, 13-48, 13-53, 13-54, 13-57.5, 13-60, 13-64.5, 13-65, 13-66, 13-69, 13-80, 13-85, 13-106 AND 13-125, ADDING A NEW SECTION 13-42.1, AND REPEALING SECTIONS 13-4, 13-7, 13-8, 13-9, 13-10, 13-12, 13-16, 13-18, 13-21, 13-27, 13-34, 13-37, 13-37.5, 13-39.1, 13-46, 13-49, 13-50, 13-51, 13-52, 13-55, 13-56, 13-58, 13-59, 13-60.5, 13-61, 13-61.5, 13-62, 13-63, 13-64, 13-67, 13-114, 13-115, 13-116 AND 13-124 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

- - -

INTRODUCED BY COUNCILOR JULSRUD

12-009 - AN ORDINANCE AUTHORIZING CHARGING FOR UTILITY TURN-ON AND SHUT-OFFS RELATED TO MAINTENANCE AND REPAIR AMENDING SECTION 48-210 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-007 (10134) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2012; ADDING THE PARKS FUND CREATED THROUGH THE APPROVAL OF DULUTH VOTERS ON A REFERENDUM BALLOT IN NOVEMBER OF 2011.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-005 (10135) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, URBAN-RESIDENTIAL, TO MU-N, MIXED USE-NEIGHBORHOOD, ON THE PROPERTY LOCATED AT 1400 WOODLAND AVENUE (ST. LUKE'S).

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCED BY COUNCILOR STAUBER

12-006 (10136) - AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF THE EXTERIOR STORAGE OF PROPANE TANKS IN A LOCKABLE METAL STORAGE CONTAINER TO PROJECT INTO THE MICHIGAN STREET RIGHT-OF-WAY.

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

- - -

The meeting was adjourned at 8:08 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10134

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2012; ADDING THE PARKS FUND CREATED THROUGH THE APPROVAL OF DULUTH VOTERS ON A REFERENDUM BALLOT IN NOVEMBER OF 2011.

The city of Duluth does ordain:

Section 1. That Ordinance 10130 passed and approved December 19, 2011, is hereby amended as follows:

Fund 205-
Parks.....\$2,600,000

Section 2. That the budget changes in this ordinance are retroactive to the beginning of the 2012 budget year.

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

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

Nays: None -- 0

Passed February 13, 2012
Approved February 13, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10135

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-2, URBAN-RESIDENTIAL, TO MU-N, MIXED USE-NEIGHBORHOOD, ON THE PROPERTY LOCATED AT 1400 WOODLAND AVENUE (ST. LUKE'S).

The city of Duluth does ordain:

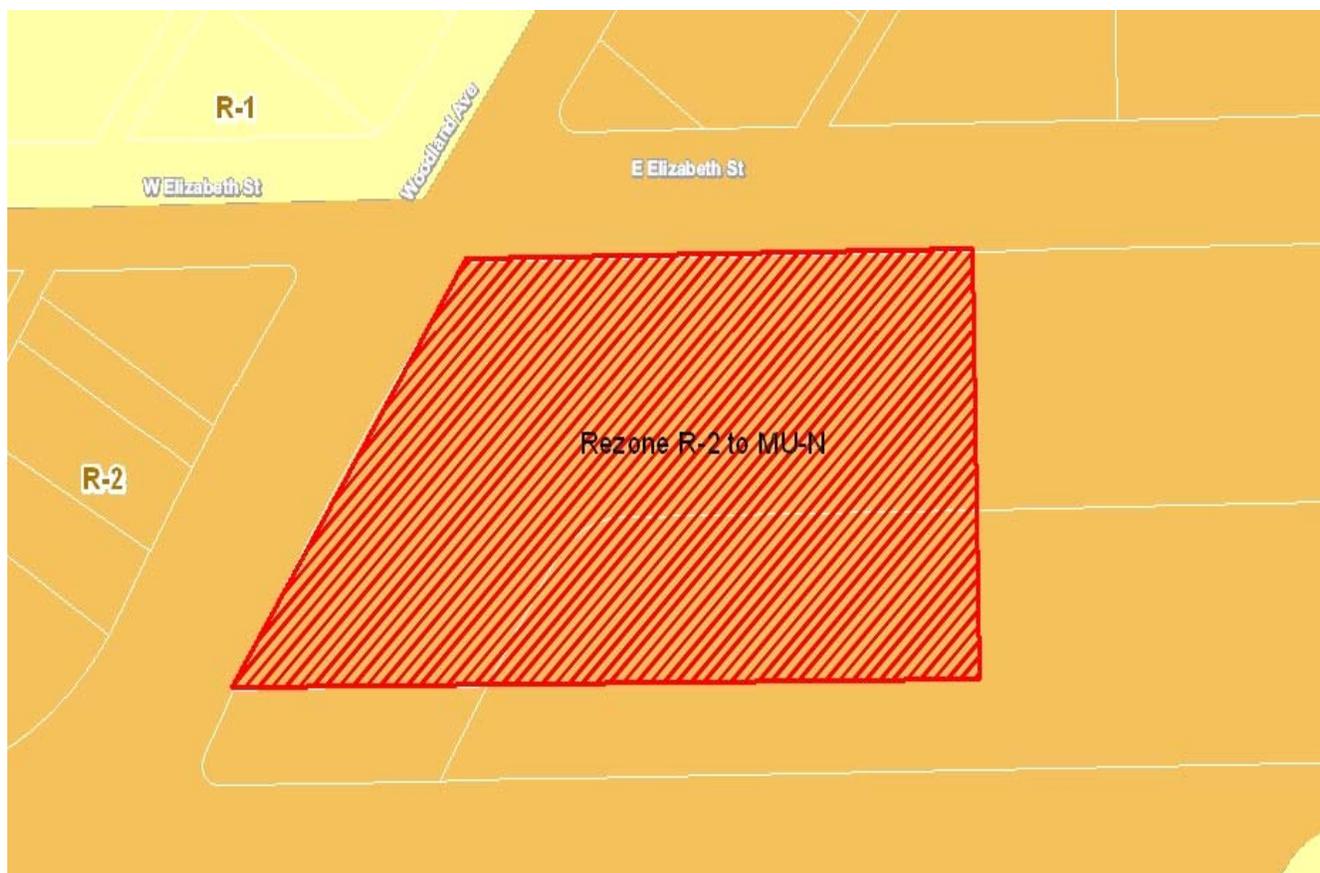
Section 1. That the 1.99 acres of the subject property located at 1400 Woodland Avenue and as described as:

Lots 12 through 29 and that part of Lots 11, 30, 31, 32 and 33, Block 18, and that part of Lots 11 through 22, Block 19, of the recorded subdivision of MOTOR LINE DIVISION OF DULUTH, St. Louis County, Minnesota, described jointly as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Commencing at the northeast corner of Lot 11, Block 18, of said MOTOR LINE DIVISION OF DULUTH; thence north $89^{\circ}52'08''$ west along the north line of said Block 18 a distance of 8.22 feet to the point of beginning; thence south $0^{\circ}08'28''$ west along a line parallel with the east line of said Lot 11 and its southerly extension of distance of 133.04 feet to the centerline of the alley lying between said Blocks 18 and 19; thence south $0^{\circ}07'55''$ west along a line parallel with the east line of said Lot 11, Block 19, and its northerly extension of distance of 87.00 feet; thence north $89^{\circ}52'08''$ west along a line parallel with the north line of said Block 18 a distance of 451.64 feet to the northwesterly line of said Block 18; thence northeasterly and easterly along said northwesterly and northerly lines of said Block 18 a distance of 557.03 feet to the point of beginning;

be reclassified from R-2, Urban-Residential, to MU-N, Mixed Use-Neighborhood, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 11-136)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 16, 2012)

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

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

Nays: None -- 0

Passed February 13, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ATTEST:
JEFFREY J. COX, City Clerk

Approved February 13, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10136

AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF THE EXTERIOR STORAGE OF PROPANE TANKS IN A LOCKABLE METAL STORAGE CONTAINER TO PROJECT INTO THE MICHIGAN STREET RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Daniel Neff and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A lockable metal storage cabinet 18 inches deep and containing two 100 pound, 14 inches in diameter, propane tanks and resting on a concrete pad, and lying within five feet to 12 feet of the southwest corner of said Lot 34, Block 1, Central Division of Duluth; and

(b) A protective metal barrier attached to the existing building and extending outward two feet from the building and a width of three feet, on the described property as shown in Public Document No. 12-0213-13.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Public liability insurance in an amount not less than \$3,000,000 on the release of a hazardous substance and single limits of \$1,500,000 for any number of claims arising from a single occurrence and in the amount not less than \$500,000 for property damage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its employees, agents or contractors; and

(c) The policy shall contain a condition that may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(d) The city of Duluth shall be named as an additional insured; and

(e) The certificate shall also reference this ordinance by its ordinance number. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be pre-2004 edition. Permittee shall cause a current version of the required insurance certificate to be filed with the city clerk while permission granted by this ordinance is exercised.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of instillation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the city clerk within five days of such transfer. The permittee's successor in interest shall file with the city clerk within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on (Public Document No. 12-0213-13); and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file acceptance of this ordinance as specified in Section 2 within 30 days after this ordinance takes effect; or

(b) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(c) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 16, 2012)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

following vote:

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 13, 2012

Approved February 13, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 27, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on January 17, 2012, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0227-01 Minnesota state auditor of Spirit Mountain recreation area authority audit report for the years ended April 30, 2011, and 2010. -- Received

12-0227-04 The following communications regarding the proposed ordinances relating to civil service (11-060-O and 12-010-O): (a) Mary Dragich; (b) Mayor's workforce recruitment task force. -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-0227-02 Chief engineer of transportation recommendations on city council requests to review the feasibility of:

(a) Creating a four-way stop and/or installing stops lights at 43rd Avenue East and Superior Street (11-0351R);

(b) Rescinding the one-way street designations of First, Second and Third avenues West from Michigan to Fourth streets (11-0499R). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0227-03 Commission on disabilities minutes of January 4, 2012, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer voiced concern over the \$16 trillion national debt and the unfunded liabilities for social programs and questioned where the money is going to come from to pay for all the promises, and the national debt is a bigger fear for the country than terrorism.

- - -

Loren Martell stated the city should be commended for getting the reserve fund back up to ten percent, which shows the city must have a good management group in place, but the school board does not. He reviewed that the whole city has to pay a \$500 million bill and questioned where was the council and mayor during that process, as they had a responsibility to ask more questions up front on the citizens' behalf.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth Police Department Employees Credit Union, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0227-05 for the lease of space in the Public Safety Building on a month to month basis with monthly rent of \$125 deposited into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings) and telecommunications fees of \$50 per month deposited into Fund 110-117-1107-4320 (general, management information systems, MIS, MIS services).

Resolution 12-0085 was unanimously adopted.

Approved February 27, 2012

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

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

Resolution 12-0084 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of welder, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0227-06, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 28.

Resolution 12-0094 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a contract with Ferguson Waterworks for the purchase and delivery of Waterous Pacer fire hydrants during year 2012 in accordance with city-approved specifications and the vendor's low bid of \$48,874 plus \$3,360.09 sales tax for a total amount of \$52,234.09, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1945 (utility operations), Object 5227 (utility system maintenance supplies).

Resolution 12-0089 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, the proper city officials are hereby authorized to implement the first renewal option of an annual contract with Duluth Ready Mix, Inc., the second year of a three-year contract,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

running May 1, 2012, through April 30, 2013, for the purchase and delivery of Class 5 gravel, 3/4-inch washed rock, rip rap, and bedding sand in year 2012 for \$144,350 plus \$9,924.06 sales tax for a total estimated amount of \$154,274.06, terms net 30, FOB destination, payable from the following accounts:

Amount	Fund	Public Works & Utilities	Utility Operations	Gravel & Other Maintenance Materials
\$59,983.59	Water 510	500	1945	5224
\$13,279.22	Gas 520	500	1945	5224
\$37,379.53	Sewer 530	500	1945	5224
\$16,699.22	Stormwater 535	500	1945	5224
Amount	Fund	Public Administration	Maintenance Operations - Street Maintenance	Gravel & Other Maintenance Materials
\$26,932.50	General 110	121	1217-2140	5224

Resolution 12-0092 was unanimously adopted.
 Approved February 27, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0227-07, with Duluth United, LLC, granting a water line easement over a portion of the following-described property in St. Louis County, Minnesota, to the city at no cost:

The southeast quarter of Section 8, Township 50 North, Range 14 West in the plat of Rearrangement of Duluth Technology Park.

Resolution 12-0100 was unanimously adopted.
 Approved February 27, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to USAA Insurance Company (as subrogee: Steven Wayne Crandell) the sum of \$17,086.30 in full and final settlement of the claim which arose out of a vehicle accident occurring near Minnesota State Highway 23 and Becks Road, July 23, 2011; payment to be made from Fund No. 0610-036-1651-5841 (self insurance-liabilities, insurance accounts, insurance-general city).

Resolution 12-0086 was unanimously adopted.
 Approved February 27, 2012
 DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to increase Purchase Order 11-0509 to Pierce Manufacturing, Inc., by \$12,389 for additional tax exempt repair work to be done by the Pierce Midwest Regional Service Center and required to complete the rebuild of the Duluth fire department's aerial apparatus ladder Unit 7334, for a total amount of \$54,132, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year - 2011), Object 5880 (capital equipment), Project No. CE250-V1101.

Resolution 12-0087 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved February 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three year agreement with Duluth entertainment and convention center authority (DECC) for the production, promotion and management of events at Bayfront Festival Park, substantially the same as that on file with the city clerk as Public Document No. 12-0227-08, and providing for the payment of \$50,000 per year, payments to be made from Fund 258-030-5310 (tourism taxes, finance department, contract services).

Resolution 12-0090 was unanimously adopted.

Approved February 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Hoisington Kogler Group, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0227-09, for professional services for the development of a master plan for three city parks (Memorial, Gary/New Duluth and Morgan Park) for an amount not to exceed \$44,200, payable from Fund 205-130-1220-5530 (parks, community resources, parks capital, improvements other than buildings).

Resolution 12-0096 was unanimously adopted.

Approved February 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to enter into a joint powers agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0227-10, with Independent School District 709, Duluth Public Schools, to provide for community education and recreation programs through joint usage, operation, sponsorship, and administration of facilities, maintenance services, community education, and recreation programs and services.

Resolution 12-0102 was unanimously adopted.

Approved February 27, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proposed specifications for the new civil service classification of help desk technician, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0227-11, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 129. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0093 was unanimously adopted.

Approved February 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of labor compliance technician, which were approved by the civil service board on February 7, 2012, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

which are filed with the city clerk as Public Document No. 12-0227-12, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, and that the pay range for said classification shall be Range 129. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0095 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the job specifications for the appointed department head position of director, planning and construction services, which is filed with the city clerk as Public Document No. 12-0227-13, is approved; that said appointed position shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said appointed position shall be ranges 1135-1170.

FURTHER RESOLVED, the proper city officials are authorized to execute and implement an agreement with the supervisory association to provide for employing a unit member consistent with this resolution.

Resolution 12-0105 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

WHEREAS, the city recently lost a great citizen and community advocate in the passing of Ellen Louise Pence; and

WHEREAS, Ellen Pence helped organize the domestic abuse intervention program commonly referred to as the "Duluth Model," was a founding member and director of Praxis Int'l, helped develop the Blueprint for Safety domestic violence initiative, and closely collaborated with institutions and police departments around the world, starting with the Duluth police department to help combat domestic violence; and

WHEREAS, Ellen Pence devoted her life to effectively addressing and counseling all parties in the cycle of domestic violence; and

WHEREAS, the new Public Safety Building training room is intended for community meetings and gatherings as well as education and training; and

WHEREAS, the city council on behalf of the Duluth police department and in cooperation with St. Louis County, in order to memorialize Ellen Pence's life and work, desires to name the new Public Safety Building training room in honor of Ellen.

THEREFORE, BE IT RESOLVED, that the new Public Safety Building training room shall hereafter be referred to as the Ellen Pence Training Room.

Resolution 12-0103 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council approves settlement in the amount of \$7,500 of all claims or causes of actions asserted by Northland Country Club in that matter venued in the District Court of Minnesota, Sixth Judicial District, and identified as *Northland Country Club v. City of Duluth*, File

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

No. 69DU-CV-11-813, and further authorizes the proper city officials to execute all documents necessary to conclude this matter on a full, final and complete basis, funds to be deposited in Fund 440-038-4500-10 (street improvement fund, special assessment contracts, assessments).

Resolution 12-0062 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the reconstruction of Anderson Road from Haines Road to Chambersburg Avenue in the amount of \$2,798,698.47, payable out of Permanent Improvement Fund 411, Department/Agency 038 (special assessment), Object 5530 (improvements other than Buildings), City Project No. 0357TR.

Resolution 12-0099 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

Resolution 12-0097, accepting a gift of approximately \$200,000 from the estate of Florence Schneider to be used for public library purposes and expressing public gratitude for the generous gift; and Resolution 12-0098, accepting a gift of approximately \$15,000 from the estate of Christine H. Crockett to be used for public library purposes and expressing public gratitude for the generous gift, were introduced by Councilor Larson for discussion.

Councilor Larson thanked the families on behalf of the city for the generous donation to the public library.

Resolutions 12-0097 and 12-0098 were adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to accept a gift of approximately \$200,000, less all applicable fees and taxes, from the estate of Florence Schneider to be used for the benefit of the Duluth public library; said gift to be designated for materials and services for the handicapped, including vision impaired persons, to be received after audit of the estate and trust; the gift to be deposited in Fund 240-300-SG62-4660 (library special gifts, library, Schneider Estate, gifts and donations).

FURTHER RESOLVED, that the city administration and city council hereby express their gratitude to Florence Schneider for her generous gift and her concern for the Duluth public library.

Resolution 12-0097 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a gift of approximately \$15,000 from the estate of Christine H. Crockett to be used for the benefit of the Duluth public library; to be received after audit of the estate and trust; the gift to be deposited in Fund 240-300-SG61-4660 (library special gifts, library, Crockett Estate, gifts and donations).

FURTHER RESOLVED, that the city administration and city council express their gratitude to Christine H. Crockett for her generous gift and her concern for the Duluth Public library.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0098 was unanimously adopted.
Approved February 27, 2012
DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

INTRODUCED BY COUNCILOR BOYLE

11-060 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

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

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

Marshall Stenerson, chairperson of the civil service board (CSB), stated that transparency is the hallmark of good government, and the CSB is the window to transparency for the public for job descriptions and hiring, which the public will not be a part of. He continued saying that, with the proposed ordinance, the CSB is retaining the appellate function but it takes away the approval process for new and revised job descriptions. Mr. Stenerson, on behalf of the CSB, requested the council not to approve this ordinance and instead proceed incrementally and thoughtfully by allowing the CSB to have a public hearing at their next meeting and start making changes slowly.

Joel Sipress urged the council to turn down the administration's proposal and work with the CSB to make any modifications necessary to the Code. He reviewed that civil service systems were created to prevent executives from turning public jobs into political loyalties and, by approving the changes to the current ordinance, it will weaken the process and may shape city government for years to come. Mr. Sipress urged the councilors to think very carefully before weakening the civil service protections that are so important to our system of government.

Tom Maida, president of the police union, and Erik Simonson, president of the firefighters union, urged the council to vote the administration's ordinance down for the following reasons: the CSB should be in charge of looking at making the changes to the Code slowly; there should be some compromise between the administration and the unions, and the proposed ordinance is overreaching, unnecessary and harmful to civil service.

Peter Johnson stated the administration's ordinance goes well beyond the intended scope in the hiring process and cleaning up the Code, and it stands to lose some basic protections and rights of the employees. He continued saying this is the time for the CSB to review and propose changes to the civil service ordinance as it is a nonpolitical, bi-partisan group of civilians with oversight that protects employees and the city.

Alan Netland stated his disappointment and the double standard being exhibited by the administration by talking about how everyone needs to be respectful towards others and have civility in discussion and dialogue with others, but then not having an open dialogue with the city employees on this ordinance. He went on to say that the administration should have started the process by having a dialogue with the CSB and asking how to change the system and the council should demand that process happen before the administration comes to the council with an ordinance.

Councilor Larson, before introducing the following amendment, explained that if it is passed, this change to the ordinance would have to be considered a first reading on the agenda. She moved to amend Section 13-7 of the ordinance by deleting in subsection (a) the phrase "chief administrative officer" and inserting the phrase "the board" and also deleting the entire subsection

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b), which motion was seconded for discussion.

Councilor Gardner stated the amendment is moving in the right direction; however the concern is that the process was not followed as required by the Charter. She also reviewed the task force report was formed to make recommendations on how to modernize civil service and streamline the hiring process, and the ordinance changes go beyond that scope. Councilor Gardner voiced concern that the CSB was not more involved with the task force or in the creation of the proposed ordinance.

Councilor Boyle stated the amendment does bring back public openness for employees and the public, and giving the CSB authority to approve job descriptions gives them the education they need.

Councilor Krause stated the council is already a public body and one cannot get more open than that with checks and balances already in the ordinance.

Councilor Larson's amendment was adopted upon the following vote:

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

Nays: Councilors Krause and Stauber -- 2

Councilor Krug stated the current civil service system does not serve the city well and has kept the city locked in an antiquated way of hiring and prevented the hiring of more union employees.

Chief Administrative Officer David Montgomery stated the administration has been responsive to the employees' requests and was willing to accept the amendment to the ordinance.

He reviewed the process for this ordinance has been transparent -including three months of negotiating with the unions and the CSB with all sorts of opportunity for input from all groups.

Councilor Boyle moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-008 - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 12-10, 43-33.4, 44A-9, 44A-10, 44A-15 AND 48-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-011 - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION ADJACENT TO INTERSTATE 35 IN THE POINT OF ROCKS AREA FOR \$39,000.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR BOYLE

12-010 - AN ORDINANCE AMENDING SECTIONS 13-1, 13-2, 13-3, 13-5.5, 13-6, 13-11, 13-19, 13-22, 13-24.1, 13-28, 13-29, 13-30, 13-36, 13-38, 13-39, 13-41, 13-42, 13-43, 13-45, 13-47, 13-48, 13-53, 13-54, 13-57.5, 13-60, 13-64.5, 13-65, 13-66, 13-69, 13-80, 13-85, 13-106 AND 13-125, ADDING A NEW SECTION 13-42.1, AND REPEALING SECTIONS 13-4, 13-7, 13-8, 13-9, 13-10, 13-12, 13-16, 13-18, 13-21, 13-27, 13-34, 13-37, 13-37.5, 13-39.1, 13-46, 13-49, 13-50, 13-51, 13-52, 13-55, 13-56, 13-58, 13-59, 13-60.5, 13-61, 13-61.5, 13-62, 13-63, 13-64, 13-67, 13-114, 13-115, 13-116 AND 13-124 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Boyle moved to table the ordinance, which motion was seconded and carried

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

upon the following vote:

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

Nays: Councilors Julsrud, Krause and Krug -- 3

- - -

INTRODUCED BY COUNCILOR JULSRUD

12-009 (10137) - AN ORDINANCE AUTHORIZING CHARGING FOR UTILITY TURN-ON AND SHUT-OFFS RELATED TO MAINTENANCE AND REPAIR AMENDING SECTION 48-210 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Krause voiced concern that this ordinance needs a high end cap in the amount of money the customer would pay so the public is not overcharged an extremely high price by an extenuating circumstance.

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

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

Nays: Councilor Krause -- 1

- - -

The meeting was adjourned at 8:47 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10137

AN ORDINANCE AUTHORIZING CHARGING FOR UTILITY TURN-ON AND SHUT-OFFS RELATED TO MAINTENANCE AND REPAIR AMENDING SECTION 48-210 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 48-210 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-210. Charges.

The charges for shutting off and turning on the supply of water or gas, where it has been shut off for nonpayment of charges, to facilitate maintenance or repair of any service or for violation of the rules, shall be not less than \$1 and shall include compensation to the department for all expenses incurred in such shutting off and turning on the supply.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 1, 2012)

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

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

Nays: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 27, 2012
Approved February 27, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 12, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0312-07 Dennis P. and Rosemarie Mitchell communication regarding the proposed issuance of an on sale theater liquor license to Duluth Cinema (12-0132R). - Received

12-0312-01 Carolyn Sheets communication regarding the proposed ordinances relating to civil service (11-060-O and 12-010-O). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0312-02 Civil service board minutes of January 3, 2012, meeting. -- Received

12-0312-03 Duluth airport authority minutes of January 24, 2012, meeting. -- Received

12-0312-04 Duluth public utilities commission: (a) Minutes of January 25, 2012, meeting; (b) Resolution No. 12PUC-001 regarding membership terms. -- Received

12-0312-05 Duluth transit authority minutes of December 28, 2011, meeting. -- Received

12-0312-06 Housing and redevelopment authority of Duluth minutes of January 31, 2012: (a) Annual; (b) Regular, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlaefer stated that the value of the dollar is going down as increased wages do not buy anything more since prices go up along with wages.

- - -

Tom Karas alerted the council that a new nonprofit has formed, called Minnesota Point Preservation Society, and they are putting together a new board of directors and invited the council or anyone else who could help create the foundation for this new organization. He continued saying that this organization could help serve as a liaison between the residents of Park Point and the city.

- - -

Loren Martell stated he cannot understand how the school district can finance the additional \$19.3 million for the red plan and their claim that it will not impact the citizens. He voiced concern over the bonds that will be issued to pay for the red plan and the accrual of interest by the time the bonds start to be paid off.

- - -

Jesse Peterson urged the council to pass a resolution of support for the bill in the state legislature to stop home foreclosures and prevent the citizens of Duluth from becoming homeless, and also urged the council to take action locally to help the homeless families in Duluth.

- - -

Tyler Nord requested the council support the bill in the state legislature to put a moratorium on foreclosures in Minnesota because if the foreclosures do not stop, the demand for rentals will increase along with the price if people are forced out of their homes.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that city officials are hereby authorized to contract with Engle Fabrication, LLC, d.b.a. Centerline Tank and Trailer Manufacturing, for the retrofit of Street Flusher Truck Unit 3857 to include the removal of an old and installation of a new 2,000 water tank and sheet metal in the amount of \$48,865 plus \$3,359.47 sales tax (6.875 percent) for a total amount of \$52,224.47, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1203.

Resolution 12-0118 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with J-Craft, Inc., for the purchase of parts and labor needed for the complete outfitting of two new tandem cab and chassis units with dump bodies and hydraulics in accordance with Minnesota State Contract 39243, Release T-863(5), specifications and pricing in the amount of \$50,970 plus \$3,504.19 sales tax (6.875 percent) for a combined total amount of \$54,474.19, terms net 30, payable from the Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-V1203.

Resolution 12-0124 was unanimously adopted.

Approved March 12, 2012

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 and application for a 2:00 a.m. beverage license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Scott Sutherland, LLC (North Pole Bar), 5606-10 Raleigh Street, with Scott Sutherland, 100 percent owner, transferred from Ray's B&G (North Pole Bar), same address.

Resolution 12-0126 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale brewery malt liquor license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), 2711 West Superior Street, with Donald and Jo Ann Hoag, 59.1 percent owner, John Judd and Karen

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Olsesen, 25.5 percent owner, Dale Kleinschmidt, 15.4 percent owner.

Resolution 12-0127 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the Minnesota department of commerce has determined that the city of Duluth, the Duluth airport authority, the Duluth entertainment convention center and the Duluth housing and redevelopment authority operate a joint enterprise for health insurance, including a joint self-insurance pool, referred to as the Duluth joint powers enterprise trust, a political subdivision self-insurance pool established pursuant to Minnesota Statutes Section 471.69 and Minnesota Rules Chapter 2785.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute the agreement for professional services with the Duluth joint powers enterprise trust, together with supporting documents, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0312-08, to provide professional services to the Duluth joint powers enterprise trust, which includes the city's group health insurance plan.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept \$255,000 annually for the years 2012 and 2013 for professional services further described in those documents referenced above, said funds payable to Fund No. 110-125-1214-4315-12 (general fund, finance department, auditor, cost allocation charges group health).

Resolution 12-0101 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 12-0312-09, with the Services by Bill, Inc., for the operation of "Crabby Ol' Bill's" vending operation in Canal Park for a term of five years in return for ten percent of vendor's gross receipts, payable to Fund 110 (general fund), Agency 121 (public administration), Organization 1217 (maintenance operations), Sub-organization 2120 (architecture), Revenue Source 4627 (facilities management).

Resolution 12-0128 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that contract on file in the office of the city clerk as Public Document No. 12-0312-10, with, and accept funds from St. Louis County to provide Minnesota family investment program and diversionary work program employment and training services in an amount not less than \$863,636 for the period January 1, 2012, through December 31, 2012. Monies received under this agreement will be deposited in and paid from Fund 268 (workforce development), Agency 031 (grants division), Organization 6235 (MFIP) and 6236 (DWP).

Resolution 12-0106 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that contract on file in the office of the city clerk as Public Document No. 12-0312-11, with, and accept funds from St. Louis County to provide Minnesota innovation fund 2012 transportation in an amount not less than \$13,125.80 for the period January 1, 2012, through December 31, 2012. Monies received under this agreement will be deposited in and paid from Fund 268 (workforce development), Agency 031 (grants division), Organization 6228 (miscellaneous workforce development grants).

Resolution 12-0107 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Ulland Brothers, Inc., for the purchase of 1,000 tons of fine cold mix during year 2012 in accordance with approved specifications of the St. Louis County contract and the vendor's bid of \$54.85 per ton for \$54,850.00 plus \$3,770.94 sales tax, for a total estimated amount of \$58,620.94, payable as follows:

Amount	Fund	Dept./Agency (Public Works & Utilities)	Organization (Utility Operations)	Object (Blacktop)
\$23,448.38	Water Fund 510	500	1945	5222
\$11,724.19	Gas Fund 520	500	1945	5222
\$11,724.19	Sewer Fund 530	500	1945	5222
\$11,724.18	Stormwater 535	500	1945	5222

Resolution 12-0121 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, commissioner of public safety, bureau of criminal apprehension, in the amount of \$70,000 for the purpose of supporting the Duluth police department's participation in the Minnesota financial crimes task force, and to execute the grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0312-12, grant funds to be deposited in Fund No. 215-200-2259-4220-02 (Duluth police grant programs, police, Minnesota financial crimes task force).

Resolution 12-0104 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to renew a proprietary annual contract with Polaris Library Systems for the tax-exempt purchase and delivery of software and hardware maintenance of the Polaris Integrated Library System for the period from March 14, 2012, through March 13, 2013, in the amount of \$31,168.25, terms net 30, and payable from General Fund 110, Department/Agency 121 (public administration), Organization 1218 (library services), Object 5404 (equipment/machinery repair and maintenance).

Resolution 12-0119 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SAS & Associates, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0312-13, for professional services for the development of a master plan for four city parks (Lower Chester, Brighton Beach, Chester Bowl and Washington) for an amount not to exceed \$45,500, payable from Fund 205-130-1220-5530 (parks fund, community resources, parks capital, improvements other than buildings).

Resolution 12-0122 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a three-year license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0312-14, with the Lake Superior Center authority (LSCA), to allow the city to use LSCA-owned property adjacent to Bayfront Festival Park (park) for park-related purposes, at no cost to the city.

Resolution 12-0123 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to contract with Maney International, Inc., for the purchase and delivery of two 2013 International Model 7600 tandem axle cab and chassis units for the fleet services division in accordance with Minnesota State Contract 31624, Release T-647(5), specifications and pricing in the amount of \$212,907.44 plus \$13,838.98 state motor vehicle tax (6-1/2%) plus \$250 license, registration and tax exempt plates, for a combined total amount of \$226,996.42, terms net 30, FOB destination, payable from the Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-V1203.

Resolution 12-0117 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved March 12, 2012

DON NESS, Mayor

- - -

Resolution 12-0132, issuing an on sale theater liquor license to Family Entertainment, LLC (Duluth Cinema), 300 Harbor Drive, was introduced by Councilor Krause for discussion.

Councilor Krause voiced concern that the alcohol would be allowed in all of the theaters where families and children would be watching movies.

Councilor Gardner questioned why certain theaters could not be alcohol free for families and expressed concern that the alcohol, gambling and tobacco commission (AGTC) did not review the issue thoroughly. She requested the AGTC examine the issue again, put conditions on the license, and to do a site study of Marcus-owned theaters that currently serve alcohol.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Deputy Police Chief Michael Tusken stated that the police department wants to make sure that the theater management has an enforcement and security plan in place so alcohol does not fall into the hands of underage people.

Jeff Tomachek, representing Marcus Theaters, reviewed that they are creating a separate lounge area for patrons to purchase an alcoholic beverage and to either sit there or take their drink into the theater. He explained that the theater that a certain movie plays at is often determined by the producers of the movies which would prevent having one theater being alcohol free all the time. He stated they have training in place for the bartenders and a monitoring plan for the ushers in the theaters.

Councilor Gardner moved to table the resolution for further review by the AGTC, which motion was seconded and failed upon the following vote:

Yeas: Councilors Boyle, Gardner, Krause and Larson -- 4

Nays: Councilors Fosle, Julsrud, Krug, Stauber and President Hartman -- 5

Resolution 12-0132 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale theater liquor license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Family Entertainment, LLC (Duluth Cinema), 300 Harbor Drive, with Marcus Theaters Corporation sole member of Family Entertainment, with Douglas A. Neis, president and treasurer and Thomas F. Kissinger, vice president and secretary.

Resolution 12-00132 was adopted upon the following vote:

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

Nays: Councilors Gardner and Krause -- 2

Approved March 12, 2012

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

WHEREAS, Chapter V of the Duluth Home Rule Charter, 1912, as amended, provides for the establishment of a civil service board; and

WHEREAS, the council has conferred further rights and duties to the civil service board through the provisions of Chapter 13 of the Duluth City Code, 1959, as amended; and

WHEREAS, it is universally recognized that the city needs to modernize Chapter 13 and improve city hiring processes and procedures; and

WHEREAS, the city council is currently reviewing several proposals for revising Chapter 13 and although the council may adopt a proposal, it is appropriate that the civil service board be directly involved in the ongoing discussions and/or review related to this process.

THEREFORE, BE IT RESOLVED, that the city council hereby establishes a working group to include the civil service board and a minimum of two city councilors, who shall be appointed by the city council president, to participate in any review of adopted proposals and to make additional recommendations for improving and modernizing the civil service process and city hiring practices and procedures.

Resolution 12-0130 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

Resolution 12-0108, establishing city of Duluth election precincts, was introduced by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

President Hartman for discussion.

Councilor Fosle introduced an amendment to keep the dividing line between council districts 4 and 5 at 40th Avenue West instead of moving it to 39th Avenue West, which motion was seconded for discussion.

Councilor Krause stated he could support the amendment if the shift on the eastern side of the fourth district goes back to what it was to keep the numbers equal.

To questioning from Councilor Krause, Assistant City Clerk Martha Oswald replied that there may be changes to the precinct lines because St. Louis County may need to adjust its lines, but that it may not include any changes to the eastern boundary of District 4 and any future changes to precinct lines would need to be an amendment by a city councilor.

Councilor Fosle's amendment failed upon the following vote:

Yeas: Councilors Boyle, Fosle, Larson and Stauber -- 4

Nays: Councilors Gardner, Julsrud, Krause, Krug and President Hartman -- 5

Resolution 12-0108 was adopted as follows:

RESOLVED, that pursuant to Minnesota Statutes 204B.14, subd. 3(d), the election precincts as shown on Public Document No. 12-0312-15, on file in the office of the city clerk, are hereby established in the city of Duluth.

Resolution 12-0108 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

[Editor's Note: Resolution 12-0108 was reconsidered at the March 26, 2012, council meeting.]

- - -

BY PRESIDENT HARTMAN:

RESOLVED, that the forest area located between the St. Louis River and Becks Road containing approximately 2,000 acres as delineated on the map on file in the office of the city clerk as Public Document No. 12-0312-16(a), shall hereafter be referred to as the Frederick Rodney Paine Forest Preserve.

FURTHER RESOLVED, that the forest area located to the west of Spirit Mountain between Beck Road and 100th Avenue West containing approximately 1,700 acres as delineated on the map on file in the office of the city clerk as Public Document No. 12-0312-16(b), shall hereafter be referred to as the Magney-Snively Forest Preserve.

Resolution 12-0129 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

Resolution 12-0109, authorizing an agreement with Foth Infrastructure and Environment, LLC, for professional engineering services in the preparation of an operations and maintenance manual for the city's utilities services for an amount not to exceed \$49,000, was introduced by Councilor Julsrud for discussion.

Councilor Julsrud stated the administration has requested this resolution be removed from the agenda.

Without any objections, President Hartman withdrew the resolution from the agenda.

- - -

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for field and laboratory testing services required to support the construction, operation and maintenance of city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

systems for fiscal year 2012;

(b) That EPC Engineering & Testing has submitted a fee schedule for field and laboratory testing services in connection with this work;

(c) That the council previously authorized a one-year extension and increase in year 2011, and that the city desires to continue this arrangement for year 2012.

RESOLVED, that the council hereby approves a one-year extension and an estimated \$30,000 increase for Agreement 20595 with EPC Engineering & Testing for such field and laboratory services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0111 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for survey and field data collection services required to support the construction, operation and maintenance of city systems for fiscal year 2012;

(b) That Salo Engineering, Inc., has submitted a fee schedule for survey and field data collection services in connection with this work;

(c) That city officials previously authorized a one-year extension only in year 2011, and that the city desires to continue this arrangement with an increase for year 2012.

RESOLVED, that the council hereby approves a one year extension and an estimated \$25,000 increase for Agreement 20596 with Salo Engineering, Inc., for such survey and field data collection services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0112 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for survey and field data collection services required to support the construction, operation and maintenance of city systems for fiscal year 2012;

(b) That LHB, Inc., has submitted a fee schedule for survey and field data collection services in connection with this work;

(c) That city officials previously authorized a one-year extension only in year 2011, and that the city desires to continue this arrangement with an increase for year 2012.

RESOLVED, that the council hereby approves a one year extension and an estimated \$25,000 increase for Agreement 20598 with LHB, Inc., for such survey and field data collection services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0113 was unanimously adopted.

Approved March 13, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for survey and field data collection services required to support the construction, operation and maintenance of city systems for fiscal year 2012;

(b) That Ayres Associates, Inc., has submitted a fee schedule for survey and field data collection services in connection with this work;

(c) That city officials previously authorized a one-year extension only in year 2011, and that the city desires to continue this arrangement with an increase for year 2012.

RESOLVED, that the council hereby approves a one year extension and an estimated \$25,000 increase for Agreement 20599 with Ayres Associates, Inc., for such survey and field data collection services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0114 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for field and laboratory testing services required to support the construction, operation and maintenance of city systems for fiscal year 2012;

(b) That Golder Associates, Inc., has submitted a fee schedule for field and laboratory testing services in connection with this work;

(C) That city officials previously authorized a one-year extension only in year 2011, and that the city desires to continue this arrangement with an increase for year 2012.

RESOLVED, that the council hereby approves a one-year extension and an estimated increase \$25,000 for Agreement 20706 with Golder Associates, Inc., for such field and laboratory services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0115 was unanimously adopted.

Approved March 12, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That the city of Duluth desires to hire professional consulting firms for field and laboratory testing services required to support the construction, operation and maintenance of city systems for fiscal year 2012;

(b) That American Engineering Testing, Inc., has submitted a fee schedule for field and laboratory testing services in connection with this work;

(c) That the council previously authorized a one-year extension and increase in year 2011, and that the city desires to continue this arrangement for year 2012.

RESOLVED, that the council hereby approves a one-year extension and an estimated \$25,000 increase for Agreement 20716 with American Engineering Testing, Inc., for such field and laboratory services, for a total estimated contract amount of \$40,000, and that the cost of said services for fiscal year 2012 will be paid from various appropriate funds, departments, agencies and objects.

Resolution 12-0116 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Krause, Krug, Larson, Stauber and President

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Hartman -- 8

Nays: None -- 0

Abstention: Councilor Julsrud -- 1

Approved March 12, 2012

DON NESS, Mayor

- - -

Resolution 12-0091, authorizing an agreement with Spirit Lake Development, LLC, dba Spirit Lake Marina & RV Park for the lease and operation of the city's Indian Point Campground, was introduced by Councilor Larson for discussion.

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

Barb Hegg stated the bidding process was flawed and unfair and added that Willard Munger has operated the campground with concern for the environment and the neighbors.

Drew Digby urged the council to reject the contract and redo the whole process.

Charlie Studahar stated that, as the new operators, they are anxious to work with the city, and the work being done to clean up St. Louis River will be carried through to the campground and the surrounding area.

Councilor Julsrud encouraged councilors to oppose the resolution if they are concerned about the process used in this contract.

Councilor Gardner questioned if the language in the contract is sufficient for environmental protection of the area. She moved to amend the resolution by requesting administration to add standard environmental language to the contract, which motion was seconded and failed upon the following vote:

Yeas: Councilors Boyle, Gardner, Larson and President Hartman -- 4

Nays: Councilors Fosle, Julsrud, Krause, Krug and Stauber -- 5

Resolution 12-0091 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute and implement an agreement with Spirit Lake Development, LLC, d.b.a. Spirit Lake Marina & RV Park, substantially the same as that on file with the city clerk as Public Document No. 12-0312-18, for the lease and operation of Indian Point Campground, located at 7000 Pulaski Street, with all payments to the city to be deposited into General Fund 110, 121 (public administration), 1219 (parks and recreation), 4626 (Indian Point Campground fees).

Resolution 12-0091 was adopted upon the following vote:

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

Nays: Councilor Julsrud -- 1

Approved March 12, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

INTRODUCED BY COUNCILOR BOYLE

11-060 (10138) - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

Marsh Stenerson, Robert Zallar, Tom Maida, Erik Simonson, Michele Hooey, Al Netland and Pete Johnson requested the council not to approve this ordinance for the following reasons: changes to the ordinance should be made incrementally; reviews of the ordinance could be done at the next civil service board (CSB) meeting; moving forward with a new code should be done correctly; follow the process and put the review committee to work with councilors and the CSB and then make changes; there are reasons why the CSB was created and those reasons are still valid today to ensure there is no political favoritism; the CSB speaks for the public who the council never hears from and for the people trying to get into public service who deserve to have someone represent them; there needs to be a fair process to get into civil service; while some parts of the Civil Service Code need to be fixed, not all the parts need fixing and there are no other groups or individuals who think the changes to the code are a good idea other than the administration.

President Hartman explained that he is withdrawing his amendment because it is a major ordinance change that may need some changes once it becomes effective and that he is scheduling a review of the ordinance in six months to see what changes may need to occur to the ordinance at that time.

Councilor Boyle moved to amend Section 13-10(a) of the ordinance to delete the language, "excluding management classifications in the police department and fire prevention classifications in the fire department," which motion was seconded for discussion.

Councilor Boyle explained that this amendment would keep the same procedures in place for the hiring of mid level police and fire managers rather than the police and fire chiefs making mid level manager appointments.

Councilor Gardner reviewed that the fire department has a career ladder in their department and there has been no shortage of employees who work hard and take tests to qualify to move up the career ladder and this amendment would allow that to continue instead of allowing applicants from outside of the department to apply for a job.

Chief Administrative Officer David Montgomery reviewed that although the administration feels there are times when hiring from the outside is good for the department, they have agreed with the fire and police unions, and the current ordinance states that it is a promotional only path up through the entire fire operation side, and on the police side from patrolman to sergeant it would be strictly promotional. He continued explaining that would leave lieutenants and the fire prevention side which would then have the potential to bring additional candidates in if there were not enough in the pool to choose from or if the candidates were not meeting the criteria for that position.

Councilor Boyle's amendment failed upon the following vote:

Yeas: Councilors Boyle, Gardner and Stauber -- 3

Nays: Councilors Fosle, Julsrud, Krause, Krug, Larson and President Hartman -- 5

Councilor Gardner moved to amend the ordinance as follows:

(a) In Section 13-6, add the sentence, "All actions of the secretary may be appealed to the board, in accordance with this Chapter";

(b) Section 13-8, delete the language and replace it with the following:

"If after the evaluation of a position in which there are significant changes in duties, the secretary shall, with the approval of the chief administrative officer, after investigating actual and proposed duties, responsibilities and qualification requirements, refer the matter to the board with his/her recommendation. The board shall determine whether or not to reclassify the position. Upon reclassification of the position, taking into consideration the recommendation of the secretary, the board shall determine whether the reclassification shall be filled by the appointment of the incumbent employee(s) to the reclassified position, or by establishment of a new

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

classification, subject to the approval of the city council. The secretary shall notify the affected employee(s) in writing, within ten calendar days of the initial evaluation decision by the secretary and the reclassification decision by the board, to allow for the appeals process to be utilized, as needed. New job classifications as a result of this process shall not be referred to the council until the appeal period has expired";

(c) In Section 13-10(a), delete the language, "excluding management classifications in the police department and fire prevention classifications in the fire department";

(d) Amend Section 13-29 to read as follows:

"(a) Right to appeal.

(1) An applicant who has been qualified by the secretary to participate in a selection process for a position within the classified service and any classified or eligible employee may appeal to the board as provided in this Section;

(2) An applicant who has been rejected under Section 13-13 of this Code or who was on a list canceled by the secretary pursuant to Section 13-21 of this Code may appeal to the board the basis for the rejection or cancellation as provided in this Section;

(b) Manner and time for appeal. An appeal is perfected by filing a notice of appeal within ten calendar days after the secretary's written notification of the action. The notice of appeal shall be in writing, shall contain a complete statement of the matter in controversy and the relief requested, and shall be signed and dated by the appellant. The notice shall be addressed to the board and filed with the office of the secretary. Filing may be accomplished by electronic submission, personal delivery or United States mail addressed to the secretary; however, filing shall not be timely unless the notice of appeal is received in the office of the secretary within the time fixed for appeal;

(c) Secretary's authority to reject appeals. The secretary shall reject any appeal received after the time limit provided by this Section;

(d) Board scope of authority. Unless otherwise provided by this Chapter, state or federal law, or required by a collective bargaining agreement, the board's jurisdiction shall be to hear and render a decision on:

(1) Appeals challenging the fairness or scoring of a test, including the number of veteran's preference points allotted to an applicant;

(2) Appeals from applicants that have been rejected under Section 13-13 of this Code;

(3) Appeals of the secretary's action related to placement on a re-appointment list;

(4) Appeals of the secretary's action that have any effect on the civil service status of a classified employee or eligible employee;

(5) Appeals from qualified applicants that were on an eligible list canceled by the Secretary pursuant to Section 13-21 of this Code;

(6) In rendering its decision the board shall not modify or waive any of the qualifications, skills, abilities or experience requirements provided for in the classification description,"

which motion was seconded for discussion.

Councilor Gardner stated that her amendment deals with the reclassification of positions and bringing the CSB back into the appeal process, which allows some protection for the employees.

Councilor Gardner's amendment failed upon the following vote:

Yeas: Councilors Boyle, Gardner and Stauber -- 3

Nays: Councilors Fosle, Julsrud, Krause, Krug, Larson and President Hartman -- 6

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Councilor Fosle urged the council to vote no on the ordinance as the original charge for the task force was to look at the hiring process to make it easier, but now this ordinance makes changes that have nothing to do with the hiring process.

Councilor Stauber explained that it is very clear in the City Charter that any changes to the Civil Service Code should be coming from the CSB, and all along the CSB has been stating they have not been involved in the process and there should be small changes to the code first instead of an entire overhaul. He went on to say that since the CSB is not making any recommendations to the council, he will not be supporting the ordinance.

Councilor Gardner stated that passing this ordinance is disrespectful to the CSB and to the implementation of good government and good process. She went on to say that people who work in government should not be influenced by the people who are elected and civil service provides the public employees stability because administrations and city councils come and go.

City Attorney Gunnar Johnson stated that the administration is comfortable with the proposed ordinance and that it is in compliance with the City Charter.

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

Yeas: Councilors Julsrud, Krause, Krug, Larson and President Hartman -- 5

Nays: Councilors Boyle, Fosle, Gardner and Stauber -- 4

- - -

BY COUNCILOR BOYLE

12-010 - AN ORDINANCE AMENDING SECTIONS 13-1, 13-2, 13-3, 13-5.5, 13-6, 13-11, 13-19, 13-22, 13-24.1, 13-28, 13-29, 13-30, 13-36, 13-38, 13-39, 13-41, 13-42, 13-43, 13-45, 13-47, 13-48, 13-53, 13-54, 13-57.5, 13-60, 13-64.5, 13-65, 13-66, 13-69, 13-80, 13-85, 13-106 AND 13-125, ADDING A NEW SECTION 13-42.1, AND REPEALING SECTIONS 13-4, 13-7, 13-8, 13-9, 13-10, 13-12, 13-16, 13-18, 13-21, 13-27, 13-34, 13-37, 13-37.5, 13-39.1, 13-46, 13-49, 13-50, 13-51, 13-52, 13-55, 13-56, 13-58, 13-59, 13-60.5, 13-61, 13-61.5, 13-62, 13-63, 13-64, 13-67, 13-114, 13-115, 13-116 AND 13-124 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Boyle withdrew his ordinance from the agenda.

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-013 - AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE UPPER RIVERSIDE AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) AT NO COST.

- - -

INTRODUCED BY PRESIDENT HARTMAN

12-012 - AN ORDINANCE AMENDING SECTION 2-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ASSIGNMENT OF ELECTION PRECINCTS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-008 (10139) - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 12-10, 43-33.4, 44A-9, 44A-10, 44A-15 AND 48-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Krug moved passage of the ordinance and the same was adopted upon a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-011 (10140) - AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION ADJACENT TO INTERSTATE 35 IN THE POINT OF ROCKS AREA FOR \$39,000.

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

- - -

The meeting was adjourned at 10:40 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10138

AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

The city of Duluth does ordain:

Section 1. That Chapter 13 of the Duluth City Code, 1959, as amended, is amended by deleting the language of the Chapter as it existed prior to the effective date of this ordinance and by adopting the following language as Chapter 13 of the Duluth City Code, 1959, as amended:

CIVIL SERVICE.

Sec. 13-1. Purpose.

The civil service board is established pursuant to Chapter V of the Duluth City Charter. This Chapter 13 shall constitute the rules and regulations of the board and are established pursuant to Section 36, Chapter V, of the Duluth City Charter. Minnesota law and agreements reached under the Minnesota Public Employment Labor Relations Act to which the city is a party shall supersede these rules and regulations as required by Minnesota law. The purpose of this Chapter 13 is to ensure a fair, efficient and effective system of city human resource administration that meets the needs of the city and provides an equal opportunity for all qualified individuals to obtain employment within the civil service of the city.

Sec. 13-2. Definitions.

The following definitions apply to this Chapter:

- (a) Appointing authority. The chief administrative officer, department head or acting department head, or staff officer appointed pursuant to charter or statute;
- (b) Board. The civil service board established pursuant to Chapter V of the Charter;
- (c) Charter. The City Charter for the city of Duluth;
- (d) Chief administrative officer. The chief administrative officer for the city or such officer's designee;
- (e) Class or class of positions. A group of positions established under this Chapter sufficiently similar in respect to the duties, responsibilities qualifications, and authority that the same descriptive title may be used to designate each position allocated to the class;
- (f) Class description. A description of the major duties of each class, examples of tasks performed, and the minimum qualifications required, and other

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

essential functions of the class;

(g) Classification plan. The classes of positions within the classified service;

(h) Classified employee. Any employee, except an employee provisionally appointed, who, in accordance with the provisions of this Chapter, occupies any position in the classified service, or who is on leave of absence from such position if such position is held vacant pending the employee's return;

(i) Classified service. Any position in the service of the city except the following:

(1) Any position excluded from the definition of public employee under applicable state law; or

(2) Any other position which is exempted from the classified service by the Charter;

(j) Eligible. Any person whose name is on a reappointment, re-employment, internal-employment or open-employment list for a given class and who continues to meet the minimum qualifications for the position;

(k) Eligible list. A list of the names of persons who have been found qualified for employment in positions in the classified service, including the names of persons on the reappointment, re-employment, promotional, internal-employment and open-employment lists;

(l) Employment test. A test or group of tests used to determine the relative fitness of applicants for positions allocated to a class;

(m) Internal-employment list. A list of names of persons currently employed in the classified service who have qualified through employment tests administered by the secretary for employment in other positions allocated to a different class;

(n) Layoff series. A list of class titles that has been created to allow a qualified employee to bump into a lower classification, and whose order has been negotiated as provided in a collective bargaining agreement to which the city is a party;

(o) Open-employment list. A list of names of persons who have qualified through employment tests administered by the secretary for employment in positions allocated to a class. within the classification plan;

(p) Organization unit. Any department, office or division of the city government commonly recognized as a unit for purposes of administration;

(q) Position. A full or part-time job held by one person, unless the job is filled by a job sharing arrangement;

(r) Promotional list. A list containing the names of persons currently employed in the classified service in the police or fire departments in a lower class of position, as determined by pay range, who have qualified through employment tests administered by the secretary for promotion to a higher class of position in the same department;

(s) Reappointment list. A list containing the names of city employees within the classified service who have been demoted for non-disciplinary reasons;

(t) Re-employment list. A list of the names of persons who have occupied permanent positions allocated to any class, who have been separated from the service as a result of layoff or approved leave of absence, and who, in accordance

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with this Chapter, are entitled to have their names certified to the appointing authority when vacancies in the class are to be filled;

(u) Secretary. The manager of human resources for the city or the manager's designee.

Sec. 13-3. Duties of the board.

(a) In addition to the authority and responsibility conferred upon the board by Chapter V of the Charter and by the provisions of this Chapter, the board shall act in accordance with the authority and responsibility conferred upon it by any provision of any collective bargaining agreement to which the city is a party;

(b) The board shall serve as a veteran's hearing board as provided by Minnesota law;

(c) All new civil service board members shall participate in training regarding the role of the board, employment laws and other pertinent human resources topics necessary to carry out their duties;

(d) All civil service board members shall participate in annual training regarding applicable employment laws and pertinent human resources topics.

Sec. 13-4. Meetings of the board.

All meetings of the board shall be open to the public as required by state law.

A simple majority of the board membership then serving shall constitute a quorum for meeting purposes. Any meeting shall be adjourned in the absence of a quorum.

Regular meetings of the board shall be scheduled once per month. The board shall make the determination of whether to hold or cancel meetings when there is no business requiring board action. Special meetings of the board may be held at any time on the call of the secretary or the board chair, or pursuant to the standing rules of the board.

Sec. 13-5. Duties of secretary to the board.

(a) The secretary shall act as the secretary to the board, attend meetings of the board, prepare matters that require board action and prepare the board minutes;

(b) The secretary shall serve as a nonvoting ex officio member of the board and shall have the right to participate in board discussions;

(c) The secretary shall arrange for all training of the board required by this Chapter.

Sec. 13-6. Civil service administration, duties of the secretary.

Unless otherwise provided herein, the secretary shall have all powers necessary to administer the functions and provisions of this Chapter. These powers include, but are not limited to, the creation and maintenance of the class descriptions, administration of all civil service hiring processes, maintenance of the eligible lists, and maintenance of employment records as required by state or federal law.

Sec. 13-7. Establishment of and amendments to the classification plan.

(a) Management shall meet and confer with the applicable union personnel committee, labor management committee or appropriate union representative regarding all new and revised class descriptions of all positions within the classification plan prior to approval by the board and city council;

(b) The classification of all positions within the classified service shall be approved by the chief administrative officer;

(c) An appointing authority, subject to the approval of the chief

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administrative officer, shall determine the classifications to be utilized within any organizational unit under the supervisory authority of such appointing authority;

(d) The chief administrative officer may abolish existing classes that are obsolete and no longer in use, subject to the approval of city council.

Sec. 13-8. Reclassification of positions.

If, after the evaluation of a position, it is the opinion of the secretary that there has been a significant change in the duties of such position, the secretary may assign such position to a different classification, subject to the approval of the chief administrative officer. Upon reclassification of the position, the chief administrative officer shall, after receipt of the secretary's and appointing authority's recommendation, determine whether the reclassified position will be filled through an employment test or by the appointment of the incumbent of the former position to the reclassified position. The secretary shall notify the affected employee in writing at least ten calendar days prior to implementation of the chief administrative officer's determination. New job classifications created as a result of this process shall not be submitted to city council for approval until the appeal period has expired.

Sec. 13-9. Requirements for entrance into the classified service.

No permanent appointment to a position in the classified service shall be made unless the person so appointed has satisfied the following criteria:

- (a) Filed the application materials required by the secretary;
- (b) Qualified by passing the required test(s);
- (c) Been certified in accordance with this Chapter; provided, that no

additional application materials other than proof of license, certificate or educational requirement, and ability to perform the essential functions of the class as specified in the class description, shall be required from a person who has been employed and whose name is certified from a re-employment or reappointment list unless required by state or federal law.

Sec. 13-10. Determination of type of eligible list to be created.

(a) When employment tests are to be held to establish an eligible list, the secretary, in consultation with the appointing authority, shall determine whether to administer a promotional only, internal only, internal and open, or open only test process; however, promotional only test processes shall be administered for higher level classifications in the police and fire departments only, excluding management classifications in the police department and fire prevention classifications in the fire department;

(b) Only persons currently employed in the classified service who have completed a probationary period for a position within the service, may apply to participate in an internal test process;

(c) All persons at least 18 years old, and who may be legally employed in the United States, may apply to participate in an open test process.

Sec. 13-11. Tests to determine fitness of applicants, notice.

(a) The secretary shall select the employment tests used to determine the fitness of applicants for positions in any class and to establish the eligible lists;

(b) For each employment test given the secretary shall issue an appropriate notice containing a description of the duties and qualifications, the type of eligible list to be created, the type of test(s), relative weight assigned to each test or group of tests, the minimum rating, if any, required in any test or group of tests, and any other information deemed appropriate by the secretary;

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(c) The duration of any eligible list shall be determined by the secretary prior to issuance of the notice and shall be included in the notice.

Sec. 13-12. Applications for appointment.

(a) All applications for appointment to the classified service shall be filed with the secretary;

(b) Application materials shall be determined by the secretary;

(c) All applications shall be filed with the secretary by the deadline specified in the public notice. The secretary shall reject any application received after the specified deadline;

(d) All applicants shall provide evidence that they meet the minimum qualifications for the class and other documents as required by federal or state law.

Sec. 13-13. Rejection of applicants for cause and reconsideration of action.

(a) The secretary may, for cause, reject any applicant at any time prior to their appointment. The secretary shall provide written notice to the applicant specifying the reason for the action and shall advise the applicant of the ability to request an appeal of the action as provided in this Section;

(b) The applicant must request an appeal within ten calendar days after issuance of the secretary's notice. The request shall be in writing, shall contain a complete statement of the reasons supporting the appeal, include any supporting documentation, and shall be signed and dated by the applicant. The request shall be addressed to the secretary and filed with the office of the secretary. Filing may be accomplished by electronic submission, personal delivery or United States mail addressed to the secretary; however, filing shall not be timely unless the request is delivered to the office of the secretary within the time provided by this Section;

(c) The secretary shall reject any request for appeal delivered after the time limit provided in this Section and shall cause the applicant to be notified of the rejection;

(d) The filing of a timely request for appeal shall stay all proceedings in furtherance of the applicable hiring process;

(e) The secretary shall reconsider the rejection based on the appeal documentation within five days of receipt. If the secretary upholds the rejection, the secretary shall call a meeting of the board as soon as possible to hear the appeal.

Sec. 13-14. Grounds for rejection of applicants.

Any of the following may be deemed sufficient cause for rejecting an applicant, though rejection may be made for causes other than those enumerated:

(a) That the applicant failed to timely file their application;

(b) That the applicant is found to lack any of the minimum qualifications as stated in the class description;

(c) That the applicant is unable to perform the essential functions of the class;

(d) That the applicant has been removed from previous employment with the city for cause, delinquency or misconduct;

(e) That the applicant has made a false statement in their application;

(f) That the applicant has been previously employed in the classified service and has been removed for cause or did not resign in good standing.

Sec. 13-15. Testing procedure.

(a) The secretary shall ensure that all tests are administered in a fair and lawful manner;

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(b) Any person who obtained or used without permission any extraneous, forbidden or unfair source of information or otherwise cheated shall be deemed to have failed the test. A violation of this Section by a current employee of the city shall constitute just cause for discipline;

(c) If the secretary determines that the tests held were not fair, the secretary may void the tests and take any other appropriate corrective action;

(d) The secretary shall notify in writing all test participants of the action and rights to appeal the decision.

Sec. 13-16. Creation of eligible list.

(a) Following the completion of test scoring, the secretary shall prepare an eligible list showing the names of the test participants, the raw score of each participant in each test or group of tests and the participant's total weighted score;

(b) The names of the participants shall be arranged on the eligible list in the order of total weighted scores with the highest first; provided, that if two or more participants have the same weighted score, those names shall be placed on the eligible list in the same rank;

(c) In no case shall the name of any applicant be included on an eligible list if the applicant fails to obtain a passing score on any test or group of tests, as stated in the notice of the test.

Sec. 13-17. Notification of test results and access to examination data.

(a) The secretary shall send to each test participant a written report of their test results, and, if the participant's name is placed on the eligible list, their relative standing on the list;

(b) Access and release of examination data shall comply with state and federal law.

Sec. 13-18. Duration of eligible lists.

(a) An eligible list shall become effective on the date the list is approved by the secretary;

(b) Any name placed on a reappointment list shall remain on the list for five years. Any name shall be removed if the person separates from the classified service for any reason;

(c) Any name placed on a re-employment list due to a layoff shall remain on the list for the person's class and any lower class of that layoff series until such time that the person is rehired, has indicated he/she wishes to have his/her name removed from the list, or has refused to accept an appointment offered him or her unless a different period of time is specified in a collective bargaining agreement to which the city is a party;

(d) Any name placed on a re-employment list for reasons other than layoff shall remain on the list for a period of one year.

Sec. 13-19. Reappointment list--ranking of names.

The names of persons eligible for inclusion on a reappointment list shall be ranked in order of seniority within the classified service. The secretary shall provide written notice to persons whose names are placed on a reappointment list.

Sec. 13-20. Re-employment list--ranking of names.

The names of persons eligible for inclusion on a re-employment list shall be ranked on the list for their class and lower classes in the layoff series in order of their seniority.

Sec. 13-21. Cancellation of eligible lists.

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The secretary may cancel any eligible list under the following circumstances:

- (a) Illegality, fraud or mistake has affected the creation or maintenance of a list;
- (b) The secretary determines that an insufficient number of names remain on the list;

The secretary shall provide written notice to all persons whose name appeared on the cancelled list.

Sec. 13-22. Criminal history background checks.

The secretary is authorized to coordinate pre-employment background investigations on applicants for appointment to the classified service, subject to the limitations of federal and state law.

Sec. 13-23. Certification of eligibles.

Whenever a vacancy in a position in the classified service is to be filled other than by transfer or demotion, the appointing authority shall request that the secretary certify the names of the persons eligible for appointment.

(a) The secretary shall certify from the list in the following order: reappointment, re-employment, promotional, internal-employment and/or open-employment list;

(b) When certification from a reappointment or re-employment list is made, the secretary shall certify the name of the person whose name is highest on the list and who still meets the qualifications of the classification;

(c) When certification from a promotional or internal-employment list is made, the secretary shall certify the names of the three persons highest on the internal employment list; however, when more than one vacancy is to be filled, the number of names certified shall be twice the number of such vacancies. If the internal-employment list has less than three names, additional names may be certified from the open-employment list. Certification shall start with the name in the highest position on the promotional or internal-employment list. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

(d) When certification from an open employment list is made, the secretary shall certify the names of the seven persons highest on the open employment list; however, when more than one vacancy is to be filled, an additional two names shall be certified for each additional vacancy. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

(e) The appointing authority may also request the certification of the name of an additional eligible in case one whose name was first certified withdraws from consideration, does not accept the position or does not respond to the appointing authority's communications;

(f) The secretary shall provide notice of certification by mail or via electronic communication to the applicant certified at the last notification address appearing in the secretary's records;

(g) The notification shall advise the applicant of the certification, the title of the position, the organization unit, the name and address of the appointing authority and other appropriate instructions;

(h) A copy of the notice shall be sent to the appointing authority.

Sec. 13-24. Delay of appointment by appointing authority.

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(a) If in the opinion of the appointing authority there are an inadequate number of names certified, the appointing authority may refuse to appoint anyone so certified and may then wait for an adequate eligible list to be established;

(b) If a reappointment list or re-employment list is established for such class before an adequate internal-employment and/or open-employment list is established, such reappointment list or re-employment list shall be used.

Sec. 13-25. Provisional appointments to permanent positions pending tests.

(a) When an appointing authority requests certification of eligibles and no eligible list for the class exists, or when an appointing authority refuses to appoint from names certified because the number of names certified was inadequate, the appointing authority may hire a qualified person for provisional appointment to the position as provided in this Section;

(b) No position shall be provisionally occupied more frequently than one period of 180 days in any 12 consecutive months;

(c) The provisional appointment shall expire upon the happening of any of the following events:

(1) An eligible is appointed and begins employment on the agreed upon start date;

(2) A period of 180 days from date of provisional appointment has passed.

Sec. 13-26. Probation period for classified employees.

Except as otherwise provided by this Section, any person appointed to a position in the classified service after certification from an eligible list shall be on probation for a period of six months or the period specified in the test notice, whichever is longer.

(a) Any person who bumps from a position in one classification to a position in a lower classification and pursuant to a layoff, as provided for in a collective bargaining agreement, shall be on probation for a period of six months; provided, that if an employee bumps or has been laid off or demoted without fault of such employee, and has completed the probationary period in the classification to which he or she is bumping, being demoted or reappointed, such employee shall not be required to serve a second probationary period;

(b) If an employee bumps or is laid off or demoted without fault of such employee during the probationary period, and is appointed to a position in the same class in the same organization unit from which such employee bumped or was laid off or demoted, the probationary period already served shall be carried over to the new appointment, but if appointed in a different organization unit, such employee shall serve a full probationary period for the class.

Sec. 13-27. Rejection of probationary employee.

The appointing authority may at any time before the expiration of the probation period reject any person appointed to a position; provided, that the appointing authority shall forthwith provide a written report to the secretary of the action, identifying the date the rejection becomes effective and the reasons for the rejection. Any probationary employee who fails to successfully complete probation shall be considered permanently separated from the classified service in the classification last held and shall not be entitled to have their name placed on an eligible list.

Sec. 13-28. Temporary vacancies in permanent positions.

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(a) A vacancy created by the absence of the incumbent shall be known as a temporary vacancy in a permanent position, and any person appointed to fill such vacancy shall be known as a substitute in that position;

(b) Whenever a temporary vacancy in a permanent position occurs, the appointing authority may fill the position through certification in the following order: from the reappointment list, re-employment list, internal-employment list or open-employment list, as provided for in these rules;

(c) The substitute appointment shall terminate upon the return of the incumbent. Upon termination, one of the following actions shall occur:

(1) If the substitute has not completed the probation period, the substitute's name shall be restored to the eligible list from which certification occurred. If that list has expired, the substitute shall be terminated; however, if the appointment was made from an internal-employment list, the substitute shall be returned to the position previously held;

(2) If the substitute has completed the probation period, the substitute's name shall be placed on a re-employment list and if hired from an internal employment list, the substitute shall be returned to the position previously held;

(d) In such cases where it is determined that the incumbent will not return to the position, the substitute shall be appointed to the position as the regular employee if the substitute has successfully completed the probation period;

(e) If no eligible list exists, or no person certified from such list accepts the appointment, the appointing authority may fill the position with a provisional appointment.

Sec. 13-29. Appeals to the board.

(a) Right to appeal.

(1) An applicant who has been qualified by the secretary to participate in a selection process for a position within the classified service and any employee whose civil service status is directly affected by an action of the secretary may appeal to the board as provided in this Section;

(2) An applicant who has been rejected under Section 13-13 of this Code may appeal to the board the basis for the rejection as provided in this Section;

(b) Manner and time for appeal. An appeal is perfected by filing a notice of appeal within ten calendar days after the secretary's written notification of the action. The notice of appeal shall be in writing, shall contain a complete statement of the matter in controversy and the relief requested, and shall be signed and dated by the appellant. The notice shall be addressed to the board and filed with the office of the secretary. Filing may be accomplished by electronic submission, personal delivery or United States mail addressed to the secretary; however, filing shall not be timely unless the notice of appeal is received in the office of the secretary within the time fixed for appeal;

(c) Secretary's authority to reject appeals. The secretary shall reject any appeal received after the time limit provided by this Section or any appeal that exceeds the authority of the board as provided by this Section;

(d) Board scope of authority. Unless otherwise provided by this Chapter, state or federal law, or required by a collective bargaining agreement, the board's jurisdiction shall be to hear and render a decision on:

(1) Appeals challenging the fairness or scoring of a test, including

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the number of veteran's preference points allotted to an applicant;

(2) Appeals from applicants that have been rejected under Section 13-13 of this Code;

(3) Appeals of the secretary's action related to placement on a reappointment list;

(4) Appeals of the secretary's action that directly impacts the civil service status of a current classified employee;

(5) In rendering its decision the board shall not modify or waive any of the qualifications, skills, abilities or experience requirements provided for in the classification description;

(e) Limitation of board authority. Unless otherwise required by the provisions of a collective bargaining agreement to which the city is a party, the board shall have no authority to hear the appeal of a dispute that is subject to the grievance article of a collective bargaining agreement;

(f) Suspension of employment process pending appeal. The filing of a timely appeal shall stay all proceedings in furtherance of the applicable employment action;

(g) Notification of board decision. After due deliberation, the board shall render its decision on the record. Within ten calendar days of the board's decision the secretary shall provide written notice of the decision to the appellant and appointing authority. The notice of decision shall be delivered by any reasonable means. The secretary shall provide a copy of the record of decision upon request and as required by Minnesota law. The appellant shall be deemed to have actual notice of the decision on the date the decision was rendered if the appellant or the appellant's representative was present during the meeting at which the board took the action;

(h) Finality of board decision. All decisions of the board are final. Any party aggrieved by a decision of the board may appeal as authorized by Minnesota law;

(i) Implementation of board decision. The secretary shall implement the decision of the board, and in so doing shall determine and implement steps necessary to ensure that legal compliance is maintained.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: April 13, 2012)

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

Yeas: Councilors Julsrud, Krause, Krug, Larson and President Hartman -- 5

Nays: Councilors Boyle, Fosle, Gardner and Stauber -- 4

Passed March 12, 2012

Approved March 12, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10139

AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FEES TO BE SET BY RESOLUTION, AMENDING SECTIONS 12-10, 43-33.4, 44A-9, 44A-10, 44A-15 AND 48-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The city of Duluth does ordain:

Section 1. That Section 12-10 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec.12-10. Administrative hearings procedure.

(a) Upon receipt of a notice of appeal and appeal deposit from any citation, the administrator shall schedule a date and time for a hearing before a hearings officer with regard to said appeal and shall mail notice thereof to the violator as herein provided for. Said date shall be not less than ten days after the date of mailing of the notice of hearing to the violator. Said notice shall state the date and time of the hearing, the location where the hearing is to be held and shall identify the hearings officer who will be scheduled to hear the violator's appeal;

(b) For good cause shown, a violator may request that their appeal be heard by a different hearings officer by causing to be received by the administrator not less than three days prior to the scheduled hearing date a written statement of facts supporting the allegation of good cause and a request for substitution of a different hearings officer. Upon such a showing of good cause which might reasonably render the assigned hearings officer unable to fairly hear violator's appeal, the administrator may re-assign the violator's appeal to be heard by a different hearings officer. If necessary, the administrator may re-schedule the date and time of the hearing to accommodate the assignment of a new hearings officer. Only one such re-assignment shall be available with regard to any one appeal;

(c) Upon good cause shown by the violator or by the city, the administrator may grant a continuance of the hearing on any appeal. The party requesting the continuance shall cause to be received by the administrator not less than three days prior to the scheduled hearing date a written statement of facts supporting the allegation of good cause and a request for continuance. Upon the grant of any such continuance, the administrator shall cause to be delivered to the violator and the city a notice setting forth the date, time and place of the re-scheduled hearing;

(d) Upon the written request of the violator or the city demonstrating the need therefore, delivered to the administrator not less than six days prior to the scheduled hearing date, the administrator may issue an administrative subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the hearing of the violation. A fee shall be charged to any violator for the issuance of each such subpoena, which fee shall be set in accordance with Section 31-8 of this Code. The party requesting the administrative subpoena shall be responsible to cause any such subpoena to be served in the manner provided for in the *Minnesota Rules of Civil Procedure* and for pay all fees and expenses of any witness subpoenaed. In addition the hearings officer, on their own motion, may cause such subpoena to be issued in which case the city shall be responsible for service thereof and for fees and expenses. Any person served with such an administrative subpoena who deems compliance therewith to be unreasonable or oppressive may appeal therefrom by causing to be received by the administrator not less than three days prior to the date scheduled for compliance therewith a written statement of facts supporting the allegation of unreasonableness or oppressiveness. The administrator may cancel the subpoena, affirm it or modify it, mitigating those factors rendering it unreasonable or oppressive. Any person who, without just cause, fails or refuses to comply with any administrative subpoena

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shall be guilty of a misdemeanor. In addition, the party requesting the administrative subpoena may seek an order from district court directing compliance with the administrative subpoena;

(e) Neither the city nor the violator shall be represented at the hearing by an attorney. Provided that, where relevant or where requested by the hearings officer, either party may submit a legal memorandum relevant to the issues being heard;

(f) At the hearing, the hearings officer may hear and rely on any testimony or other evidence they deem to be reasonably reliable, including, in the exercise of their discretion, hearsay testimony. Strict compliance with the *Minnesota Rules of Evidence* will not be required. The proceedings shall be either recorded by a recording clerk recording the evidence in summary form or by means of an audio recording, and a record of all testimony and of all evidence considered shall be maintained for at least 60 days after the close of the hearing. The interpretation of technical codes such as building codes, electrical codes and other such codes by those regularly engaged in their enforcement and interpretation shall be given substantial weight;

(g) In all hearings the city shall have the burden of proving by a preponderance of the evidence that the alleged violation has occurred and that the violator is the person or one of the persons legally responsible therefore;

(h) If any violator fails to appear for any scheduled hearing, the violation shall be deemed to have been admitted by such violator, the hearings officer shall impose such penalty or order or both as they deem appropriate and the violator shall be deemed to have waived any further right of appeal.

Section 2. That Section 43-33.4 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of or of possessory rights in property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) Unless there is then in effect a valid POS certificate pertaining to such property, upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first, the seller or transferor shall notify the director of the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor shall pay an inspection fee to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No person shall sell, transfer or enter in a contract for deed for or contract for sale of real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession in any property, nor shall any person purchase, accept transfer of or enter into any contract for deed or contract for sale of real property as a transferee which sale, transfer or contract results in such person acquiring a right of possession in any property unless the director has been so notified and the property so inspected, except as provided for in subsection

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(e) below. The seller or transferor may choose to utilize an inspector other than the city inspector to perform said inspection, providing the inspector is bonded and meets the qualifications as a licensed plumbing contractor in the city of Duluth, holds a Class S-C wastewater license and passes a city administered training course. The private inspector must make certification that the building either needs a sump pump or that there is a sump pump in place and properly functioning or that no sump pump is required. No fee except a nominal filing fee to the city will be required under these circumstances;

(c) If a building sewer contains a house trap and the footing drains are active, the trap shall be removed. If the property requires footing drain disconnections and sump pump installation, it shall be done. The required repairs shall be completed within 90 days of the date of the inspection referred to in subparagraph (b) above. If they are satisfactorily completed, the director shall issue a POS certificate with regard to footing drain contribution only but such POS certificate shall not evidence total compliance with all of the requirements of Section 43-31(a) above. If the required repairs are not satisfactorily completed within said 90 day period, the owner or customer shall be charged a monthly surcharge each month until the repairs are satisfactorily completed, which surcharge shall be set in accordance with Section 31-8 of this Code;

(d) If, upon the inspection provided for in subparagraph (b) above, the director determines that the property qualifies, the director shall issue or cause to be issued a POS certificate which shall be valid for the proposed sale or transfer related to that inspection and for any other such sale or transfer occurring within one year of said proposed sale or transfer unless the director determines in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question. Provided, however, if the director has issued a POS certificate because the building served by sanitary sewer on the subject property does not have a basement or cellar, said certificate shall continue to be valid unless and until revoked by the director upon the director's determination in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question;

(e) In the event that the director receives notice of a proposed sale or transfer and request for city inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this Section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing;

(f) In the event that neither the seller or transferor nor the acquiring party

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shall have paid for the inspection provided for in paragraph (b) above within 30 days of the date of closing on the sale or transfer of the subject property, the city shall have the right to assess the amount owed against the property in the manner set forth in this Section, which property shall be deemed to have been benefitted thereby;

(g) On or before June 1 of each year, the director shall transmit to the city assessor a list of properties upon which inspections have been performed and with regard to which the payment therefore has not been made in the immediately preceding 15 months, together with the amount due with respect to each such property. For each such property, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs;

(h) Upon the receipt of such list, the city assessor shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him or her, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in paragraph (g) above;

(i) On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent. After any appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution;

(j) After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with ten percent penalty added, after which the assessment shall follow the provisions of Article IX of the City Charter.

Section 3. That Section 44A-9 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 44A-9. Peddlers and solicitors.

No person shall peddle or sell any merchandise or solicit any funds within the skywalk system without first receiving a permit to do so from the skywalk system coordinator. Applications for permits shall be submitted on forms furnished by the skywalk system coordinator and shall be accompanied by a nonrefundable fee, which fee shall be set in accordance with Section 31-6(a) of this Code. Permits shall be granted only in accordance with skywalk use policy. Permits may be suspended or revoked for good cause. The skywalk system coordinator may impose any conditions and restrictions on such permits as he deems necessary and reasonable.

Section 4. That Section 44A-10 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 44A-10. Permit required for displays, signs, banners, special events, obstructions, etc.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(a) The skywalk system coordinator may, consistent with skywalk system use policy, and at his discretion, grant permits:

(1) To authorize the posting and/or display of signs or banners within the skywalk system;

(2) To authorize displays, exhibits or shows which occupy floor space in the skywalk system;

(3) To authorize special events, including meetings, within the skywalk system;

(4) To authorize other temporary or permanent use of floorspace, airspace, or wallspace within the skywalk system;

(b) The skywalk system coordinator may issue permits only if the proposed use is compatible with the public interest, not detrimental to public health, safety or morals, consistent with existing skywalk system use policy, does not violate any contractual obligation of the city, and does not substantially interfere with pedestrian passage through the public easement;

(c) Applications for such permits shall be made in writing to the skywalk system coordinator on forms supplied by him and shall be accompanied by an application fee, which fee shall be set in accordance with Section 31-6(a) of this Code. The skywalk system coordinator shall investigate the proposed use to the extent he deems necessary and grant or deny the permit. The skywalk system coordinator may place such restrictions and conditions on any permit as he deems necessary. These conditions and restrictions may include, but are not limited to, the following:

(1) Insurance, bond, or damage or cleanup deposit requirements;

(2) Restrictions on hours of operation;

(3) Restrictions on area of operation;

(4) Duration of the permit;

(5) Design specifications for any part or all of the proposed use;

(6) Security provisions, including extra police protection, for any

proposed use;

(7) Maintenance and/or cleanup standards for the proposed use.

Section 5. That Section 44A-15 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 44A-15. Minimum skywalk door access hours.

(a) The city council may, by regulation as provided for in Section 44A-12 hereof, establish minimum hours during which any or all skywalk doors shall be accessible. Skywalk doors shall include those doors providing access between buildings on the skywalk system, access to skywalk bridges and access from the skywalk system to the street. For the purposes of this Section, skywalk doors giving access to skywalk bridges and to streets shall be deemed to be "accessible" when said doors are unlocked and can be opened by the general public; skywalk doors between buildings shall be deemed to be accessible when they are unlocked and in an opened position;

(b) It shall be the responsibility of building owners owning buildings connected to the skywalk system to ensure that all skywalk doors in and adjacent to their buildings remain accessible during the minimum hours set pursuant to paragraph (a) above;

(c) Upon receipt of a complaint that any skywalk door is not accessible in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

violation of minimum skywalk hours regulations, the police department may render any skywalk door or doors accessible. In the event that the department does so, the owner of the building shall be responsible to pay a service fee for each time the police department renders the aforesaid service, which fee shall be set in accordance with Section 31-8 of this Code;

(d) For each incident of police service referred to in paragraph (c) above, the chief of police shall promptly notify the skywalk operations administrator of the date, time and place of rendering such service. The skywalk operations administrator shall promptly cause a billing of the service fee therefore to be transmitted to the owner of the building in question, which owner shall be deemed to be the owner shown to be such on the records of the county auditor. The service fee for said service shall be immediately payable by the owner.

Section 6. That Section 48-40 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 48-40. Same--Inspection by city where return not made.

Should a permittee under any service construction permit neglect or refuse to make the required return within ten days after completion of the work, the city is authorized to make a special inspection of the work and, if the same be found satisfactory, to turn on the water and gas. The permittee shall be required to pay a reasonable fee, not less than that fee which shall be set in accordance with Section 31-8 of this Code, for the special inspection.

Section 7. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: April 13, 2012)

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

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

Nays: None -- 0

Passed March 12, 2012

Approved March 12, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10140

AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION ADJACENT TO INTERSTATE 35 IN THE POINT OF ROCKS AREA FOR \$39,000.

The city of Duluth does ordain:

Section 1.

(a) As per Section 2-177.3, of the Duluth City Code, 1959, as amended (the Code), the city may convey city property, including easements, to another governmental entity if the best interests of the citizens of the city will be best served by accomplishing such conveyance;

(b) The state of Minnesota has provided an appraisal of valuation of the property involved and the city assessor has reviewed said appraisal and finds the amount of \$39,000 offered for said easement to be fair and equitable.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. That the proper city officials are hereby authorized to convey an easement to the state of Minnesota in perpetuity for light standard erection and maintenance, and utility access over the following described property, for the amount of \$39,000 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Tract A. Lots 242, 244 and 246, Block 20, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota.

Tract B. Lots 226, 228, 230, 232, 234, 236, 238 and 240, Block 21, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota.

Tract C. Lots 216, 218, 220, 222 and 224, Block 22, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota.

Tract D. Lots 200 and 202, Block 23, Duluth Proper Second Division, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County, Minnesota.

The easement herein granted is described as follows and is shown on Public Document No. 12-0312-17 and made a part hereof:

A strip being that part of Tract A hereinbefore described which lies northwesterly of the northwesterly right-of-way line of Trunk Highway No. 35 as now located and established and southeasterly of the southeasterly right-of-way line of Lower Michigan Street as now located and established;

A strip being that part of Tract B hereinbefore described which lies southeasterly of the northwesterly 140 feet thereof and northwesterly of the northwesterly right-of-way line of said Trunk Highway No. 35;

A strip being that part of Tract C hereinbefore described which lies northwesterly of the northwesterly right-of-way line of said Trunk Highway No. 35 and southeasterly of the following described line: beginning at a point on the southwesterly line of Lot 224, said Block 22, distant 135 feet southeasterly of the most westerly corner thereof; thence run northeasterly to a point on the northeasterly line of Lot 222, said Block 22, distant 135 feet southeasterly of the most northerly corner thereof; thence northeasterly to a point on the northeasterly line of Lot 216, said Block 22, distant 110 feet southeasterly of the most northerly corner thereof and there terminating;

A strip being that part of Tract D hereinbefore described which lies southeasterly of the northwesterly 85 feet thereof and northwesterly of the northwesterly right of way line of said Trunk Highway No. 35; containing 19,023 square feet, more or less.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 13, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 12, 2012
Approved March 12, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 26, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Julsrud, Krause, Krug, Larson and President Hartman -- 7

Absent: Councilors Gardner and Stauber -- 2

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The minutes of council meetings held on January 30 and February 9, 2012, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0326-01 Judy Gordon communication regarding proposed rezoning on Park Point (12-017-O). -- Received

12-0326-08 Jim Livesay communication regarding proposed \$90,000 for office equipment (12-0150R). -- Received

12-0326-09 Robert Prusak communication regarding proposed council veto requirements for utility rates set by the Duluth public utilities commission (12-014-O). -- Received

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REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed upcoming issues of Lakewalk final phase construction and a time crunch for some ordinances and the need for a special meeting on April 5.

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REPORTS OF BOARDS AND COMMISSIONS

12-0326-16 Alcohol, gambling and tobacco commission minutes of February 1, 2012, meeting. -- Received

12-0326-02 Civil service board minutes of: (a) February 7; (b) February 21, 2012, meetings. -- Received

12-0326-03 Duluth human rights commission minutes of January 11, 2012, meeting. -- Received

12-0326-04 Duluth public arts commission minutes of January 23, 2012, meeting. -- Received

12-0326-05 Duluth Seaway Port authority budget summary of December 2011. -- Received

12-0326-06 Library board minutes of January 24, 2012, meeting. -- Received

12-0326-07 Spirit Mountain recreation area authority minutes of: (a) December 15, 2011; (b) January 12, 2012, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell expressed his viewpoints on the Duluth School District Red Plan, that: it was not given enough time for real examination; media coverage only told the what the district said; the public remains in the dark about the increased spending; that Johnson Controls is the only winner; the lack of not selling the Secondary Technical Center cannot be the sole blame for the problem and now borrowing along with high, exorbitant interest rates will increase costs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

Jerry Schlafer expressed concerns about debt and that when the city wants federal funding, the federal government borrows it and thus adds to the national debt.

- - -

Tyler Nord commented on his concerns about: recent police enforcement of the building code with Occupy Duluth; that Occupy Duluth is seeking to help the Greater Downtown Council clean up and educate on how to be part of the Seeds of Success program and requested support for the foreclosure moratorium bill in the legislature.

- - -

RESOLUTION RECONSIDERED

President Hartman moved to reconsider Resolution 12-0108, establishing city of Duluth election precincts, which motion was seconded and unanimously carried.

Councilor Fosle moved to amend the resolution by moving the easterly lines of precincts 28 and 29 to the ore docks, which motion was seconded for discussion.

Councilor Fosle stated that the rationale for his amendment is that this area is considered West Duluth and thus the whole West Duluth community would be in his district and it only creates for him a +2.38 percent deviation from the mean district size requirement.

City Clerk Jeffrey Cox clarified that the council does not have a specific percentage requirement and that the City Charter only states that after the census is final, the council has the responsibility to “determine whether or not the population of each council district is substantially the same” and to “equalize, as nearly as practical.” He further noted that with the amendment, it would create a -5.26 percent deviation from the mean district size for the fourth district.

Councilor Krause felt that this amendment would create a domino effect in trying to equalize districts across the board; but as it is, it creates a district that is five percent smaller than the others.

President Hartman noted that historically the council has not made amendments to the recommendations from staff to keep politics out of it.

The amendment failed as follows:

Yeas: Councilor Fosle -- 1

Nays: Councilors Boyle, Julsrud, Krause, Krug, Larson and President Hartman -- 6

Absent: Councilors Gardner and Stauber -- 2

Resolution 12-0108 was adopted as follows:

RESOLVED, that pursuant to Minnesota Statutes 204B.14, subd. 3(d), the election precincts as shown on Public Document No. 12-0326-10, on file in the office of the city clerk, are hereby established in the city of Duluth.

Resolution 12-0108 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Absent: Councilors Gardner and Stauber -- 2

Approved March 26, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BY PRESIDENT HARTMAN

12-0147 - RESOLUTION AMENDING THE STANDING RULES - CONSENT AGENDA.

- - -

CONSENT AGENDA

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

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

RESOLVED, city officials are hereby authorized to contract with MacQueen Equipment, Inc., for the purchase and delivery of a 2012 Elgin Pelican Model NS street sweeper with options in accordance with state of Minnesota State Contract 27094, Release S-843(5), specifications and pricing in the amount of \$181,541 (includes freight) plus \$12,480.94 sales tax, for a total amount of \$194,021.94, terms net 30, FOB St. Paul, payable as follows:

(a) \$173,000 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);

(b) \$21,021.94 from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year 2012), Object 5580 (capital equipment), Project No. CE250-V1203.

Resolution 12-0041 was unanimously adopted.

Approved March 26, 2012

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 dancing license and application for a 2:00 a.m. beverage license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

The Dukes Partners, LLC (Spurs on 1st), 109 West First Street, with Nick Patronas, 100 percent owner.

Resolution 12-0125 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Maney International, Inc., for the purchase and delivery of two 2013 International Model 7500 4x2 single axle cab and chassis units for the fleet services division in accordance with Minnesota State Contract 31624, Release T-647(5), specifications and pricing in the amount of \$166,084.66 plus \$10,795.50 state motor vehicle tax (6-1/2%) plus \$250 license, registration and tax exempt plates for a combined total amount of \$177,130.16, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-V1203.

Resolution 12-0136 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of four vehicles - one 2012 Chevrolet Tahoe Special Service UV33 4x4 unit, one 2012 Chevrolet Silverado 3500 HD 4x4 regular cab and chassis unit, one 2012 Chevrolet Colorado 4x4 crew cab pickup truck, and one Chevrolet Silverado 2500 4x4 extended cab long box pickup - all in accordance with Minnesota state contract specifications and pricing, for a total of \$107,568.95 plus \$6,991.99 state vehicle sales tax (6-1/2 percent), plus \$302.30 license, registration and tax-exempt plates and fees, for a combined total of \$114,863.24, payable as follows:

(a) Requisition 12-0112 - 2012 Chevrolet Tahoe (State 35472, Release A-175(5)): \$32,334.47 - Capital Equipment Fund 250, Administrative Services 015, Fiscal Year 2012, Capital Equipment 5580, Project No. CE250-V1202;

(b) Requisition 12-0197 - 2012 Chevrolet Silverado (State 36174, Release T-636(5)): \$33,019.60 - Capital Equipment Fund 250, Administrative Services 015, Fiscal Year 2012, Capital Equipment 5580, Project No. CE250-V1203;

(c) Requisition 12-0205 - Chevrolet Colorado (State 37909, Release T-642(5)): \$22,771.37 - Capital Equipment Fund 250, Administrative Services 015, Fiscal Year 2012, Capital Equipment 5580, Project No. CE250-V1203;

(d) Requisition 12-0228 - Chevrolet Silverado (State 37909, Release T-642(5)): \$26,737.80 - Capital Equipment Fund 250, Administrative Services 015, Fiscal Year 2012, Capital Equipment 5580, Project No. CE250-V1204.

Resolution 12-0145 was unanimously adopted.

Approved March 26, 2012

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 by the liquor control commissioner, and issues three one day dance licenses, subject to departmental approvals and any specific restrictions:

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 15-17, 2012, with Scott Kennan, manager, with the music and serving ending at 2:00 a.m.

Resolution 12-0146 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement with Toshiba Business Solutions, Inc., for the lease and maintenance of copiers as needed in accordance with Minnesota State Swift Contract 23628 (5) specifications and pricing for a total of \$136,254.84 for each contract year of years 2012-2013, 2013-2014 and 2014-2015, payable from General Fund 110, Transfers and Other Functions 700, Citywide Communications 1403, and Copier, Printer Lease and Supplies 5356.

Resolution 12-0152 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement pertaining to the housing tax credit program, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 12-0326-11, with the Minnesota housing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

finance agency (Minnesota housing) for the year 2013.

Resolution 12-0133 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That it is deemed necessary for the public conveyance and safety that East Oxford Street, Livingston Avenue and Glenwood Street between Woodland Avenue and Snively Road (City Project No. 0439TR) be reconstructed; and

(b) That this project will not be eligible for municipal state aid funds unless it is constructed to state aid standards for arterial roadways of urban (new or reconstruction) projects, or unless a variance is granted; and

(c) Practical limitations require that tighter horizontal curves than dictated by standards be used. This results in a 16 mph design speed in lieu of a 30 mph design speed, which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300; and

(d) The city council passed Resolution 11-0633, requesting said variance, on November 29, 2011; and

(e) The Minnesota department of transportation state aid engineer granted said variance on the condition that the city council hold harmless the state of Minnesota.

RESOLVED, that the city of Duluth agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from claims, demands, actions or causes of action arising out of or by reason of the granting of said variance, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 12-0131 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a 50-year license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0326-12, with the Minnesota department of natural resources for construction, maintenance and operation of high pressure gas mains under Mission Creek for a consideration of \$237, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1075.

Resolution 12-0137 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with PCI Roads, LLC, for the 2012 concrete pavement rehabilitation project in the amount of \$769,495.77, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0922TR, S.A.P 118-152-014.

Resolution 12-0139 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meter parts during year 2012 for an estimated total of \$34,393.75 plus \$2,364.57 sales tax, for a combined estimated total of \$36,758.32, terms net 30, FOB destination, payable from Water Fund 510, Public Works and Utilities 500, Customer Services 1940, Service 2410, Repair and Maintenance Supplies 5220.

Resolution 12-0140 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that it is deemed necessary for public convenience and safety, and it is hereby ordered that Oxford Street, Livingston Avenue and Glenwood Street from Woodland Avenue to Snively Road (City Project No. 0439TR) be improved.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$4,230,089, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects), Object 5530 (improvements other than buildings). The funding sources for this project will be as follows: \$2,930,089 from municipal state aid funds, \$650,000 from Water Fund 510, \$100,000 from Stormwater Utility Fund 535, \$550,000 from Sanitary Sewer Fund 530, and of these project costs \$530,089 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll (Public Document No. 12-0326-13), and may be paid in 15 annual installments at municipal bond index plus 1.50 percent interest.

Resolution 12-0144 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that Resolution 11-0524 to LHB, Inc., for professional engineering services for the reconstruction of Oxford Street, Livingston Avenue and Glenwood Street from Woodland Avenue to Snively Road be amended by an amount of \$24,883 for a new total of \$188,772. The increase will be payable from working fund Permanent Improvement Fund 411, Department/Agency 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0439TR. This project is funded by municipal state aid funds, utility funds and special assessment funds.

Resolution 12-0148 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

BY COUNCILOR JULSRUD:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established on the following street:

Both sides of Arrowhead Road from Wallace Avenue for 200 feet easterly.

Resolution 12-0151 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Code, 1959, as amended, the following accessible parking space is established: in front of 1031 East Sixth Street.

Resolution 12-0138 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

On both sides of Glenwood Street between Livingston Avenue and Woodbury Lane, and on the south side of Glenwood Street between Woodbury Lane and Jean Duluth Road.

Resolution 12-0141 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, department of public safety, homeland security and emergency management, in the amount of \$760,500 with matching funds in the amount of \$253,500 from Fund No. 250-015-2012-5580-CE250-E1211 (capital equipment, administrative services, fiscal year - 2012, fire communication system (ARMER)), and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0326-14, for the purchase of portable and squad radios for the police and fire departments, funds to be deposited in Fund No. 215-200-2204-4210-01 (Duluth police grant programs, police, 2009 port security grant program).

Resolution 12-0142 was unanimously adopted.

Approved March 26, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0150, authorizing a contract with Northern Business Products, Inc., for the purchase and delivery of Herman Miller office furniture for the parks and recreation division and parking enforcement and management staff in the amount of \$90,239.40, was introduced by Councilor Krause for discussion.

Mr. Montgomery reviewed: that the plan is to have 13 parks employees and eight parking management staff in this space; the description, nature and breakdown of costs of the work stations and for the respective staff needs; there was excess funds from the new the police station construction that contributed to this; because of workers compensation issues, ergonomic furniture is needed; that no parks funds are being used for this; parks has a great deal of public meetings and needs good quality furniture that will hold up to heavy use and that the existing parks furniture will be used by the entity renting the parks space.

Councilor Krause expressed concerns that: at this time, this is not a good public image to make with this type of investment; if the new police building construction came in under budget, the money should have been used to reduce the debt; this is not fiscally responsible and there are many good types of ergonomic furniture that are not priced this high.

Resolution 12-0150 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with Northern Business Products, Inc., for the purchase of Herman Miller office furniture for the city's parks and recreation division and parking enforcement and management staff, approximately 21 staff positions, and delivery of same furniture to the division's new master plan location in Duluth City

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Hall in accordance with Minnesota state contract (various nos.) and Release F-379(5) specifications and pricing and the vendor's quote as an authorized Herman Miller dealer, for a total of \$84,434.53 plus \$5,804.87 sales tax, for a combined total of \$90,239.40, payable from Capital Improvements Fund 450, Stimulus Act (ARRA) 025, Buildings and Structures 5520, Project No. CP2009-0929B.

Resolution 12-0150 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Absent: Councilors Gardner and Stauber -- 2

Approved March 26, 2012

DON NESS, Mayor

- - -

Resolution 12-0134, confirming the appointments and reappointments of members to city boards and commissions, was introduced by Councilor Boyle for discussion.

Councilor Krause expressed his concerns that there should be more fresh perspectives from citizens, which the city does not see with members being reappointed to more than two terms.

Resolution 12-0134 was adopted as follows:

RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments and reappointments by Mayor Ness to city boards and commissions for terms expiring on March 31 of various years, as listed on Public Document No. 12-0326-15, are confirmed.

Resolution 12-0134 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Absent: Councilors Gardner and Stauber -- 2

Approved March 26, 2012

DON NESS, Mayor

- - -

Resolution 12-0135, reappointing Robert Prusak and appointing _____, replacing Jay Fosle, to the Duluth public utilities commission, was introduced by Councilor Boyle.

Councilor Boyle moved to table the resolution so Councilor Stauber could vote on this, which motion was seconded and carried as follows:

Yeas: Councilors Boyle, Fosle, Krause, Krug, Larson and President Hartman -- 6

Nays: Councilor Julsrud -- 1

Absent: Councilors Gardner and Stauber -- 2

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

12-014 - AN ORDINANCE ALLOWING A MAJORITY OF THE CITY COUNCIL TO VETO UTILITY RATES APPROVED BY THE DULUTH PUBLIC UTILITIES COMMISSION AMENDING SECTION 2-187 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-017 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM I-W, INDUSTRIAL WATERFRONT, TO MU-W, MIXED USE WATERFRONT, PROPERTY AT 1003 MINNESOTA AVENUE (GLOBE ENTERPRISES, INC.).

- - -

INTRODUCED BY COUNCILOR FOSLE

12-016 - AN ORDINANCE AMENDING SECTIONS 36-1, 36-2, 36-6, 36-7, 36-8, 36-9, 36-12, 36-13, 36-16, 36-17, 36-19, 36-20, 36-21, AND 36-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PAWNBROKERS AND PRECIOUS METALS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

12-013 (10141) - AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE UPPER RIVERSIDE AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) AT NO COST.

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

- - -

INTRODUCED BY PRESIDENT HARTMAN

12-012 (10142) - AN ORDINANCE AMENDING SECTION 2-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ASSIGNMENT OF ELECTION PRECINCTS.

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

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

Nays: Councilor Fosle -- 1

Absent: Councilors Gardner and Stauber -- 2

- - -

The meeting was adjourned at 7:53 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10141

AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE UPPER RIVERSIDE AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) AT NO COST.

The city of Duluth does ordain:

Section 1.

(a) As per Section 2-177.3, of the Duluth City Code, 1959, as amended (the Code), the city may convey city property to another governmental entity if the best interests of the citizens of the city will be best served by accomplishing such conveyance;

(b) The property shown in Section 2 below was originally conveyed by DEDA to the city at no cost in 1997 for public open space, with said property in Section 2 below remaining unimproved or unenhanced for the purpose for which it was originally conveyed;

(c) DEDA has been requested by the adjacent owner to acquire said property in Section 2 below for buffer purposes.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. That the proper city officials are hereby authorized to reconvey to DEDA the following described property, by quit claim deed, at no cost, and in "as-is" condition without any representations or warranties or its fitness for any particular purpose whatsoever, and that city shall have no liability for demolition or abatement of any hazardous substances or clean-up costs, and further to execute all documents necessary with regard to said reconveyance:

That part of Blocks 41, 42 and 48, Ironton Second Division, lying east of the following described line:

Commencing at the intersection of the easterly line of the DWP right-of-way and the northerly right-of-way of Gogebic Street; thence on an assumed bearing of north 30 degrees 54 minutes 20 seconds east along the east line of the DWP right-of-way 910.04 feet to the beginning of said line; thence south 78 degrees 05 minutes 20 seconds east, 110.93 feet; thence north 75 degrees 03 minutes 13 seconds east, 210.84 feet; thence south 86 degrees 05 minutes 41 seconds east, 237.82 feet; thence south 60 degrees 37 minutes 11 seconds east, 279.27 feet to the south line of said Block 48 and there terminating.

Except that part of Block 48 lying south of the north line of Highway 23.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 27, 2012)

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

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

Nays: None -- 0

Absent: Councilors Gardner and Stauber -- 2

Passed March 26, 2012

Approved March 26, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10142

AN ORDINANCE AMENDING SECTION 2-42 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ASSIGNMENT OF ELECTION PRECINCTS.

The city of Duluth does ordain:

Section 1. That Section 2-42 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-42. Assignment of election precincts to council districts.

Pursuant to Section 2 of the Duluth City Charter the city council hereby assigns the election precincts established by city council Resolution No. 12-0108 to the various council districts as follows:

Council district No. 1 shall consist of election precincts numbered 1, 2, 3, 4, 5, 6 and 7.

Council district No. 2 shall consist of election precincts numbered 8, 9, 10, 11, 12 and 13.

Council district No. 3 shall consist of election precincts numbered 14, 15, 16, 17, 18, 19 and 20.

Council district No. 4 shall consist of election precincts numbered 21, 22, 23, 24, 25, 26 and 27.

Council district No. 5 shall consist of election precincts numbered 28,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

29, 30, 31, 32, 33 and 34.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 27, 2012)

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

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

Nays: Councilor Fosle -- 1

Absent: Councilors Gardner and Stauber -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 26, 2012
Approved March 26, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, April 5, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Absent: Councilor Krause -- 1

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

12-022 - AN ORDINANCE TERMINATING AGREEMENT NO. 18,829 WITH EPA AND GRANTING THEM A ROAD EASEMENT FOR ACCESS TO THE WATER LAB.

- - -

INTRODUCED BY COUNCILOR JULSRUD

12-023 - AN ORDINANCE DEDICATING AN EASEMENT ACROSS CERTAIN PROPERTY FOR LAKEWALK.

- - -

The meeting was adjourned at 5:16 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 9, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

--

The minutes of the council meeting held on February 13, 2012, were approved upon a unanimous vote.

--

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0409-29 Center for Alcohol and Drug Treatment communication regarding the proposed resolution opposing an additional methadone drug treatment clinic (12-0158R). -- Received

12-0409-30 Hongyi Chen communication regarding the proposed rezoning of 1750 Kenwood Avenue (12-019-O). -- Received

12-0409-01 Daniel Neff acceptance of terms conditions and provisions of concurrent use permit granted by Ordinance 10136 on February 13, 2012. -- Received

--

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported that, relative to the resolution on the agenda for the firefighters contract, the union approved the proposed contract (12-0187R).

--

REPORTS FROM OTHER OFFICERS

12-0409-31 Budget manager 2011 general fund reconciled budget report, pursuant to Ordinance No. 10130. -- Received

12-0409-02 Clerk applications to the Minnesota gambling control board for: (a) Exempt raffle permit from Lake Superior Chapter of Muskies, Inc., on July 14, 2012; (b) Excluded bingo from Order of Ahepa Chapter 267 on May 20, 2012, and November 18, 2012. -- Received

--

REPORTS OF BOARDS AND COMMISSIONS

12-0409-28 Alcohol, gambling and tobacco commission minutes of March 7, 2012, meeting. -- Received

12-0409-03 Commission on disabilities minutes of February 1, 2012, meeting. -- Received

12-0409-04 Duluth airport authority minutes of February 21, 2012, meeting. -- Received

12-0409-05 Duluth economic development authority minutes of February 22, 2012, meeting. -- Received

12-0409-06 Duluth public utilities commission: (a) Minutes of February 21, 2012, meeting; (b) Resolutions regarding: (1) Private sewer service grant program guidelines (12 PUC-I&I-1); (2) Expansion of natural gas service (12PUC-Pay-off); (3) Recommendation opposing adoption of Ordinance No. 12-014 (12PUC-12-014-O). -- Received

12-0409-07 Duluth transit authority: (a) Minutes of January 25, 2012, meeting; (b) Income

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

statement of December 2011. -- Received

12-0409-08 Entertainment and convention center authority minutes of: (a) January 16; (b) January 31; (c) February 28, 2012, meetings. -- Received

12-0409-09 Special assessment board calculation of final assessment policy, pursuant to Section 45-75 of the Duluth City Code. -- Received

12-0409-10 Spirit Mountain recreation area authority minutes of February 16, 2012, meeting. -- Received

- - -

REPORTS OF COUNCIL COMMITTEES

Councilor Julsrud reported that she has met with Senator Franken's staff at a tour of the water treatment and in-take plant addressing the challenges being faced.

- - -

President Hartman noted that he has appointed to the civil service working group councilors Gardner, Boyle and Julsrud and civil service board members John Schwetman and Bob Zallar, with others to be yet be appointed. In addition, he noted that there would be appointments from the human resources department and representatives from the police, fire and AFSCME unions.

To Mr. Montgomery's inquiry about a representative from the management unions, President Hartman stated that he would consider it.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tim Velner spoke about the Duluth East Dare Devils Robotics Team and the successes that they have had both locally and nationally.

- - -

Loren Martel commented on the Duluth School District and that he felt: the school is not acting democratically; the reserve fund is being depleted and information on school closing savings is not there because the new schools' square footage is increasing.

- - -

Tyler Nord stated: thank you to the council for passing the resolution supporting the foreclosure moratorium in Senate File Number 1521; that Minnesota could start the snowball of two-thirds of the state legislatures to amend the United States Constitution by sending the foreclosure moratorium to the ballot and that individuals looking to transform the space on the corner of First Street and Second Avenue into a green community space are being attacked.

- - -

RESOLUTION TABLED

Resolution 12-0135, reappointing Robert Prusak and appointing _____, replacing Jay Fosle, to the Duluth public utilities commission, was introduced by Councilor Boyle for discussion.

Councilor Boyle moved to amend the title and body of the resolution by inserting the name of "Jim Stauber," which motion was seconded and unanimously carried.

Resolution 12-0135, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby reappoints Robert Prusak (at large) to the Duluth public utilities commission for a term expiring on March 31, 2015.

FURTHER RESOLVED, that the city council hereby appoints Jim Stauber (city councilor) to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the Duluth public utilities commission for a term expiring on March 31, 2015, replacing Jay Fosle. Resolution 12-0135, as amended, was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

UNFINISHED BUSINESS

BY PRESIDENT HARTMAN:

RESOLVED, that Rule 7A of the Standing Rules of the Duluth City Council is hereby amended to read as follows:

Rule 7A. CONSENT AGENDA.

At the consent of all city council members present at a city council meeting, any number of resolutions may be combined on a consent agenda and approved by one city council vote provided that the written resolutions, including a statement of purpose, have been presented to each city councilor 12 hours before the meeting in the manner provided by Section 8(i) of the City Charter.

Resolution 12-0147 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that Resolution 11-0632 adopting license, permit and fee charges for 2012 be amended by adding the fees listed below, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, effective April 13, 2012:

Public Administration	
Fee Name	2012 Fee
Administrative hearing - Subpoena issuance requested by appellant - per each	\$25.00
Skywalk system	
Peddler/solicitor permit - nonrefundable fee	\$2.00
Police service fee for opening locked skywalk doors during the minimum required skywalk hours	\$50.00
Signs, displays, banners, special events, obstructions, etc. permit	\$10.00
Public Works & Utilities	
Point of sale noncompliance surcharge - per month	\$250.00
Water and gas service construction permit - Special inspection fee - minimum	\$25.00

Resolution 12-0143 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved April 9, 2012
DON NESS, Mayor

- - -

WHEREAS, the budget previously approved for the fiscal year May 1, 2011, to April 30, 2012, included the approval of the 2012 repair and replacement capital plan as required by the 2003 use and management agreement; and

WHEREAS, due to weather conditions operating revenues for the current fiscal year are under budget because of the shortened winter ski season; and

WHEREAS, due to planned improvements including a new ski lift and a new chalet on Grand Avenue, capital needs have changed and the 2012 repair and replacement account is needed for operations.

RESOLVED, that the \$225,000 in the restricted repair and replacement account shall be made available for general operating expenses as needed by the authority. Construction of the new chalet on Grand Avenue and acquisition of a new ski lift together with other improvements including the addition of a zip line, miniature golf course and tubing park shall fulfill the obligation of the authority to expend monies for repairs and replacements to the recreation facilities.

Resolution 12-0161 was unanimously adopted.

Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to allocate \$20,000 from the unreserved, undesignated fund balance in the tourism tax fund, Fund 258, to the Lake Superior and Mississippi Railroad Company to aid with capital improvements and track maintenance.

Resolution 12-0166 was unanimously adopted.

Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city acting through the city treasurer, shall make available to the Spirit Mountain recreation area authority (authority) a line of credit up to \$600,000, to be drawn upon as needed, to assist in the management of cash flow within the approved budget, with an interest rate of 2.50 percent per annum charged on drawn funds.

Resolution 12-0167 was unanimously adopted.

Approved April 9, 2012
DON NESS, Mayor

- - -

WHEREAS, the governmental accounting standards board has recently issued a new accounting standard Statement #54, *Fund Balance Reporting and Governmental Fund Type Definitions*; and

WHEREAS, one of the new requirements under Statement #54 is that amounts previously reported as fund balance designations and reserves should be reclassified into new fund balance categories created by this new pronouncement and formal action be taken to memorialize revenues committed for specific purposes; and

WHEREAS, the city has previously reported the following fund balance reserves in the general fund:

D.A.R.E. program – Crime prevention and youth related community policing efforts;
Police training services – Revolving fund for career fairs and other police training opportunities;

Fire safety education – Revolving fund for community fire safety education and child

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

passenger safety; and

WHEREAS, as of December 31, 2011, the year end balances in these accounts were as follows:

- D.A.R.E. - \$18,319.53;
- Police training services - \$4,867.77;
- Fire safety education - \$2,166.00; and

WHEREAS, the administration recommends these balances be carried forward to 2012 as assigned fund balance for the purposes described above; and

WHEREAS, the administration also recommends that future specific revenues for the programs identified below be committed as follows:

Program	Specific Revenue Source	Committed For
D.A.R.E.	D.A.R.E. police salary reimbursements	Crime prevention and youth community policing
Police training services	Police law enforcement training center reimbursements and donations	Revolving fund for police career fairs, citizens police academy, and law enforcement training center activities
Fire safety education	Fire safety donations	Revolving fund for community fire safety education and child passenger safety activities

THEREFORE, BE IT RESOLVED, by the Duluth City Council that the December 31, 2011, balances for the programs identified above are general fund assigned fund balances and carried forward to 2012.

FURTHER RESOLVED, the specific revenue sources identified above are committed for the purposes described above in the general fund.

Resolution 12-0184 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Local 101 International Association of Firefighters, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0409-11, covering the year 2011.

Resolution 12-0187 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

WHEREAS, improvements estimated to cost \$432,012, including the construction of a gazebo and electrical upgrades, are planned for Enger Park; and

WHEREAS, additional funds totaling \$226,308 are necessary to complete the funding for the Enger Park project.

RESOLVED, that the appropriate city officials are authorized to transfer \$100,000 from the reserve for capital improvements fund balance in the tourism tax fund to Capital Improvement Fund 450 for Enger Park improvements.

FURTHER RESOLVED, that \$126,308 from the General Fund 2011 capital improvement budget not previously expended be assigned for Enger Park improvements and be transferred to the Enger Park improvement account in the Capital Improvement Fund 450.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0190 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Superior Glass, Inc., for Change Order No. 3 to Contract 21231 for Phase III work associated with the replacement of City Hall windows, thereby increasing the contract by \$293,035 for a contract total of \$1,587,745, payable from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2011-1104B.

Resolution 12-0160 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

Licensee	Gambling site
Irving Community Club	Shotz Bar, 1321 Commonwealth Avenue

Resolution 12-0163 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale 3.2 percent malt liquor license for the period ending April 30, 2012, and approves the transfer of the on sale wine license for the period ending August 31, 2012, subject to approval by the liquor control commissioner, the payment of sales and property taxes, and further subject to departmental approvals:

JCEBAL Company (Duluth India Palace), 319 East Superior Street, with Kaochin Singh, 100 percent stockholder, transferred from TC, Inc. (Duluth India Palace), same address.

Resolution 12-0175 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with New World Systems for the proprietary purchase of Logos.Net community development software and related implementation services, allowing for the replacement of the legacy mainframe licensing application and integration with other critical systems, in accordance with city system specifications and the vendor's quote of \$77,946, payable as follows:

- (a) \$72,090 from Capital Equipment Fund 250, Administrative Services 015, Fiscal Year 2010, Capital Equipment 5580, Project No. CE250-E1004;
- (b) \$5,856 from General Fund 110, Management Information Services 117, MIS 1107, Computer Supplies/Software 5201.

Resolution 12-0178 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Essentia Health Foundation (May and August raffles), Rotary Club of Duluth, and St. James Church does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 12-0185 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, the proper city officials are hereby authorized to enter into a potential five-year agreement with Interstate Parking Company of Minnesota, LLC, and Duluth economic development authority (DEDA), substantially the same as that on file in the office of the city clerk as Public Document No. 12-0409-12, for parking lot management services at an annual fee not to exceed \$42,714 per contract year, payable from the following accounts: Parking Fund 505, Administrative Services Department 015, Parking Ramps Organization 1480, and Meters and Municipal Lots Organization 1481.

Resolution 12-0189 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the construction of Enger Tower Gazebo in accordance with the approved specifications and the vendor's low bid of \$138,000, payable from Capital Improvement Fund 450, Department/Agency 030, Organization 5520, Project PIMISC-EngerTower.

Resolution 12-0192 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the job specifications for the appointed department head position of director of public administration, which is filed with the city clerk as Public Document No. 12-0409-13, are approved; that said appointed position shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said appointed position shall be ranges 1135-1170.

FURTHER RESOLVED, the proper city officials are authorized to execute and implement an agreement with the supervisory association to provide for employing a unit member consistent with this resolution.

Resolution 12-0191 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) Minnesota Laws, 1973, Chapter 327, requires that prior to the construction of any building, facility or other use at the Spirit Mountain Recreation Area the Duluth City Council shall, upon recommendation of the city planning commission and the city parks and recreation commission, approve a permit and may attach appropriate conditions to ensure that the project conforms to the approved master plan and the purposes of the act;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) The city planning commission reviewed the proposed Spirit Mountain Phase II chalet and parking lot site plan, and replacement plan for the express lift and terminals (the plan) at its regular meeting on March 13, 2012, and recommended approval of the plan subject to the following conditions:

(1) That a pedestrian pathway be constructed on the west side of the driveway linking the chalet to Grand Avenue; and

(2) That the pathway be converted to a sidewalk within five years of project completion;

(c) The parks and recreation commission reviewed the plan at its regular meeting on March 14, 2012, and recommended approval of the plan as submitted by the applicant; and

(d) That the city council of the city of Duluth, having received the recommendations of the planning and park and recreation commissions, and after review of the plan, hereby approves a permit for the Spirit Mountain Phase II Grand Avenue Chalet and parking lot site plan, and replacement plan for the express lift including the lift terminals for the Spirit Mountain recreation area authority, a copy of which is on file in the office of the city clerk as Public Document No. 12-0409-14, subject to the following conditions:

Resolution 12-0162 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the following streets and alleys at the Woodland Middle School site: the unimproved portion of Summit Street, East Griggs Place, Prospect Avenue, North 27th Avenue East, and the alley behind East Eighth Street, as well as the improved portion of the alley behind Woodland Avenue and a portion of the intersection at Clover Street and East Eighth Street (PL 12-010); and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned vacation is useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its Tuesday, March 27, 2012, meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the streets and alleys described below and as described and depicted on Public Document No. 12-0409-15:

All land in the county of St. Louis, state of Minnesota:

All that part of Summit Street (a.k.a. Manitoba Street), Clover Hill Division of Duluth, lying easterly of the easterly line of Woodland Avenue.

Together with:

All that part of East Griggs Place (a.k.a. Coddling Street), Clover Hill Division of Duluth, and all that part of East Griggs Place (a.k.a. Coddling Street), Motor Line Division of Duluth, lying easterly of the easterly line of Woodland Avenue, Clover Hill and Motor Line Divisions of Duluth.

Together with:

All those parts of Prospect Avenue, Motor Line Division to Duluth, and Prospect Avenue, Mount Royal Division of Duluth, lying southerly of the southerly line of Elizabeth Street, Motor Line and Mount Royal divisions of Duluth.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Together with:

27th Avenue East, Willard's Division to Duluth, lying northwesterly of the northwesterly line of East Eighth Street, Willard's Division to Duluth.

Together with:

All that part of the alley between Blocks 8 and 9, Clover Hill Division of Duluth, from the northerly line of Clover Street to a line 50 feet easterly of the easterly property line of Lot 3, Block 8, Clover Hill Division of Duluth.

Together with:

All of the alley in Block 19, Willard's Division to Duluth.

Together with:

All of the alley in Block 6, Mount Royal Division to Duluth.

Together with:

All those parts of Clover Street and East Eighth Street, Clover Hill Division of Duluth, adjacent to those parts of Lots 4 thru 9, Block 9, said Clover Hill Division of Duluth, lying northerly of the northerly line of Clover Street extended and northwesterly of the northwesterly line of East Eighth Street extended.

Subject to the retention of an easement for utility purposes over the following-described parts of North 27th Avenue East, Prospect Avenue and the alley behind East Eighth Street, as more particularly described below and as described and depicted on Public Document No. 12-0409-15:

All of the alley in Block 19, Willard's Division to Duluth.

Together with:

All of the alley in Block 6, Mount Royal Division to Duluth.

Together with:

The southwesterly 33 feet of 27th Avenue East, Blocks 18 and 19, Willard's Division to Duluth, and in Block 3, Clover Hill Division of Duluth.

Together with:

All that part of the northeasterly 33 feet of 27th Avenue East, Willard's Division to Duluth, lying between two lines 0 feet and 40 feet southeasterly of the northwesterly line of the alley in Block 19 extended, said Willard's Division to Duluth.

Together with:

All that part of Prospect Avenue and East Griggs Place (a.k.a. Coddling Street), Clover Hill and Motor Line divisions of Duluth, lying within 55 feet of the east lines of the aforementioned Clover Hill and Motor Line divisions of Duluth. Said portion of the above-described Prospect Avenue being southerly of the south line of Elizabeth Street, said Motor Line Division of Duluth;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and public document showing the utility easement to be vacated.

Resolution 12-0169 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a Minnesota historical and cultural grant agreement with the Minnesota historical society, substantially in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

form of that on file in the office of the city clerk as Public Document No. 12-0409-16(a), accepting a grant in the amount of \$168,525, related to the roof and tower restoration of the Sacred Heart Music Center, payable into Fund 262 (community development), Agency 020 (business and community development), Object 4220-02 (revenue).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into Minnesota historical and cultural subgrant agreement with Sacred Heart Music Center, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-16(b), to implement the rehabilitation program of the Sacred Heart Music Center, in the amount of \$168,525 payable from Fund 262 (community development), Agency 020 (business and community development), Object 5434 (projects).

Resolution 12-0170 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of building line and utility easements at the Woodland Middle School site (PL 12-010); and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned vacation is useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its Tuesday, March 27, 2012, meeting, recommended approval of the easement vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following easements described below and as described and depicted on Public Document No. 12-0409-17:

All land in the county of St. Louis, state of Minnesota:

All those lands encumbered by building lines affecting Blocks Two (2), Five (5) and Eight (8), Clover Hill Division of Duluth.

Together with:

That part of a gas line as now located affecting the westerly one-half of Prospect Avenue, East Griggs Place (a.k.a. Coddling Street), Blocks 18 and 19, Motor Line Division of Duluth, the vacated alley between said Blocks 18 and 19, except that portion of said gas line as now located lying northerly of the southerly line of Elizabeth Street, Motor Line Division of Duluth.

Together with:

A ten foot utility easement centering on existing storm sewer previously reserved per vacation of streets and alleys and approved by the city council of Duluth on April 2, 1956.

and

All those parts of Blocks 8, 9 and vacated alley between said Blocks 8 and 9, Clover Hill Division of Duluth, being storm sewer directly connected to and downstream of the aforementioned ten foot utility easement approved by the city council of Duluth on April 2, 1956, and lying northerly of the northerly line of Clover Street, said Clover Hill Division of Duluth;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and public document showing the utility easement to be vacated.

Resolution 12-0172 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.16, subdivision 3, the following locations are designated as polling places in the city of Duluth for the August 14, 2012, state primary election, the November 6, 2012, state general election, and until further notice:

POLLING PLACE LIST

POLLING PLACE	ADDRESS
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3. Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East
4. Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Glen Avon Presbyterian Church (lower level)	2105 Woodland Avenue
8. Duluth Congregational Church (lower level)	3833 East Superior Street
9. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
10. U.M.D. Kirby Student Center	1120 Kirby Drive
*11. Vineyard Christian Fellowship (auditorium)	1533 West Arrowhead Road
12. Temple Israel	1602 East Second Street
13. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
*14. First Lutheran Church (lower level)	1100 East Superior Street
15. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
16. First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
17. Rainbow Senior Center (auditorium)	211 North Third Avenue East
18. Lafayette Square (upper level)	3026 Minnesota Avenue
19. Duluth Public Library (Green Room)	520 West Superior Street
20. Duluth Gospel Tabernacle Church (lower level - west entrance)	1515 West Superior Street
21. Lincoln Park Senior Center (lower level)	2014 West Third Street
*22. Shepherd of the Hills Lutheran Church (fellowship hall)	802 Maple Grove Road
23. Duluth Heights Community Club	33 West Mulberry Street
24. Christ Lutheran Church (rear lower level entrance)	2415 Ensign Street
25. St. Lawrence Church	2410 Morris Thomas Road
26. Holy Family Catholic Church	2430 West Third Street
27. Harrison Community Club	3002 West Third Street
28. City Center West	5830 Grand Avenue
29. Faith Haven (recreation room)	4901 Grand Avenue
30. Elim Lutheran Church (social hall)	6101 Cody Street
31. Bayview Heights School (gym)	8702 Vinland Street
32. Asbury United Methodist Church (lower level)	6822 Grand Avenue
33. Goodfellowship Community Center (warming area)	1242-88th Avenue West
34. Stowe School (Room 27)	715-101st Avenue West

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

POLLING PLACE LIST

* New polling site location

Resolution 12-0159 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Superior Construction Company, Inc., for sliplining a two inch HDPE low pressure sanitary sewer in Columbia Street from North Central Avenue to 57th Avenue West in the amount of \$38,473, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (new capital improvements), City Project No. 1001SN. Of these costs, \$30,000 will be assessed to benefitting properties.

Resolution 12-0153 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of high pressure gas mains and services at various city locations in the amount of \$626,621, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1075.

Resolution 12-0168 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-18 with the St. Louis and Lake counties regional railroad authority for the construction, operation and maintenance of the Lakewalk recreational trail in the right-of-way of the St. Louis and Lake county regional railroad authority's lakefront line between 60th Avenue East and 61st Avenue East, at substantially no cost to the city.

Resolution 12-0173 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-19 with the Minnesota department of transportation granting the city a limited use permit for the construction, operation and maintenance of the Lakewalk recreational trail in the state's right-of-way for Trunk Highway 61 east of 61st Avenue East and connecting to Brighton Beach at substantially no cost to the city.

Resolution 12-0174 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept permanent trail easements and temporary construction easements substantially in the form of those on file in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

office of the city clerk as Public Document No. 12-0409-20 from the United States environmental protection agency for the construction, operation and maintenance of the Lakewalk recreational trail on portions of Lot 1, Block 1, EDGESHORE PARK DIVISION OF DULUTH, at substantially no cost to city.

Resolution 12-0176 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes Section 471.342, the guidelines for the private sewer service grant program approved pursuant to Resolution 10-0600 are hereby amended by substituting therefore those guidelines on file in the office of the city clerk as Public Document No. 12-0409-21 which are hereby adopted and approved.

Resolution 12-0177 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Net Transcripts, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 12-0409-22, for one contract year and two possible one-year renewals, for transcription services for the Duluth police department at an annual amount not to exceed \$30,000, payable from General Fund 110, Department/Agency 160 (police), Division 1610 (administration and investigation), Object 5320 (data services).

Resolution 12-0120 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council directs the public works and utilities department to physically close 61st Avenue East from the northern line of Congdon Boulevard (Minnesota Highway 61) to 125 feet northerly, the exact location and design to be determined by appropriate city personnel.

Resolution 12-0155 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an amended and restated Lake Superior drug and violent crime task force joint powers agreement; said amended and restated joint powers agreement to be substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-23, allowing Carlton County and the city of Cloquet to participate in the task force and also changing the name of the task force.

Resolution 12-0164 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

on the east side of Livingston Avenue between Oxford Street and Glenwood Street.

Resolution 12-0179 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

on the south side of Oxford Street between Woodland Avenue and Livingston Avenue.

Resolution 12-0180 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-24, with the College of St. Scholastica for the nonexclusive use of Wade Stadium for their baseball program with rent payments payable to Fund 210 (special projects), Agency 030 (finance), Object 3190 (special league), Revenue Source 4625-04 (rent of athletic fields baseball fields).

Resolution 12-0171 was unanimously adopted.
Approved April 9, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0165, adopting the higher education small area plan and amending the comprehensive plan - future land use map in three locations (higher education small area plan and higher education future land use), was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to amend the resolution by inserting a subparagraph (e) to read as follows:

"(e) The city council in careful review of the comprehensive plan (pp. 21), regulations (pp. 79-80) and policies (pp. 60) recognizes the need for a Higher Education Overlay (HEO) District. By formalizing the HEO district the city could address special opportunities and risks associated with the overlay area not otherwise permitted. The HEO district will be generally established as a district as found on page 34 (Figure 13) of the small area plan including all areas of study area but excluding the segment designated and targeted for neighborhood stabilization. The planning commission's recommendations that the council fund the small area plan on June 22, 2010, included numerous requests to include an overlay district. On June 26, 2010, the council approved funding for this study with several councilors understanding an overlay district for the university area would be established. By city ordinance, the HEO district can then be applied to the Unified Development Chapter (UDC)," which motion was seconded and discussed.

Councilor Stauber reviewed that the need for this amendment is to make part of the plan a higher education overlay district, then, at some point it, would become part of the Unified Development Chapter.

Councilor Stauber clarified at length his intent and answered councilor questions.

Councilor Fosle moved to table the resolution and the amendment, which motion was seconded and carried by the following vote:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: Councilor Julsrud -- 1

- - -

Resolution 12-0156, approving a St. Louis County project providing for the construction, reconstruction or improvement of 40th Avenue West and Haines Road from 190 feet north of Ninth Street to Morris Thomas Road within the corporate limits of the city of Duluth, was introduced by Councilor Julsrud.

Councilor Julsrud moved to return the resolution to the administration as requested, which motion was seconded and unanimously carried.

- - -

Resolution 12-0181, authorizing the purchase and delivery of four 2012 Chevrolet 3500 RWD cargo vans and one 2012 Chevrolet Tahoe UV33 from Thane Hawkins Polar Chevrolet in the amount of \$125,844.31, was introduced by Councilor Julsrud for discussion.

Councilor Fosle expressed concerns regarding: the details of the history of the vehicle maintenance costs of the vehicles being replaced. He felt that those costs were astronomical and until those costs are reviewed, he would not support any vehicle purchases.

Resolution 12-0181 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of four 2012 Chevrolet Express 3500 RWD cargo vans and one 2012 Chevrolet Tahoe in accordance with Minnesota State Contract 35472, Release A-175(5), specifications and pricing for a total of \$117,768.83 plus \$7,654.98 (6-1/2%) state vehicle sales tax plus \$420.50 license, registration, and tax-exempt plates and fees (6-1/2%), for a combined total of \$125,844.31, terms net 30, FOB destination, and payable as follows:

(a) \$101,711.42 from Water Fund 510, Public Works and Utilities 500, Capital 1905, Capital Equipment 5580;

(b) \$24,132.89 from Gas Fund 520, Public Works and Utilities 500, Capital 1905, Capital Equipment 5580.

Resolution 12-0181 was adopted upon the following vote:

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

7

Nays: Councilors Fosle and Stauber -- 2

Approved April 9, 2012

DON NESS, Mayor

- - -

Resolution 12-0182, authorizing the purchase and delivery of one 2110 Vactor Classic combination sewer machine from Macqueen Equipment, Inc., in the amount of \$417,652.53, was introduced by Councilor Julsrud for discussion.

Councilors Fosle and Stauber commented on the details of this vehicle's maintenance costs.

Resolution 12-0182 was adopted as follows:

RESOLVED, city officials are hereby authorized to contract with MacQueen Equipment, Inc., for the purchase and delivery of one 2110 Vactor Classic combination sewer machine with positive displacement blower with options in accordance with Minnesota State Contract 42798, Release W-196(5), specifications and pricing in the amount of \$392,162 plus \$25,490.53 state vehicle sales tax (6-1/2%) for a total amount of \$417,652.53, terms net 30, FOB destination, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

payable as follows:

(a) \$208,826.27 from Sewer Fund 530, Public Works and Utilities 500, Capital 1905, Capital Equipment 5580;

(b) \$208,826.26 from Stormwater Fund 535, Public Works and Utilities 500, Capital 1905, Capital Equipment 5580.

Resolution 12-0182 was adopted upon the following vote:

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

7

Nays: Councilors Fosle and Stauber -- 2

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the rate structure for the "northern expansion area" approved as Public Document No. 11-0627-23 pursuant to Resolution 11-0325 and for the "Fond du Lac expansion area" approved as Public Document No. 11-0627-24 pursuant to Resolution 11-0326 be amended by amending Paragraph 1. E. of both said structures as follows:

Fair share pay-off amount: shall mean \$4,000 whenever paid.

Resolution 12-0186 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

Resolution 12-0158, by councilors Fosle, Krause and Boyle, in opposition to proposed additional methadone drug treatment clinic, was introduced for discussion.

Councilors Gardner and Krug opposed the resolution for reasons of: there are 450 people waiting to get into the existing clinic; while there have been complaints with the existing clinic, people are "painting" a broad brush to any new clinics; there are now new drugs available to treat individuals that a new clinic might use; there is a lack of cooperation between the medical and treatment communities that needs to be improved; there needs to be more information before voting on this; this resolution should have addressed that the city was not involved in the process versus saying "no" to a clinic; addictions need to be addressed because addictions lead to higher crime rates and there is an addiction problem here in Duluth.

Councilors Krause, Boyle, Larson and Fosle supported the resolution for reasons of: there are a lot of individuals coming into our community from elsewhere who have a need for this service; these clinics are a problem nationwide; there needs to be a dialogue that these services can be done better; this resolution is not against treatment, but a particular clinic that is not in compliance; with the information of all these individuals coming to Duluth for this service, it should be noted where they are coming from and a center being built there.

Councilor Julsrud stated that because this is a complex issue, there is so much more that she needed to ask and therefore would be abstaining.

Resolution 12-0158 was adopted as follows:

BY COUNCILORS FOSLE, KRAUSE AND BOYLE:

RESOLVED, that the city council hereby expresses its strong opposition to the proposed opening of a second methadone drug treatment center within the city of Duluth.

Resolution 12-0158 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Krause, Larson, Stauber and President Hartman -- 6

Nays: Councilors Gardner and Krug -- 2

Abstention: Councilor Julsrud -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved April 9, 2012
DON NESS, Mayor

- - -

Resolution 12-0183, authorizing a three-year lease and management agreement with One Roof Community Housing for the Central Hillside Community Center, was introduced by Councilor Larson for discussion.

Councilor Krause felt that the reduced rental rate for this entity should not include the utilities.

Resolution 12-0183 was adopted follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement with One Roof Community Housing, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0409-26, for the lease and management of the Central Hillside Community Center with monthly rent of \$855 deposited into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings).

Resolution 12-0183 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved April 9, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a donation of three Loll designed park benches donated from Loll Designs of Duluth and other anonymous donors, two benches to be installed at the Park Point Beach House and one bench to be placed at Longview Tennis Courts.

FURTHER RESOLVED, that the city administration and city council hereby express their gratitude for these donations.

Resolution 12-0188 was unanimously adopted.

Approved April 9, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-018 - AN ORDINANCE REPEALING ARTICLE X OF CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO PERMITS FOR THE CONCURRENT USE OF STREETS.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-019 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-2, URBAN-RESIDENTIAL, ON THE WEST PORTION OF THE PROPERTY LOCATED AT 1750 KENWOOD AVENUE (CARLSON).

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCED BY COUNCILOR STAUBER

12-020 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-P, RESIDENTIAL-PLANNED, APPROXIMATELY 20 ACRES LAND LYING SOUTH OF HULETT AVENUE, EAST OF 93RD AVENUE WEST, AND NORTHWEST OF SPIRIT LAKE TRANSFER RAILWAY (RAPID RIVER DEVELOPMENT, LLC).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-021 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, AND R-2, RESIDENTIAL-URBAN, TO R-P, RESIDENTIAL-PLANNED, AT THE WOODLAND MIDDLE SCHOOL SITE AT 201 CLOVER STREET (VILLAGE CENTER AND BLUESTONE COMMONS DEVELOPMENT).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR KRAUSE

12-014 - AN ORDINANCE ALLOWING A MAJORITY OF THE CITY COUNCIL TO VETO UTILITY RATES APPROVED BY THE DULUTH PUBLIC UTILITIES COMMISSION AMENDING SECTION 2-187 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Krause moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Robert Prusak and Patrick Huston opposed the ordinance for reasons of: allowing the Duluth public utilities commission (DPUC) to set rates is similar to the Western Lake Superior Sanitary District's authority; with three city councilors on the commission, the council will not be blindsided; the city council has to focus on many issues, but the DPUC only focuses on utilities; the former council put together the DPUC to depoliticize the utilities and get them back on track; today good money is being spent to fix old watermains; changing this to a simple majority will undermine the commission's focus and the DPUC is a very diverse group consisting of three city councilors, two registered engineers, an environmental advocate, a former mayor of a small town and a water treatment operator.

Councilors Krause, Fosle and Stauber supported the ordinance for reasons of: a super majority is really hard to accomplish and by design it is intended not to change the DPUC's decision; in other states and cities, PUC's are elected bodies, so if the public does not like their decisions, members are replaced; citizens want councilors to address their concerns of higher rates; this commission will continue to raise the rates, because the only way other than raising rates is to dedicate funding to the infrastructure by the council raising taxes or bonding for it; when the rates are raised, citizens call councilors, not the commissioners; with the DPUC needing five for a quorum, theoretically you could have three appointed citizens making rate decisions for the whole city and councilors should take the responsibility for raising fees or taxes and understanding the big picture that affects citizens.

Councilors Gardner, Larson, Boyle, Krug, Julsrud and President Hartman opposed the ordinance for reasons of: originally when this was established, this issue was debated heavily; it was decided that this commission needed to have some authority, because they were expected to do the heavy research; a simple majority politicizes the issue; because there are three councilors on the commission, the council is constantly updated; if the council feels strongly enough to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

overturn a decision, then it has the authority to do so; by opposing the ordinance, the council would be showing respect to the DPUC; the commission was set up to develop plans and strategies; this commission is new and needs time to evolve; councilors in the past have failed miserably on helping out on the infrastructure; this problem cannot be passed on to the next generation; to the argument of taxation without representation, the council does have representation on the DPUC and an agreement to its function; repairing watermain breaks of over 150 a year is a waste of taxpayer dollars; cities that have had these types of commissions have been proactive; the DPUC is under the complete control of the council because it appoints its members; state-mandated rate structures have become more complex and look what has happened when the council has been left to make the hard decision.

Councilor Krause moved passage of the ordinance and the same failed upon the following vote (Public Document No. 12-0409-25):

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-017 (10143) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM I-W, INDUSTRIAL WATERFRONT, TO MU-W, MIXED USE WATERFRONT, PROPERTY AT 1003 MINNESOTA AVENUE (GLOBE ENTERPRISES, INC.).

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

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INTRODUCED BY COUNCILOR JULSRUD

12-022 (10144) - AN ORDINANCE TERMINATING AGREEMENT NO. 18,829 WITH EPA AND GRANTING THEM A ROAD EASEMENT FOR ACCESS TO THE WATER LAB.

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

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INTRODUCED BY COUNCILOR JULSRUD

12-023 (10145) - AN ORDINANCE DEDICATING AN EASEMENT ACROSS CERTAIN PROPERTY FOR LAKEWALK.

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

- - -

INTRODUCED BY COUNCILOR FOSLE

12-016 (10146) - AN ORDINANCE AMENDING SECTIONS 36-1, 36-2, 36-6, 36-7, 36-8, 36-9, 36-12, 36-13, 36-16, 36-17, 36-19, 36-20, 36-21 AND 36-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PAWNBROKERS AND PRECIOUS METALS.

Councilor Fosle moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Vicky Syders and Linda Ness supported the ordinance for reasons of: their homes were burglarized and it takes time for inventories to be conducted so a change from 14 to 31 days before items can be resold would prove beneficial; posting of photos of items and the seller's driver license requirement in the ordinance will greatly assist police; these requirements preserve the integrity of transactions; honest individuals will not have any problems with the new requirements of the ordinance and photo requirements will insure there are no different

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

impressions, which could be in written descriptions.

Chuck Armstrong, community affairs director for Pawn America, expressed support for the ordinance and reviewed their already existing procedures. He inquired about the intention of Section 36-6(f) and stated that there could be clarity in referencing precious metals specifically.

Police Officer Negorski commented that the police department intends that this section only apply to precious metals.

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

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The meeting was adjourned at 9:20 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10143

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM I-W, INDUSTRIAL WATERFRONT, TO MU-W, MIXED USE WATERFRONT, PROPERTY AT 1003 MINNESOTA AVENUE (GLOBE ENTERPRISES, INC.).

The city of Duluth does ordain:

Section 1. That the subject property, being Lots 146-174 adjacent to St. Louis Avenue and Lots 154-174 (EVEN) adjacent to Minnesota Avenue, UPPER DULUTH, MINNESOTA AVENUE, including vacated 11th Street adjoining said lots, vacated St. Louis Avenue adjoining said lots and including riparian rights adjoining said lots out to Harbor Line according to the recorded plat thereof, St. Louis County, Minnesota, located at 1003 Minnesota Avenue, be reclassified from I-W, Industrial Waterfront, to MU-W, Mixed Use Waterfront, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(Ref. File No. PL 12-017)



Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 12, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 9, 2012
Approved April 9, 2012
DON NESS, Mayor

ORDINANCE NO. 10144

AN ORDINANCE TERMINATING AGREEMENT NO. 18,829 WITH EPA AND GRANTING THEM A ROAD EASEMENT FOR ACCESS TO THE WATER LAB.

The city of Duluth does ordain:

Section 1. That City Contract No. 18,829 leasing certain property in Outlot D, EDGESHORE PARK DIVISION OF DULUTH, to the U.S. environmental protection agency ("EPA") is hereby terminated.

Section 2. The EPA is hereby granted an easement for roadway purposes over the following-described property:

The northerly 66 feet of that portion of Outlot D, EDGESHORE PARK DIVISION OF DULUTH, which lies westerly of the northerly extension of the west line of Lot 1, Block 1, and easterly of the right-of-way line of 61st Avenue East, according to the recorded plat thereof.

Section 3. This ordinance shall take effect 30 days from and after its passage and

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publication. (Effective date: May 12, 2012)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 9, 2012
Approved April 9, 2012
DON NESS, Mayor

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ORDINANCE NO. 10145

AN ORDINANCE DEDICATING AN EASEMENT ACROSS CERTAIN PROPERTY FOR LAKEWALK.

The city of Duluth does ordain:

Section 1. That city hereby dedicates to the general public for recreational trail purposes an easement 40 feet either side of that line described in Public Document No. 12-0409-27 over the following-described property:

Outlots A, D and E, EDGESHORE DIVISION OF DULUTH, according to the recorded plat thereof.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 12, 2012)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 9, 2012
Approved April 9, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10146

AN ORDINANCE AMENDING SECTIONS 36-1, 36-2, 36-6, 36-7, 36-8, 36-9, 36-12, 36-13, 36-16, 36-17, 36-19, 36-20, 36-21 AND 36-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PAWNBROKERS AND PRECIOUS METALS.

The city of Duluth does ordain:

Section 1. That Section 36-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-1. Definitions.

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

Billable transaction. Every reportable transaction conducted by a pawnbroker is a billable transaction, except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession.

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voided transactions and confiscations.

Item containing precious metal. An item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

Pawnbroker. Any natural person, partnership, corporation, limited liability company, joint venture, trust, association or any other legal entity, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, including an item containing precious metal, or who deals in the purchasing of personal property, or other valuable thing, including an item containing precious metal, on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property, including an item containing precious metal, previously used, rented or leased, or selling it on consignment, the provisions of this Chapter shall be applicable.

A pawnbroker licensed under this Chapter shall have the authority to receive or purchase precious metals or items containing precious metal without obtaining a separate precious metal dealer license under this Chapter.

Precious metals. Precious metals means silver, gold and platinum.

Reportable transaction. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

(a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record;

(b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Section 2. That Section 36-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-2. License—required.

No person shall exercise, carry on, or be engaged in the trade or business of a pawnbroker or act as a pawnbroker within the city unless the person is currently licensed pursuant to the provisions of this Article. A pawn transaction made without the benefit of a license is void. Such license shall authorize the licensee to engage in the pawnbroking business at the premises named on the license. Each premises shall require a separate license. No person shall be eligible for a license unless such person meets the eligibility standards set forth in Minnesota Statutes Section 325J.03(a) or its successor. Licenses shall be nontransferable. Any change in the direct or beneficial ownership of a pawnbroking business, including pawnbroking businesses lawfully operating pursuant to Minnesota Statutes Section 325J.10, shall be reported by the licensee to the clerk and shall require a new license.

Section 3. That Section 36-6 of the Duluth City Code, 1959, as amended, is hereby

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amended to read as follows:

Sec. 36-6. Records to be kept; right of inspection; pawn tickets.

(a) Each person licensed hereunder shall keep a record of each reportable transaction made in the course of his or her business. Such records shall be in a form prescribed by the chief of police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:

(1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item;

(2) The purchase price, amount of money loaned upon or pledged therefor;

(3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

(4) Date, time and place the item of property was received by the licensee and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;

(5) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair;

(6) The identification number and state of issue from any of the following forms of identification of the seller:

(A) Current valid Minnesota driver's license;

(B) Current valid Minnesota identification card;

(C) Current valid photo identification card issued by another state or province of Canada;

(D) Current valid tribal identification card as defined in Minnesota Statutes Section 171.072;

(E) Current valid military identification card issued by the United States department of defense;

(7) The signature of the person identified in the transaction;

(b) The records required herein shall be kept available for police inspection at any reasonable time at the licensee's place of business and shall be kept for at least three years after any transaction;

(c) The chief of police may require that all records and information required to be kept by this Section be kept by computer or other electronic format, or that video or photographic records be kept. The chief of police may also require that the computerized or electronic records of the pawnbrokers be electronically transmitted to police headquarters on a periodic basis. The format for computerized pawnbroker records shall be the "interchange file specification format" specified in Minnesota Statutes Section 325J.05(b) and (c) or its successor;

(d) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket. The following shall be printed on all pawn tickets:

(1) The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for the period of not less than 60 days past the date

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of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.”;

(2) The statement that “The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.”;

(3) The statement that “This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record.”; and

(4) A blank line for the pledgor’s signature;

(e) All licensees shall take a color photograph of every item pawned or sold in accordance with the following:

(1) Photographic requirements. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief’s designee, upon request. Items photographed must be accurately depicted. A high quality color scan of every item pawned or sold may be taken in lieu of a photograph provided the items scanned are accurately depicted;

(f) All licensees shall take a color photograph of each customer involved in a reportable transaction. In the alternative, all licensees shall make a high quality color photocopy of the current valid photo identification presented by each customer. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The major portion of the photograph must include an identifiable front facial close-up of the person. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises;

(g) All photographs, photocopies of valid photo identifications, and color scans of items pawned or sold, are reportable transaction information that must be submitted to the Automated Pawn System as set forth in Section 36-7 of this Chapter;

(h) The licensee shall, at all times during the term of the license, allow the Duluth police department, or designee, to enter the premises where the licensee’s business is located, during normal business hours and at all other reasonable times, for the purpose of inspecting such premises and inspecting the items, ware and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and to verify compliance with this Chapter and applicable state laws.

Section 4. That Section 36-7 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-7. Daily reports to chief of police.

Every pawnbroker shall make available to the chief of police every day,

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before the hour of 12:00 noon, a complete, legible and correct copy of the records required by Section 36-6 and Minnesota Statutes Chapter 325J or its successor, for all transactions occurring on the previous day. If the chief of police requires computerized recordkeeping for pawnbroker records, the chief shall also set and enforce specifications for each licensee's transmittal of those records to local and statewide authorities or data systems.

(a) Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification or similar automated record system as may be specified by the city, licensees must submit every reportable transaction to the police department daily in the following manner:

(1) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily;

(b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department;

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;

(2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in Section 36-6(a) of this Code, and must be charged a \$50 reporting failure penalty, daily, until the error is corrected;

(3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in Section 36-6(a) of this Code, and resubmit all such transactions via modem when the error is corrected;

(4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed;

(5) Section 36-7(b)(1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Section 5. That Section 36-8 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-8. Pledge or pawn not forfeited for 60 days.

Any person pledging or pawning any article with any pawnbroker shall have

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at least 60 days from the date of the pawn transaction, renewal or extension, to redeem the same before the pledge or pawn becomes forfeited.

Section 6. That Section 36-9 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-9. Holding periods; labels required.

(a) Pawned items. Any person pledging, pawning or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60 day redemption period or any extensions of the pawn transaction, items may not be removed from the premises or sold. However, licensees are permitted to return pledged goods to the borrower at any time during the redemption period. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record in accordance with this Chapter;

(b) Purchased items. Any item, including an item containing precious metal, sold to a pawnbroker shall not be sold or otherwise removed from the premises for at least 30 days from the date of the purchase transaction. Such items may not be altered, modified or changed in any way during this holding period;

(c) Label required. Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

Section 7. That Section 36-12 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-12. Prohibited conduct.

A pawnbroker, and any clerk, agent or employee of a pawnbroker, shall not:

- (a) Make any false entry in the records of pawn transactions;
- (b) Falsify, obliterate, destroy or remove from the place of business the records, books or accounts relating to the licensee's pawn transactions;
- (c) Refuse to allow the Duluth police, the attorney general or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's actual or constructive possession during the ordinary hours of business or at other reasonable times;
- (d) Fail to maintain a record of each pawn transaction for three years;
- (e) Accept a pledge, or purchase property from, a person under the age of 18 years, nor from an intoxicated person;
- (f) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Chapter;
- (g) Fail to return pledged goods to a pledgor or seller, or provide

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compensation as set forth in Minnesota Statutes Section 325J.09, or its successor, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal or extension and the pawnbroker has sold the pledged goods pursuant to Minnesota Statutes Section 325J.06, or its successor, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

(h) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or in a related, transaction;

(i) Remove pledged goods from the pawnshop premises or other storage place approved by the chief of police at any time before the expiration of the redemption period pursuant to Minnesota Statutes Section 325J.06 or its successor.

However:

(1) A pawnbroker is permitted to return pledged goods to the borrower at any time during the redemption period;

(2) A pawnbroker is permitted to sell the pledged goods or remove the pledged goods from the pawnshop premises or other storage at any time after the expiration of the redemption period set forth in Minnesota Statutes Section 325J.06 or its successor, and;

(3) A pawnbroker who purchases goods not involving a pawn transaction is permitted to sell or remove the purchased goods from the pawnshop premises 31 days or later from the purchase transaction date.

Section 8. That Section 36-13 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-13. Identification requirements.

(a) Each person pawning, pledging or selling items in an establishment licensed pursuant to this Chapter shall identify himself or herself, as provided herein, to the licensee or licensee's agent accepting such pawn, pledge or sale and shall present himself or herself for taking of a photo or video picture, and, if requested, a fingerprint. Neither the licensee nor any of his or her agents shall transact any business with any person who fails to identify himself or herself as provided herein. Identification shall be made as follows:

(1) By a showing of one of the forms of photo identification as set forth in Section 36-6 of this Chapter. The licensee or agent shall record the information contained on face of said photo identification on the record required by Section 36-6 of this Chapter;

or, if the person has none of these forms of photo identification, then:

(2) By a showing of a form of identification sufficient to establish proof of age as set out in Minnesota Statutes Section 340A.503, subd. 6, as it may be amended or succeeded. The licensee or agent shall record the type of identification, any identifying number on the identification, and the name and physical description on the identification in the record required by Section 36-6 of this Chapter;

(b) The licensee or licensee's agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented with the physical features and signature of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

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Section 9. That Section 36-16 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-16. Definitions.

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

Antique. Any secondhand good the value of which, in whole or substantial part, is derived from its age or its historical association.

Antique dealer. Any dealer whose regular business includes selling or receiving secondhand goods where at least 90 percent of the goods on hand at all times, measured according to value, consists of antiques.

Auction house dealer. Any dealer whose regular business includes selling or receiving secondhand goods some or all of which are offered for sale for the highest bid or offer tendered.

Billable transaction. Every reportable transaction conducted by a licensee.

Consignment house dealer. A dealer in secondhand goods acquired by a consignment agreement.

Dealer. Any person whose regular business includes the purchase of goods, wares or merchandise for the purpose of selling them at wholesale or retail to any qualified purchaser.

Item containing precious metal. An item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

Person. An individual, corporation, limited liability company, partnership or any other type of incorporated or unincorporated business association, either as principal, agent or employee thereof.

Precious metal. Gold, silver or platinum.

Precious metal dealer. Any person except banks or financial corporations regulated under Title 12, U.S. Code or chapters 47, 48 or 80A of Minnesota Statutes who engages in the business of buying or selling secondhand items containing precious metal, including, but not limited to, jewelry, coins, watches, eating utensils and tableware, candlesticks, religious and decorative objects, ingots and other objects. Dealers in these items shall include, without limitation, antique dealers, consignment house dealers, secondhand dealers and auction house dealers.

Reportable transaction. Every transaction conducted by a licensee involving the purchase, receipt, consignment or trade of secondhand items containing precious metal except those transactions with another dealer licensed hereunder.

Secondhand dealer. Any dealer whose regular business includes the purchase, sale or trade of secondhand goods, wares or merchandise.

Section 10. That Section 36-17 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-17. License required.

(a) No person shall exercise, carry on, or be engaged in the activity, business or trade of a precious metal dealer or advertise or hold himself or herself out to be a precious metal dealer within the city unless the person is currently licensed pursuant to the provisions of this Article. Such license shall authorize the licensee to operate as a precious metal dealer only at the premises named on the license. Each premises shall require a separate license;

(b) The following transactions shall be exempt from the provisions of this

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Article:

(1) Investment metal contracts as defined by Minnesota Statutes, Section 80A.14(k);

(2) Transactions regulated by the Federal Commodity Futures Commission Act;

(c) A pawnbroker licensed under this Chapter shall have the authority to receive or purchase precious metals or items containing precious metal without obtaining a separate precious metal license under this Article.

Section 11. That Section 36-19 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-19. Records to be kept; right of inspection.

(a) Each person licensed hereunder shall keep a record of each reportable transaction except those transactions with another dealer licensed hereunder. Such records shall be in a form prescribed by the chief of police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:

(1) The name, address and date of birth of the person from whom he received the item;

(2) The time and date of the transaction;

(3) A complete description of the item purchased or received, including all identifying numbers, identifying marks, type of metal, gems attached and size of the item, except that in the case of coins only denomination, metal type and total number of each denomination need be recorded;

(4) The identification presented as required by Section 36-23 of this Chapter;

(5) A description of the person selling the item;

(6) The amount of money paid for the item;

(7) The signature of the person selling the item;

(8) Any other information the police chief shall require;

(b) The records required herein shall be kept available for police inspection at any reasonable time at the licensee's place of business;

(c) The chief of police may require that all records and information required to be kept by this Section be kept by computer or other electronic format. The chief of police may also require that the computerized or electronic records be electronically transmitted to police headquarters;

(d) All licensees shall take a color photograph of every item purchased, except coins, in accordance with the following:

(1) Photographic requirements. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. Items photographed must be accurately depicted. A high quality color scan of every item purchased may be taken in lieu of a photograph provided the items scanned are accurately depicted;

(e) All licensees shall take a color photograph of each customer involved in a reportable transaction. In the alternative, all licensees shall make a high quality color photocopy of the current valid photo identification presented by each customer.

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If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The major portion of the photograph must include an identifiable front facial close-up of the person. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises;

(f) All photographs, photocopies of valid photo identifications, and color scans of items purchased, are reportable transaction information that must be submitted to the Automated Pawn System as set forth in Section 36-20 of this Article.

Section 12. That Section 36-20 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-20. Daily reports to chief of police.

Every precious metal dealer shall make available to the chief of police every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by Section 36-19 and Minnesota Statutes Chapter 325F or its successor, for all transactions occurring on the previous day. If the chief of police requires computerized recordkeeping for these records, the chief shall also set and enforce specifications for each licensee's transmittal of those records to local and statewide authorities or data systems.

(a) Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification or similar automated record system as may be specified by the city, licensees must submit every reportable transaction, except transactions involving coins exclusively, to the police department daily in the following manner:

(1) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily;

(b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department;

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;

(2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in Section 36-19(a) of this Code, and must be charged a \$50 reporting failure penalty, daily, until the error is corrected;

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(3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in Section 36-19(a) of this Code, and resubmit all such transactions via modem when the error is corrected;

(4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed;

(5) Section 36-20(b)(1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Section 13. That Section 36-21 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-21. Holding period.

(a) No precious metal dealer or agent or employee of such dealer shall sell, melt, alter, divest himself or herself of possession of, or move to a place outside the corporate limits of the city of Duluth any secondhand item containing precious metal purchased or received by him or her, except coins, until 31 days from the date of the transaction;

(b) The chief of police may order that any item be held beyond the time authorized in Subsection (a) above under the same conditions set forth therein. No person shall disobey such order. The chief of police shall grant a hearing to any person aggrieved by such order to contest the reasonableness of such order.

Section 14. That Section 36-23 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 36-23. Identification requirements.

(a) Each person trading or selling items in an establishment licensed pursuant to this Article shall identify himself or herself as provided herein to the licensee or licensee's agent accepting such trade or sale. Neither the licensee nor any of his or her agents shall transact any business with any person who fails to identify himself or herself as provided herein. Identification shall be made as follows:

(1) By a showing of one of the forms of photo identification as set forth in Section 36-6 of this Chapter. The licensee or agent shall record the information contained on face of said photo identification on the record required by Section 36-6 of this Chapter; or, if the person has none of the forms of photo identification as set forth in Section 36-6 of this Chapter, then;

(2) By a showing of some other form of identification sufficient to establish proof of age as set out in Minnesota Statutes Section 340A.503, subd. 6, as it may be amended or succeeded. The licensee or agent shall record the type of identification, any identifying number on the identification, and the name and physical description on the identification in the record required by Section 36-19 of this Article;

(b) The licensee or licensee's agent transacting the transaction shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented with the physical features and signature of the person

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

Section 15. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: May 12, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 9, 2012
Approved April 9, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 23, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on February 27, 2012, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0423-01 The following communications regarding the proposed rezoning of 1750 Kenwood Avenue (12-019-O): (a) Patrick Alexander; (b) Mary Alvar; (c) Tucker Hanlon; (d) Katie Kaylor; (e) Patrick Krause; (f) Andy McDonald; (g) Trista Miner; (h) Anna Pulles; (i) Brenda Reinartz. -- Received

12-0423-07 The following communications regarding the proposed higher education small area plan (12-0165R): (a) Sandy Robinson; (b) John Vigen. -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-0423-02 Clerk application for exempt permit (raffle) to the Minnesota gambling control board from Duluth Amateur Hockey Association on January 11, 2013. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0423-03 Commission on disabilities minutes of March 7, 2012, meeting. -- Received

12-0423-04 Duluth public arts commission minutes of February 27, 2012, meeting. -- Received

12-0423-05 Duluth transit authority income statement of January 2012. -- Received

12-0423-06 Special assessment board gravel streets and alley assessment policy, pursuant to Section 45-75 of the Duluth City Code. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Kelly Erb, intern for the Institute for Sustainable Future, the organization responsible for developing the Western Lake Superior Good Food Network, reviewed the good food initiatives, food charter and goals.

- - -

Loren Martel commented on School District No. 709, noting: that the district's problems are mostly not attributable to the state's financial problems; that the district has used up their reserve fund; interest earnings have declined and more attention needs to be on the district.

- - -

RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 12-0165, adopting the higher education small area plan and amending the comprehensive plan - future land use map in three locations

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(higher education small area plan and higher education future land use), from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear from a speaker on the resolution, which motion was seconded and unanimously carried.

Sandy Robinson expressed concerns about weaknesses in the plan regarding Goal #1 and that in Section 29A-32(h) the way it is worded versus the intent is different. Regarding the amendment, she expressed a concern about the boundaries for the overlay district map as to not having any street names listed and no definition as to what is going to happen there.

Councilor Stauber reviewed at length the content, intent and reasons why he wished to have his amendment pass this evening.

Councilors and Chief Administrative Officer David Montgomery discussed at length: past actions on this issue; the process and the merits of the amendment at this time versus in the future; the involvement of the planning commission; a desire to expand the overlay area to the area above Fourth Street and the legalities of meeting the rental licensing criteria.

Councilor Fosle opposed the ordinance for the reason that he feels that the protection zone is still in place.

Keith Hamre, manager of the community development division, explained why he favored separating the amendment from the plan and move the plan forward at this time versus if the amendment passes, then there will be confusion at the planning commission as to what the council wants.

Councilor Stauber's amendment passed upon the following vote:

Yeas: Councilors Boyle, Gardner, Krause, Stauber and President Hartman -- 5

Nays: Councilors Fosle, Julsrud, Krug and Larson -- 4

Resolution 12-0165, as amended, was adopted as follows:

RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years and identified sub-areas of the city to be studied in more detail; and

(b) The city planning division has prepared and recommends approval of the higher education small area plan, a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(c) The city planning division, in the higher education small area plan, proposes three amendments to the comprehensive land use plan - future land use map, as described and depicted on Public Document No. 12-0423-09; and

(d) The city planning commission has reviewed the small area plan and the proposed three future land use map amendments, conducted public hearings on March 13, 2012 (for the small area plan), and March 27, 2012 (for the future land use amendments), at their planning commission meeting, and recommends adoption of the small area plan and the proposed future land use map amendments; and

(e) The city council in careful review of the comprehensive plan (pp. 21), regulations (pp. 79-80) and policies (pp. 60) recognizes the need for a Higher Education Overlay (HEO) District. By formalizing the HEO district the city could address special opportunities and risks associated with the overlay area not otherwise permitted. The HEO district will be generally established as a district as found on page 34 (Figure 13) of the small area plan including all areas of study area but excluding the segment designated and targeted for neighborhood stabilization. The planning commission's recommendations that the council fund the small area plan on June 22, 2010, included numerous requests to include an overlay district. On June 26, 2010, the council

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

approved funding for this study with several councilors understanding an overlay district for the university area would be established. By city ordinance, the HEO district can then be applied to the Unified Development Chapter (UDC).

Resolution 12-0165, as amended, was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved April 23, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue taxable general obligation airport improvement bonds, Series 2012B, in the maximum amount of \$7,650,000 (the "bonds"), pursuant to Ordinance No. 10112 adopted October 10, 2011, Minnesota Statutes, Chapter 475, Minnesota Laws 1974, Chapter 130 and the Home Rule Charter of the city, for the purpose of providing the local match for state of Minnesota grants and federal grants for the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-0423-10. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0209 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the budget for the fiscal year May 1, 2012, to April 30, 2013, in the amount of \$5,454,720 as set out in the budget on file with the city clerk as Public Document No.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

12-0423-11, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 12-0212 was unanimously adopted.

Approved April 23, 2012

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 and dance license, subject to departmental approvals, with any specific restrictions:

PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, for June 16, 2012, from 10:00 a.m. until 3:00 p.m.

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, with the music, dancing and serving ceasing at 1:00 a.m.

Resolution 12-0194 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves the permanent expansion of the designated serving area of the on sale intoxicating liquor license as shown on Public Document No. 12-0423-12 for the period ending August 31, 2012, subject to departmental approvals:

Duluth Entertainment Convention Center, 350 Harbor Drive, locations to include the front drop zone and small park west of building.

Resolution 12-0195 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2012, and ending April 30, 2013, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 12-0423-13.

Resolution 12-0196 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2012, and ending April 30, 2013, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 12-0423-14.

Resolution 12-0197 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display licenses by the liquor control commissioner for the period beginning April 1, 2012, and ending March 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Order of Owls, Nest #1200, 118 East Second Street.

Duluth Woman's Club, 2400 East Superior Street.

Resolution 12-0198 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a proprietary contract with Enventis Telecom, Inc., for software and hardware maintenance on the CISCO SmartNet system during fiscal year 2012 in the amount of \$39,920.76 plus \$548.91 sales tax for a total amount of \$40,469.67, term net 30, payable from General Fund 110, Department/Agency 117 (management information systems), Division (MIS), Object 5404 (equipment/machinery repair and maintenance).

Resolution 12-0207 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the sanitary sewer board of the Western Lake Superior Sanitary District of Marcia A. Podratz, replacing Robert Prusak, for a term expiring on July 1, 2014, is confirmed.

Resolution 12-0199 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of police records technician I, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0423-15, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 124. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0202 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of police records technician II, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0423-16, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 128. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0203 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of utility operations program coordinator, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0423-17, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

unit employees; and that pay range for said classification shall be Range 33. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0205 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a first amendment to an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0423-18, to the CDBG program to assist income-eligible homeowners to complete home energy audits, weatherize and make other energy improvements to their homes with Equilibrium3, extending the term of the agreement to September 30, 2012.

Resolution 12-0200 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

WHEREAS, The Nature Conservancy has acquired land on the city's behalf for inclusion into the Duluth natural areas program; and

WHEREAS, The Nature Conservancy has successfully taken all steps necessary and has now acquired the final 5.49 acres of land for inclusion in said natural areas program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to enter into a donation agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0423-19 with The Nature Conservancy accepting land in the upper Smithville area at no cost and further expressing appreciation to said Nature Conservancy for said land donation.

Resolution 12-0215 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth (city) act as the legal sponsor for the Blumberg-1831, LLC, project as contained in the contamination cleanup grant program application to be submitted on May 1, 2012, and that the mayor and city clerk are hereby authorized to apply to the department of employment and economic development (DEED) for a grant in the amount of \$217,500 for funding of this project.

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

FURTHER RESOLVED, that the city hereby commits to provide 25 percent of the project costs, up to \$72,500 in a qualified match contribution, said match to be provided by Blumberg-1831, LLC.

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

Resolution 12-0218 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the following is the revised list of high priority bridges in the city of Duluth, and that the city intends to replace, rehabilitate or remove these bridges as soon as possible when funds become available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Const. Year
L8516	Fairmont Street	\$500,000	\$375,000		\$125,000	2012
N/A	Blackman Avenue	\$225,000	\$135,000		\$90,000	2012
L5931	Niagara Street	\$150,000	\$90,000		\$60,000	2012
L8491	38th Avenue West	\$135,000	\$81,000		\$54,000	2012
L6116	Lake Avenue	\$5,000,000	\$3,750,000		\$1,250,000	2013
L8486	Greene Street	\$100,000	\$60,000		\$40,000	2014
L6129	Woodland Avenue	\$150,000	\$90,000		\$60,000	2015
L8515	Lewis Street	\$250,000	\$150,000		\$100,000	2016

Resolution 12-0206 was unanimously adopted.
 Approved April 23, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0423-20 with WDIO-TV, LLC for said party to join in a petition to improve portions of Winter Street, Buena Vista Street, Green Avenue and platted Highland Avenue, known as Orange Street, upon the city's determination to improve them and to accept an assessment related thereto.

Resolution 12-0213 was unanimously adopted.
 Approved April 23, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, department of public safety, homeland security and emergency management in the amount of \$126,414, and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-0423-21, for the national incident management system training and overtime backfill salary/fringe for police officers and firefighters to attend the training, funds to be deposited in Fund No. 215-200-2204-4210-01 (police grants fund, police department, 2011 port security grant program, pass-through federal grants operating).

Resolution 12-0201 was unanimously adopted.
 Approved April 23, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a ballistic vest reimbursement grant from the United States department of justice, bureau of justice assistance, office of justice programs, in an amount not to exceed \$21,249.75 to be deposited in Fund No. 110-160-1610-4209-02 (general fund, police department, administration and investigation, federal operating grants), and to execute any documents required to be executed to accept such grant.

FURTHER RESOLVED, that the proper city officials are authorized to accept a ballistic vest reimbursement grant from the Minnesota department of public safety in an amount not to exceed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

\$34,846.00, to be deposited in Fund No. 110-160-1610-4220-02 (general fund, police department, administration and investigation, Minnesota operating grants), and to execute any documents required to be executed to accept such grant.

Resolution 12-0208 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Motorola Solutions, Inc., for the purchase and delivery of 100 XTL2500 mobile radios with encryption, 25 tax-exempt XTL 2500 mobile radios without encryption for fire apparatus, 171 XTS 2500 Model II portable radios and accessories with encryption, and ten APX7500 single band control stations and accessories for the Duluth fire and police departments in accordance with Minnesota SWIFT Contract 40071, Release R-651(5) specifications and pricing in the amount of \$959,432.88 plus \$61,159.26 sales tax on the taxable portion of the purchase, for a total combined amount of \$1,020,592.14, terms net 30, FOB destination payable as follows:

(a) \$260,092.14 from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year 2012), Object 5580 (capital equipment), Project No. CE250-E1211;

(b) \$760,500 from Duluth Police Grant Programs Fund 215, Department/Agency 200 (police), Division 2204 (2009 port security grant program), Object 5580 (capital equipment).

Resolution 12-0211 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Microwave Networks, Inc., for the purchase and delivery of two Proteus AMT microwave radio terminals with related equipment for the Duluth fire department in accordance with Minnesota State Contract 37417, Release M518(5) specifications and pricing in the amount of \$182,138, plus \$12,522 sales tax, for a total combined amount of \$194,660, terms and delivery per contract, and payable as follows:

(a) \$89,222.46 from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment) CE250-214;

(b) \$52,157 from Special Projects Fund 210, Department/Agency 030 (finance), Division 3179 (ARMER infrastructure grant), Object 5540 (non-capital equipment); and

(c) \$53,280.54 from Capital Improvements Fund 450, Department/Agency 030 (finance), Division 2011 (fiscal year), Object 5520 (buildings and structures), CP2011-1116b.

Resolution 12-0214 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city and DEDA have entered into an agreement with Interstate for the management of city-owned and DEDA-owned and managed parking facilities (Interstate agreement).

FURTHER RESOLVED, that the city and DEDA desire to enter into an agreement to clarify the respective rights and obligations of DEDA and city under the Interstate agreement, the term of which will be coterminous with the term of the Interstate agreement.

NOW THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0423-22, with DEDA; monies payable to or from DEDA payable into and out of the following accounts: Parking Fund 505, Administrative Services Department 015, Parking Ramps Organization 1480, and Meters and Municipals Lots Organization 1481.

Resolution 12-0216 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0221, by councilors Krug, Julsrud and Krause, establishing civil service reform working group to modify former civil service reform working group created by Resolution No. 12-0130, was introduced for discussion.

Councilors Julsrud, Krug and Krause explained: the history and intent of this resolution is to have other voices heard with the recent civil service reform; the council's wishes to have to have good process; a better balance of viewpoints on the changes; others who attend the meetings can contribute, but not vote on recommendations; this group is not a balanced group; the system needs time to develop, work and stabilize before changes are made.

Councilors Gardner and Larson opposed the resolution for reasons of: it was felt the existing working group is balanced; unions and human resource staff will attend and contribute; all councilors supported the actual need for the working group; there are other ways to incorporate the intent of this resolution in a different format.

Mr. Montgomery reviewed in great detail: that the council had received a task force presentation in August 2011 and it recommended changes to the Civil Service Code; the administration supports a working group to see, after a period of time, where any modifications might be needed, not total wholesale changes; there has been time for input from all those interested during the consideration of the ordinance and at this point the working group is four to one against the ordinance.

A motion was made to call the question, which motion was seconded and carried.

Resolution 12-0221 failed upon the following vote (Public Document No. 12-0423-23):

Yeas: Councilors Julsrud, Krause and Krug -- 3

Nays: Councilors Boyle, Fosle, Gardner, Larson, Stauber and President Hartman -- 6

- - -

Resolution 12-0204, approving proposed specifications for the civil service classification of senior police records technician and specifying contract benefits for same, was introduced by Councilor Boyle for discussion.

Councilor Krause opposed the resolution for the reason of the proposed salary being nowhere close to that in the private sector.

Resolution 12-0204 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of senior police records technician, which were approved by the civil service board on February 7, 2012, and which are filed with the city clerk as Public Document No. 12-0423-24, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 133. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0204 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved April 23, 2012

DON NESS, Mayor

- - -

Resoluion 12-0210, authorizing a service agreement with the Duluth Superior Area Community Foundation related to the community parks and recreation program, was introduced by Councilor Stauber for discussion.

Councilors Stauber and Fosle opposed the resolution for the reasons: the parks budget has been reduced by \$50,000 and there was no explanation why it was reduced; governmental entities cannot fundraise, where this resolution encourages contributions to the endowment fund; when the levy referendum was approved, the citizens did not approve it for fundraising; it should go for the purpose of parks and recreation; this resolution creates a new committee called the parks and recreation review committee and is being solely selected by the mayor with no council confirmation; there has never been a contract like this before and questioned if the state auditor approved this.

Councilor Larson expressed her support for the resolution for the reasons of: all funding received will be given out from grants or legacy funding; the city holds all the funds at all times with no interest or funds benefiting another organization and the role of this committee has been clearly defined with their recommendation going to the parks and recreation commission and then to the city council.

Mr. Montgomery explained in detail how funding comes in, gets comingled then dispersed and how this entity will assist in that process.

Resolution 12-0210 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a three year service agreement, substantially in the form of that on file in the office of the city clerk as Document No. 12-0423-08, with the Duluth Superior Area Community Foundation related implementation of the community parks and recreation program, in the amount of 2.5 percent of the total grant distributed in any contract year but not to exceed \$2,500 in an contract year, payable from Fund No. 205-130-1219-5310 (parks fund, community resources department, parks operating division, contract services).

Resolution 12-0210 was adopted upon the following vote:

Yeas: Councilors Boyle, Krause, Krug, Larson, and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Julsrud and Stauber -- 4

Approved April 23, 2012

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the council hereby expresses its intent to cause the following properties named below to be improved with public sanitary sewer and services as part of the city's 2012 municipal state aid project and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board together with a recommendation as to what portion of the cost shall be paid by special assessment and what part, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the lands which should include the special assessments:

2315, 2319 and 2331 Livingston Avenue.

Resolution 12-0217 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

RESOLVED, that the city council hereby requests that city administration list the names and contact information for all members of the Duluth public utilities commission on the city's website and also include commissioners' contact information in utility bill mailings at least twice annually.

Resolution 12-0219 was unanimously adopted.

Approved April 23, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

12-024 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS PARK (MU-B) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY LOCATED AT 4526 AND 4528 REGENT STREET (DAWN STRUMBEL AND DANIEL ROMSA).

- - -

BY COUNCILOR STAUBER

12-025 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE NEIGHBORHOOD (MU-N) THE PROPERTY LOCATED AT 1819 AND 1831 EAST EIGHTH STREET (CARLA BLUMBERG-1831 LLC).

- - -

BY COUNCILOR STAUBER

12-026 - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.3, 50-22.1, 50-24.4, 50-24.6, 50-25.1, 50-25.2, 50-25.8, 50-26.1, 50-26.4, 50-30.5, 50-31.3, 50-37.1, 50-37.6 AND 50-37.9, AND ADDING SECTION 50-26.5, OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO REVISIONS OF THE UNIFIED DEVELOPMENT CHAPTER.

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BY COUNCILOR STAUBER

12-027 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MU-C, MIXED USE-COMMERCIAL, TO FORM DISTRICTS, MID-RISE COMMUNITY SHOPPING/OFFICE (F-5), DOWNTOWN SHOPPING (F-7) AND DOWNTOWN MIX (F-8), THE DOWNTOWN BUSINESS DISTRICT, THE PROPERTY LOCATED FROM MESABA AVENUE TO NORTH NINTH AVENUE EAST AND FROM MICHIGAN STREET TO THE ALLEY ABOVE SECOND STREET (CITY OF DULUTH).

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The following entitled ordinances were read for the second time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BY COUNCILOR STAUBER

12-018 (10147) - AN ORDINANCE REPEALING ARTICLE X OF CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO PERMITS FOR THE CONCURRENT USE OF STREETS.

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

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BY COUNCILOR STAUBER

12-019 (10148) - ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-2, URBAN-RESIDENTIAL, ON THE WEST PORTION OF THE PROPERTY LOCATED AT 1750 KENWOOD AVENUE (CARLSON).

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Debbie Isabel Nelson commented on how impressed she was with Mr. Carlson and his concerns about the neighborhood and potential residents of his development.

Councilor Stauber expressed his concern that this is spot zoning, where all the surrounding is R-1.

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

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

Nays: Councilors Krause and Stauber -- 2

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BY COUNCILOR STAUBER

12-020 (10149) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-P, RESIDENTIAL-PLANNED, APPROXIMATELY 20 ACRES LAND LYING SOUTH OF HULETT AVENUE, EAST OF 93RD AVENUE WEST AND NORTHWEST OF SPIRIT LAKE TRANSFER RAILWAY (RAPID RIVER DEVELOPMENT, LLC).

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Debbie Isabel Nelson commented on how this is the third time that this has come forward and how she felt that this time the developer has worked to meet the needs of the community.

Mike Casey, Jr., noted that while he supports this project, he expressed concerns that: this development is in Smithville, not Morgan Park; that the special use permit designated low density housing, which shall be compatible with the texture, scale and massing of the existing development; he reviewed in detail the comments and information of the staff report and the site plan review under zoning R-P and that there is only one building in Smithville similar to this stature and this should not be compared to Morgan Park.

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

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BY COUNCILOR STAUBER

12-021 (10150) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TRADITIONAL, AND R-2, RESIDENTIAL-URBAN, TO R-P, RESIDENTIAL-PLANNED, AT THE WOODLAND MIDDLE SCHOOL SITE AT 201 CLOVER STREET (VILLAGE CENTER AND BLUESTONE COMMONS DEVELOPMENT).

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

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COUNCILOR QUESTIONS AND COMMENTS

To President Hartman's questions about certain houses being converted to rental properties, Mr. Montgomery reviewed that the life safety staff have denied rental permits because they were not qualified bedrooms under the building code and that some locations have been advertizing for expanded bedrooms before they have been granted licenses and those signs have been taken down. Providing adequate parking is the one major issue for denying new rental permits.

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The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10147

AN ORDINANCE REPEALING ARTICLE X OF CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO PERMITS FOR THE CONCURRENT USE OF STREETS.

The city of Duluth does ordain:

Section 1. That Article X of Chapter 45 of the Duluth City Code, 1959, as amended, relating to permits for the concurrent use of streets is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 25, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 23, 2012
Approved April 23, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10148

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-2, URBAN-RESIDENTIAL, ON THE WEST PORTION OF THE PROPERTY LOCATED AT 1750 KENWOOD AVENUE (CARLSON).

The city of Duluth does ordain:

Section 1. That the west portion of the subject property located at 1750 Kenwood Avenue

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

and as described as: westerly 300'-0" of: N1/2 of NW1/4 of SW1/4 of the SE1/4 of Section 10, Township 50, Range 14 West; be reclassified from R-1, Traditional Neighborhood, to R-2, Urban-Residential, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File 008)

No. 12-

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 25, 2012)

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

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

Nays: Councilors Krause and Stauber -- 2

Passed April 23, 2012

Approved April 23, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 10149

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-P, RESIDENTIAL-PLANNED, APPROXIMATELY 20 ACRES LAND LYING SOUTH OF HULETT AVENUE, EAST OF 93RD AVENUE WEST, AND NORTHWEST OF SPIRIT LAKE TRANSFER RAILWAY (RAPID RIVER DEVELOPMENT, LLC).

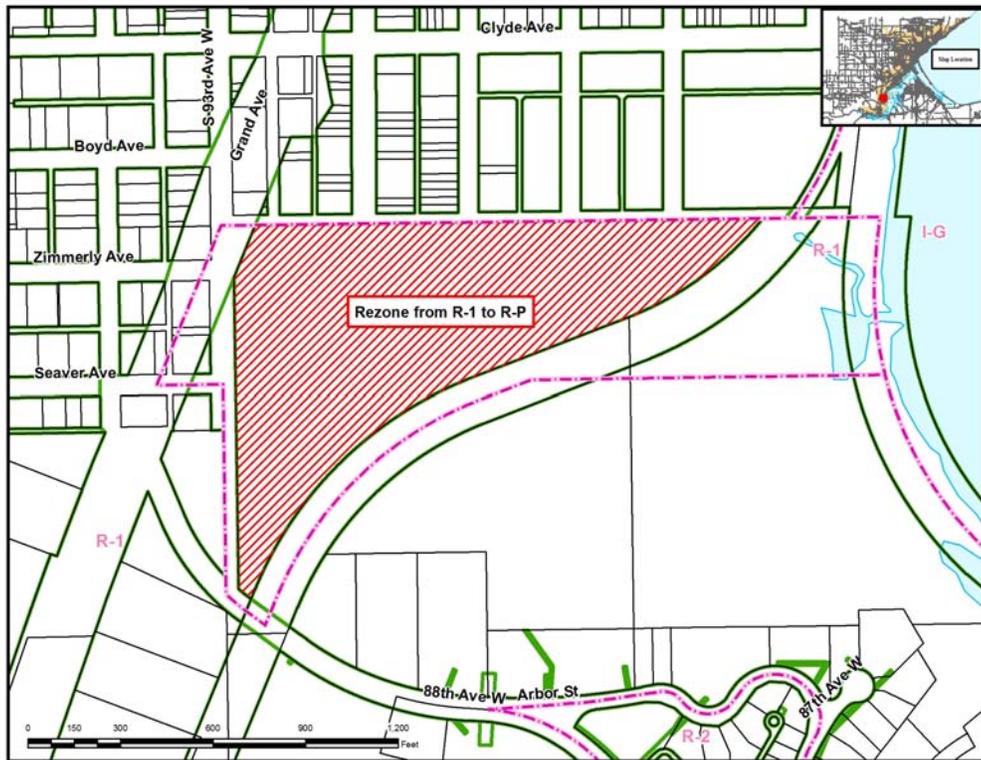
PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The city of Duluth does ordain:

Section 1. That the west portion of the subject property located south of Hulett Avenue, east of 93rd Avenue West, and northwest of Spirit Lake Transfer Railway and as described as: all that part of the NW1/4 of SW1/4 and all that part of Government Lot 4, in Section 26, in Township 49 North, Range 15 West of the Fourth Principal Meridian, lying north and west of the right-of-way of the Duluth, Missabe and Iron Range Railway Company, successor to the Spirit Lake Transfer Railway Company, as said right-of-way is now surveyed, laid out, constructed and in use over and across and NW1/4 of SW1/4 and said Government Lot 4, and lying north and east of the center lines of 93rd Avenue West and Arbor Street in said city of Duluth as now laid out, constructed and in use; be reclassified from R-1, Traditional Neighborhood, to R-P, Residential-Planned, 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:

(PL 12-014)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its



passage and publication. (Effective date: May 25, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 23, 2012
Approved April 23, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10150

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, AND R-2, RESIDENTIAL-URBAN, TO R-P, RESIDENTIAL-PLANNED, AT THE WOODLAND MIDDLE SCHOOL SITE AT 201 CLOVER STREET (VILLAGE CENTER AND BLUESTONE COMMONS DEVELOPMENT).

The city of Duluth does ordain:

Section 1. That the subject property described as:

Lot 1, Block 6, Mount Royal Division of Duluth, and Lot 8, Block 19, Willard's Addition to Duluth;

Lots 2 and 3, Block 6, Mount Royal Division of Duluth;

Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26, Block 2, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 3, and Lots 7, 8, 9, 10, 11 and 12, Block 8, Clover Hill Division of Duluth;

Lots 4, 5, 6, 7, 8 and 9, Block 9, Clover Hill Division of Duluth;

Lots 1, 14, 15, 16 and easterly half of Lot 13, Block 18, Willard's Addition to Duluth, and Lots 15, 16 and easterly half of Lot 14, Block 4, Clover Hill Division of Duluth;

Lots 11 and 12, Block 9, Clover Hill Division of Duluth;

Lot 3, Block 9, Clover Hill Division of Duluth;

All of Block 5, Clover Hill Division of Duluth;

Lots 1 and 2, Block 4, Clover Hill Division of Duluth;

Lots 1 thru 5, Block 8, Clover Hill Division of Duluth;

Lot 5, Block 2, Clover Hill Division of Duluth;

Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and west half of Lot 14, Block 4, Clover Hill Division of Duluth, and Lot 12 and west half of Lot 13, Block 18, Willard's Addition to Duluth;

Lot 6, Block 8, Clover Hill Division of Duluth;

Lots 1 and 2, Block 9, Clover Hills Division of Duluth;

Lot 10, Block 9, Clover Hill Division of Duluth;

Lots 1, 2, 3 and 4, Block 2, Clover Hill Division of Duluth;

Vacated Jackson Street, Summit Place and alleys in Clover Hills Division of Duluth;

Blocks 18 and 19, Motor Line Division of Duluth, except that part described as follows: commencing at the northeast corner of Lot 11, Block 18 of said Motor Line Division of Duluth; thence north 89° 52' 08" west, along the north line of said Block 18 a distance of 8.22 feet to the point of beginning; thence south 00° 08' 28" west, along a line parallel with the east line of said Lot 11 and its southerly extension a distance of 133.04 feet to the centerline of the alley lying between said Blocks 18 and 19; thence south 00° 07' 55" west, along a line parallel with the east line of said Lot 11, Block 19, and its northerly extension a distance of 87.00 feet; thence north 89° 52' 08" west; along a line parallel with the north line of said Block 18 a distance of 451.64 feet to the northwesterly line of said Block 18; thence northeasterly and easterly, along said northwesterly and northerly lines of said Block 18 a distance of 557.03 feet to the point of beginning;

All that part of Summit Street (a.k.a. Manitoba Street), Clover Hill Division of Duluth, lying easterly of the easterly line of Woodland Avenue;

All that part of East Griggs Place (a.k.a. Coddling Street), Clover Hill Division of Duluth, and all that part of East Griggs Place (a.k.a. Coddling Street), Motor Line Division of Duluth, lying easterly of the easterly line of Woodland Avenue, Clover Hill and Motor Line Divisions

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of Duluth;

All those parts of Prospect Avenue, Motor Line Division to Duluth, and Prospect Avenue, Mount Royal Division of Duluth, lying southerly of the southerly line of Elizabeth Street, Motor Line and Mount Royal Divisions of Duluth;

27th Avenue East, Willard's Division to Duluth, lying northwesterly of the northwesterly line of East Eighth Street, Willard's Division to Duluth;

All that part of the alley between Blocks 8 and 9, Clover Hill Division of Duluth, from the northerly line of Clover Street to a line 50 easterly of the easterly property line of Lot 3, Block 8, Clover Hill Division of Duluth;

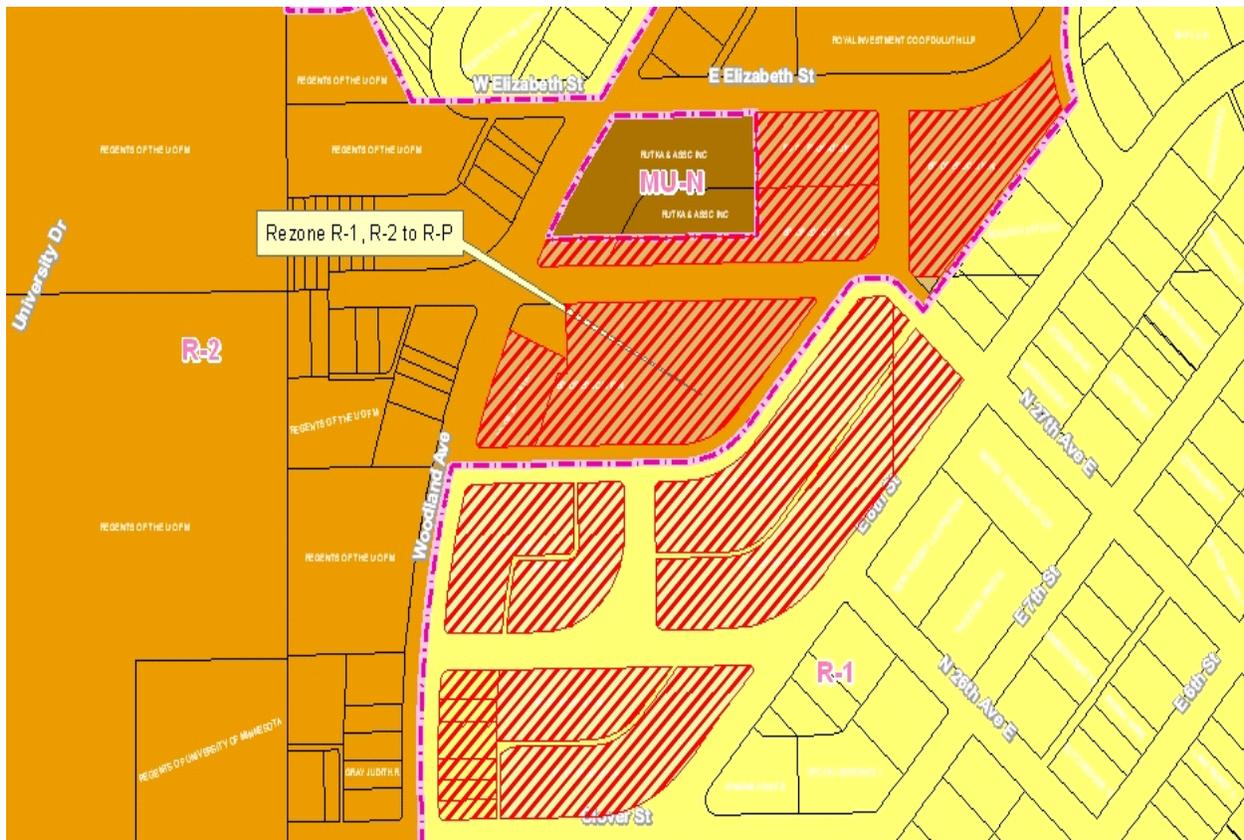
All those lands encumbered by building lines affecting Blocks two (2), five (5) and eight (8), Clover Hill Division of Duluth;

The northwesterly one-half of the alley in Block 19, Willard's Division to Duluth;

The northwesterly one-half of the alley in Block 6, Mount Royal Division to Duluth;

All those parts of Clover Street and East Eighth Street, Clover Hill Division of Duluth, adjacent to those parts of Lots 4 thru 9, Block 9, said Clover Hill Division of Duluth, lying northerly of the northerly line of Clover Street extended and northwesterly of the northwesterly line of East Eighth Street extended;

be reclassified from R-1, Residential-Traditional, and R-2, Residential-Urban, to R-P, Residential-Planned, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. PL 12-012)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 25, 2012)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

following vote:

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 23, 2012

Approved April 23, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Emergency meeting of the Duluth City Council held on Thursday, May 10, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 7

Absent: Councilors Boyle and Krause -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0510-01 The PFM Group bid results for the sale of \$7,650,000 taxable general obligation airport improvement bonds, Series 2012B (12-0247R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 12-0247, providing for the issuance, sale and delivery of \$7,650,000 taxable general obligation airport improvement bonds, Series 2012B; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, was introduced by Councilor Krug for discussion.

President Hartman expressed concern that he was not notified of the emergency meeting until he arrived at the meeting.

Councilor Stauber questioned if this emergency meeting is allowed in the Charter and if it violates the open meeting law. City Attorney Gunnar Johnson reviewed the state law dealing with emergency meetings and felt that the city has met the obligation of notification of the public of this meeting as required by state law.

Bond Counsel Robert Tofte reviewed the history of the bond process with the resolution of intent to sell bonds being passed at the April 23 council meeting which called for the bid opening and special council meeting for the approval of the bids at 5:15 p.m. today. He continued saying that he realized that there was no special bond meeting set for today and called Mr. Johnson to find out what could be done to have the meeting today. Mr. Tofte explained that the bond market moves each day and the interest rates had already gone up today from the time of the bid opening today which means the bonds would have a higher interest rate tomorrow.

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At this time, 5:25 p.m., Councilor Krause took his seat.

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To questioning from the council, Mr. Tofte replied that if the council decided not to vote on the resolution tonight, the low bidder could cancel its bid and the bid process would start over again with the concern that the bond market interest rate may be higher at a later date. He stated that the interest rate is lower than what was expected when the resolution of intent was passed two weeks ago and is recommending awarding the bid to the lower bidder.

Councilor Julsrud move to call the question, which motion was seconded and unanimously carried.

Resolution 12-0247 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

Section 1. Bond Purpose and Authorization.

1.01

A. Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

B. The city council has, by Ordinance No. 10112 adopted October 10, 2011, authorized the issuance and sale of general obligation bonds of the City in the maximum amount of \$7,650,000 for the purpose of providing the local match for State of Minnesota grants and federal grants for the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons (the "Project").

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$7,650,000 Taxable General Obligation Airport Improvement Bonds, Series 2012B, to be dated the date of delivery as the date of original issue (the "Bonds") for financing the Project.

1.02 Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Morgan Keegan & Co., Inc. of Memphis, Tennessee (the "Purchaser"), to purchase the Bonds at a cash price of \$7,623,345.62, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2014	\$435,000	2.000%
2015	445,000	2.000%
2016	455,000	2.000%
2017	465,000	2.000%
2018	470,000	2.000%
2019	485,000	2.000%
2020	490,000	2.000%
2021	500,000	2.250%
2022	515,000	2.375%
2023	530,000	2.500%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Year	Amount	Interest Rate
2024	540,000	2.625%
2025	550,000	2.875%
2026	570,000	3.000%
2027	590,000	3.125%
2028	610,000	3.250%

2.02

A. The Bonds maturing in the years 2014 through 2022 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2023 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2013. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04

A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06

A. In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

B. Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

C. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

D. DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

E. The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

F. All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

R-_____

\$_____

CITY OF DULUTH
TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BOND, SERIES
2012B

Interest			
Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____	May __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2013. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$7,650,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, and all other laws thereunto enabling, and Ordinance No. 10112 adopted by the governing body of the City on October 10, 2011, and pursuant to a resolution adopted by the governing body of the City on May 10, 2012(the "Resolution"), for the purpose of providing the local

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

match for State of Minnesota grants and federal grants for the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons, and for payment of part of the interest cost of said bond issue, which obligations and interest thereon are payable from ad valorem taxes as described in the Resolution.

The Bonds of this series maturing in the years 2014 through 2022 are not subject to redemption before maturity, but those maturing in the year 2023 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
5/__/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Revenues, Accounts and Covenants.

4.01 The City has created the Bond Construction Account within the Duluth Airport Authority Fund (Fund No. 590), to which there shall be credited \$7,490,074.64 of the proceeds of the Bonds. The City also maintains a construction account within Fund No. 590, and any additional funds, including grant funds, available for the Project shall be deposited and used for costs of the Project. Monies within the Bond Construction Account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

4.02

A. A separate debt service account is hereby created and designated as the "2012 Taxable General Obligation Airport Improvement Bonds Debt Service Account" (the "Debt Service Account") within the City's debt service fund. The money in the Debt Service Account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Account, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected.

B. Into the Debt Service Account shall be credited (i) \$4,981.06 from the rounding amount; (ii) capitalized interest in the amount of \$128,289.92, and plus the amount of accrued interest, if any, paid by the Purchaser upon closing and delivery of the Bonds; (iii) the payments received by the City pursuant to Section 4.02C; (iv) the ad valorem taxes levied pursuant to Section 4.03; and (v) any other funds appropriated by the city council for payment of principal of and interest on the Bonds.

C. On or prior to delivery of the Bonds, the mayor and city clerk are hereby authorized and directed to execute on behalf of the City a loan agreement (the "Loan Agreement") with the Duluth Airport Authority (the "Authority") in substantially the form now on file with the city clerk as Public Document No. 12-0510-02. The execution and delivery of the Loan Agreement by the mayor and the city clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor deems advisable, is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. The City shall deposit the loan repayments by the Authority paid pursuant to the Loan Agreement in the Debt Service Account when received. The loan repayments shall offset the ad valorem tax levies as provided in Section 4.03A hereof.

4.03

A. The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Levy Year	Collection Year	Tax Levy
2012	2013	\$653,081
2013	2014	654,446
2014	2015	655,601
2015	2016	656,546
2016	2017	652,031
2017	2018	657,911
2018	2019	652,976
2019	2020	653,186
2020	2021	657,123
2021	2022	660,031
2022	2023	656,618
2023	2024	652,234
2024	2025	656,631
2025	2026	659,676
2026	2027	661,317

Said levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Account of monies actually on hand for payment of such principal and interest payable from ad valorem taxes, and may direct the county auditor to reduce the levy for such calendar year by that amount.

The City intends to credit the loan repayments from the Loan Agreement to the Debt Service Account to provide funds to cancel all or a portion of such tax levy.

B. All taxes are hereby appropriated and shall be paid when collected into the Debt Service Account. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient.

4.04 Proceeds of the Bonds on deposit in the Bond Construction Account and the Debt Service Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the Project and/or payment of the principal and interest on the Bonds when due.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

form of the certificate currently on file in the office of the clerk.

Section 6. Certificate of Proceedings.

6.01 The clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 12-0247 was unanimously adopted.

Approved May 10, 2012

DON NESS, Mayor

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The meeting was adjourned at 5:32 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 14, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0514-19 The following communications regarding the proposed ordinance to establish a citizen review board (12-030-O): (a) Doug Bowen-Bailey; (b) Jodi Broadwell; (c) Duluth Police Union. -- Received

12-0514-20 The following communications regarding the proposed ordinance concerning rental licensing (12-032-O): (a) Nicholas DeShaw; (b) Kristi DuCharme; (c) Fred Fyvie; (d) Michael Hoffman; (e) Katie Krikorian; (f) Anneli Lippert; (g) Barbara Montee; (h) John Peterson; (i) Sandy Robinson; (j) Michael Schraepfer. -- Received

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REPORTS FROM OTHER OFFICERS

12-0514-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth Retriever Club on August 19, 2012; (b) St. Luke's Foundation on July 23, 2012. -- Received

12-0514-02 Purchasing agent emergency repair order of Brewery Creek stormwater tunnel and manhole awarded to Superior Equipment for an estimated \$139,000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0514-03 Building appeal board minutes of: (a) January 12; (b) March 14, 2012, meetings. -- Received

12-0514-04 Community development committee communication regarding 2012 CDBG recommendations. -- Received

12-0514-05 Duluth airport authority minutes of: (a) March 20; (b) March 30, 2012, meetings. -- Received

12-0514-06 Duluth economic development authority minutes of March 28, 2012, meeting. -- Received

12-0514-07 Duluth public arts commission minutes of: (a) August 15; (b) August 22; (c) August 31; (d) September 6, 2011; (e) March 19; (f) March 30, 2012, meetings. -- Received

12-0514-08 Duluth public utilities commission minutes of March 28, 2012, meeting. -- Received

12-0514-09 Spirit Mountain recreation area authority minutes of: (a) March 15; (b) April 6, 2012, meetings. -- Received

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At this time, 7:00 p.m., the public hearing on TIF District No. 7 was opened. No one appeared who wished to be heard and the public hearing was closed at 7:01 p.m.

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At this time, 7:02 p.m., the public hearing on Northstar Aerospace was opened. No one appeared who wished to be heard and the public hearing was closed at 7:03 p.m.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Richard Gould, Tom Rauschenfels, Diane Gould, Dawn Buck, Heidi Harrison, Yvonne Prettner Solon, Dan O'Neill, Elizabeth Mackay, Jim Wood and Tom Selinski urged the council to keep the fire hall open on Park Point for the following reasons: there are no lifeguards on the beach; many visitors go onto the point each year; property taxes are some of the highest in the city which should help pay for the fire hall; there is potential for city liability if it is found at fault for lack of protection; there are nursing homes that require medical attention; an airplane crash at Sky Harbor; concern about future insurance costs if there is no fire protection; the need for quick response time for medical emergencies; when the bridge is up Park Point becomes an island; the bridge is often up for ten minutes at a time; a petition has been signed by several of the residents of Park Point who think that the fire hall is necessary; there is a large senior population that are remaining independent longer in their homes and the city needs to provide to services to protect them; there is a high density population on the point and Canal Park is a congested traffic area that makes it hard to get on and off the point.

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Loren Martell reviewed that the school district has lost \$800,000 in their budget due to interest rates falling and has taken \$6 million out of the reserve fund each year to cover the shortage in the district's budget and is now borrowing money and paying interest to cover the gap caused by the deferred payment by the state to the school district.

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Tom Anderson stated there is a house that is scheduled for demolition by the city and that he would like one week to work with the property owner to buy the house and get it restored.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that city officials are hereby authorized to contract with Brock White Company for the purchase and delivery of 100,000 pounds of crack sealer in accordance with Minnesota department of transportation specifications #3723 and the vendor's low bid of \$53,924.73 plus \$3,707.33 sales tax for a total combined amount of \$57,632.06, terms net 30, FOB destination, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), and Object 5224 (gravel and other maintenance materials).

Resolution 12-0227 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Arrowhead Concrete Works, Inc., for the purchase and delivery of approximately 750 cubic yards of ready-mix concrete as needed during year 2012 by street maintenance crews in accordance with city-approved bid specifications and the vendor's bid of \$101.70 per cubic yard of type 3A32 high early concrete, for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

a total of \$76,275 plus \$5,243.91 sales tax, for an estimated combined total of \$81,518.91, terms net 30, FOB destination, payable from the General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5224 (gravel and other maintenance materials).

Resolution 12-0228 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Saturn Systems, Inc., substantially the same as that on file with the city clerk as Public Document No. 12-0514-10, for the design, development and implementation of a software application for tracking special assessments, in accordance with the vendor's proposal, dated December 16, 2012, for a total amount not to exceed \$150,000, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-E1207.

Resolution 12-0237 was unanimously adopted.

Approved May 14, 2012

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:

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, for June 16, 2012, with the serving ceasing at 2:00 a.m.

Chasers of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, for June 16, 2012, from 5:00 p.m. to 9:00 p.m.

The Lake Effect Restaurant, Inc. (Lake Avenue Café), 394 Lake Avenue South, for June 15 and 16, 2012, with music and serving ceasing at 1:00 a.m.

Resolution 12-0238 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

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

College of St. Scholastica (John Baggs memorial scholarship golf tournament), 1200 Kenwood Avenue, for June 9, 2012, with Ken Kolquist, manager.

Lake Superior Brewing Company, LLC (Twin Ports Bridge Fest), Bayfront Park, for July 7, 2012, from Noon until 10:00 p.m. with Dale Kleinschmidt, manager.

Resolution 12-0239 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license, dancing license, and approves issuance of a 2:00 a.m. beverage license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Flame Nightclub, Inc. (Flame Nightclub), 28 North First Avenue West (second floor),

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

with Vince Nelson, 100 percent owner.

Resolution 12-0240 was unanimously adopted.

Approved May 14, 2012

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, 2012, subject to departmental approvals and the payment of sales and property taxes:

Hanabi Japanese Cuisine, LLC (Hanabi Japanese Cuisine), 110 North First Avenue West, with Hangjie Huang and Hanghai Huang, owners, transferred from Hanabi Japanese Cuisine Co. (Hanabi Japanese Cuisine), same address.

Resolution 12-0241 was unanimously adopted.

Approved May 14, 2012

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

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

Resolution 12-0243 was unanimously adopted

Approved May 14, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Traffic Control Corporation for the purchase and delivery of five TS2 traffic signal cabinets and five MMM-764-4CH phase selectors for the city's traffic operations division in accordance with Minnesota State Contract Release T-639(5) and city approved specifications and pricing for a total of \$90,005 plus \$6,187.84 sales tax for a total combined amount of \$96,192.84, terms net 30, FOB destination, and payable from Street Lighting Utility Fund 550, Department/Agency 120 (public administration), Object 5580 (capital equipment).

Resolution 12-0245 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a construction contract with The Jamar Company for completion of the EcoStar slate roofing on the Enger Tower gazebo and installation of two adjacent pergolas in accordance with city approved specifications (Bid Package 3) as prepared by consultant Collaborative Design Group, Inc., and the vendor's bid of \$106,800, payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CPMisc - engrtr.

Resolution 12-0246 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

sale intoxicating liquor license, on sale Sunday license, dancing license, and approves issuance of a 2:00 a.m. beverage license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Range Restaurants, LLC (Grizzly's Wood Fired Grill), 310 Lake Avenue South, with LRB Restaurant Co., 78 percent owner, Rick Lampton, 20 percent owner, and Barry Rindahl, two percent owner.

Resolution 12-0249 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of Keith Hamre to the position of director of planning and construction services; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Keith Hamre to the position of director of planning and construction services for the city of Duluth.

Resolution 12-0235 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the platted streets and alleys described below in (d) within the Spirit Mountain Recreation Area; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned portions of platted streets and alleys are useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its Tuesday, March 13, 2012, 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 portions of platted streets and alleys described below and as described and depicted on Public Document No. 12-0514-11:

The west half of 84th Avenue West, from the north line of Warwick Street to the easterly extension of the south line of Lot 19, Block 2, IRONTON FIRST DIVISION to Duluth, Minnesota.

The west half of 84th Avenue West, from the south line of Warwick Street to the easterly extension of the north line of Lot 5, Block 15, IRONTON FIRST DIVISION to Duluth, Minnesota.

The east half of 84th Avenue West, from the north line of Warwick Street to the westerly extension of the south line of Lot 13, Block 3, IRONTON FIRST DIVISION to Duluth, Minnesota.

The east half of 84th Avenue West, from the south line of Warwick Street to the westerly extension of the north line of Lot 11, Block 14, IRONTON FIRST DIVISION to Duluth, Minnesota.

The west half of 83rd Avenue West, from the north line of Grand Avenue to the south

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

line of Warwick Street, IRONTON FIRST DIVISION to Duluth, Minnesota.

The west half of 83rd Avenue West, from the north line of Warwick Street to the easterly extension of the south line of Lot 13, Block 4, IRONTON FIRST DIVISION to Duluth, Minnesota.

The east half of 83rd Avenue West, from the north line of Warwick Street to the westerly extension of the south line of Lot 15, Block 5, IRONTON FIRST DIVISION to Duluth, Minnesota.

The west half of 82nd Avenue West, from the north line of Grand Avenue to the easterly extension of the south line of Lot 15, Block 6, IRONTON FIRST DIVISION to Duluth, Minnesota.

Warwick Street, from the east line of 85 Avenue West to the centerline of 83rd Avenue West, IRONTON FIRST DIVISION to Duluth, Minnesota.

The north half of Warwick Street, from the centerline of 83rd Avenue West to the north line of Grand Avenue, IRONTON FIRST DIVISION to Duluth, Minnesota.

The alley between Block 1 and Block 2, IRONTON FIRST DIVISION to Duluth, Minnesota, from the north line of Warwick Street to the easterly extension of the south line of Lot 19, Block 1.

The alley between Block 3 and Block 4, IRONTON FIRST DIVISION to Duluth, Minnesota, from the north line of Warwick Street to the easterly extension of the south line of Lot 13, Block 3.

The alley between Block 5 and Block 6, IRONTON FIRST DIVISION to Duluth, Minnesota, from the north line of Warwick Street to the easterly extension of the south line of Lot 15, Block 5.

The east half of the alley between Block 13 and Block 14, IRONTON FIRST DIVISION to Duluth, Minnesota, from the south line of Warwick Street to the westerly extension of the north line of Lot 13, Block 13.

The west half of the alley between Block 13 and Block 14, IRONTON FIRST DIVISION to Duluth, Minnesota, from the south line of Warwick Street to the easterly extension of the north line of Lot 11, Block 14.

The alley between Block 15 and Block 16, IRONTON FIRST DIVISION to Duluth, Minnesota, from the south line of Warwick Street to the westerly extension of the north line of Lot 5, Block 15;

(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 showing the platted streets and alleys to be vacated.

Resolution 12-0149 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

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

Section 1. Recitals.

1.01. The board of commissioners ("board") of the Duluth economic development authority ("DEDA") has heretofore established a redevelopment plan/municipal development district (the "project area") and adopted a development program therefor. It has been proposed by DEDA and the city that the city adopt an amendment to the tax increment financing plan (the "TIF plan") for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Tax Increment Financing District No. 7 (the "TIF district") which is referred to herein as the "amendment", pursuant to and in conformity with applicable law, including Minnesota Statutes, sections 469.090 to 469.1082 and sections 469.174 to 469.1799, all inclusive, as amended, (the "act") all as reflected in the amendment, and presented for the council's consideration.

1.02. DEDA and city have investigated the facts relating to the amendment and have caused the amendment to be prepared.

1.03. DEDA and city have performed all actions required by law to be performed prior to the adoption and approval of the proposed amendment, including, but not limited to, notification of St. Louis County and Independent School District No. 709, having taxing jurisdiction over the property in the TIF district, approval of the amendment by DEDA on March 28, 2012, notification of each county commissioner who represents part of the area included in the TIF district, and the holding of a public hearing upon published notice as required by law.

Section 2. Findings for the amendment to the TIF plan.

2.01 The council hereby reaffirms the original findings for the TIF district, namely that when it was established, it was established as a "redevelopment district."

2.02 The amendment to the TIF plan is being completed to clarify the budget of the TIF district and to give budgetary and legal authority to DEDA to acquire additional parcels within the project area. DEDA is not modifying the boundaries or extending the term of the TIF district.

2.03 The modifications to the TIF plan conform to the general plan for development or redevelopment of the city as a whole. The fact supporting this finding is that the amendment to the TIF plan will generally complement and serve to implement policies adopted in the city's comprehensive plan.

2.04 The modifications to the TIF plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development or redevelopment of the project area by private enterprise. The facts supporting this finding are that the amendment to the TIF plan will continue the redevelopment that has been stimulated under the original plan for the TIF district.

2.05 The council further finds the future redevelopment, in the opinion of the city, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

Section 3. Public purpose.

3.01. The adoption of the amendment conforms in all respects to the requirements of the act and will help fulfill a need to redevelop an area of the state which is already built up, to provide employment opportunities, to provide housing opportunities, to improve the tax base and to improve the general economy of the state and thereby serves a public purpose.

Section 4. Approval and adoption of the modifications.

4.01. The amendment, as presented to the council on this date, is hereby approved, ratified, adopted and shall be placed on file in the office of the executive director of DEDA ("director"), 402 City Hall, 411 West First Street, Duluth, MN 55802.

4.02. The staff, the city's advisors and legal counsel are authorized and directed to proceed with the implementation of the amendment and for this purpose to negotiate, draft, prepare and present to this council for its consideration all further amendments, resolutions, documents and contracts necessary for this purpose. Approval of the amendment does not constitute approval of any project or a development agreement with any developer.

4.03. The director is authorized and directed to forward a copy of the amendment to the commissioner of the Minnesota department of revenue, the office of the state auditor, pursuant to Minnesota Statutes, Section 469.175, Subd. 4a.

4.04. The director is further authorized and directed to file a copy of the amendment with St. Louis County auditor.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0193 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the city council hereby amends the 2011 and 2012 annual action plan to add \$70,012 (2011 program year) and \$97,913 (2012 program year) in emergency solutions grant program funding recommended by the community development committee.

Resolution 12-0230 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a seventh amendment to the MIF loan agreement and a seventh promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 12-0514-12 with Northstar Machine and Tool, Inc., d.b.a Northstar Aerospace ("Northstar"), allowing Northstar to make payments of interest plus an amount equal to one-fourth of the principal payment provided for under the note for a 14 month period, from May 1, 2012, through June 30, 2013.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a seventh amendment to the grant agreement with the state of Minnesota, such amendment to reflect the seventh amendment to the MIF loan agreement and seventh promissory modification agreement with Northstar.

Resolution 12-0248 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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THE CITY COUNCIL FINDS:

That the city of Duluth used ARRA funds to construct a sanitary sewer overflow storage facility at 20th Avenue East and Water Street (City Project No. 0696SN), and as a requirement for closeout of an ARRA funded project the city must adopt a project acceptance resolution.

That the project has been completed according to approved construction plans and specifications, the tank has been in operation since October 22, 2010, and the contractor has received final payment.

RESOLVED, that the proper city officials adopt the project acceptance resolution.
Resolution 12-0224 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept an additional grant from the state of Minnesota, department of public safety, homeland security and emergency management, in the amount of \$200,000 with matching funds in the amount of \$66,666 from Fund No. 250-015-2010-5580 (capital equipment, administrative services, Fiscal Year 2010), Project No. CE250-E1001, and to execute Amendment No. 2 to Grant Agreement No. 2008-PSGP-0082, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0514-13, for the purpose of enhancing the surveillance system in the Duluth/Superior Port area expanding on the port security project initiated in 2007, funds to be deposited in Fund No. 210-030-3177-4210-01 (special projects, finance, homeland security grant 2008 port security grant).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0222 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to the agreement for services between the city of Duluth and the city of Virginia, whereby the city of Virginia as fiscal agent for the Northeast law enforcement administrators council (NLEAC), funds one officer position with the city of Duluth police department, said officer to assist in investigating the manufacture, sale and use of methamphetamine and other related drugs; said first amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0514-14, extending the termination date to March 10, 2014, and reflecting the change in name of the task force to the Lake Superior drug and violent crime task force, reimbursement funds to be deposited in Fund No. 215-200-2296-4210-02 (Duluth police grant programs, police, 2010-2012 NLEAC).

Resolution 12-0223 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to enter into a contract with JDR Technologies, LLC, recommended as a specialized vendor by public works and utilities-contracted consulting firm Ulteig Engineers, Inc., and the Duluth fire department in Public Document No. 12-0514-15 on file in the office of the city clerk, for emergency radio communications work mounting upgrades at the Orphanage water tower (Woodland) in accordance with city approved specifications and the vendor's quote dated April 6, 2012, for \$29,852 plus \$2,052.33 sales tax, for a total combined amount of \$31,904.33, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year 2012), Object 5580 (capital equipment), Project No. CE250-E1211.

Resolution 12-0226 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a first 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 officer to support strategies to locate, arrest and prosecute child sexual predators and exploiters, and to enforce state sex offender registration laws; said first amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0514-16, increasing the funding available to the Duluth police department for overtime by an additional \$11,000, reimbursement funds to be deposited in Fund No. 215-200-2203-4210-02 (Duluth police grant programs, police, federal pass through city of Superior revenues).

Resolution 12-0233 was unanimously adopted.
Approved May 14, 2012
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders for structures located upon the below described parcels of land located within the city of Duluth after determining that the criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

Parcel 1: 820 Lake Avenue North, legally described as S 35 ft of N 105 ft of Lots 2 and 4 ex part SELY of a line running from a pt 105 ft S of N line & 17 ft W of E Line of Lot 4 to a pt on E line 88 ft S of NE corner of Lot 4 inc S 35 ft of N 140 ft of Lots 2 and 4 ex part SELY of a line running from a pt 140 ft S of N line and 48.10 ft NELY of W line to a pt 105 ft S of N line and 17 ft W of E line Lot 4 inc that part of Lot 6 NWLY of a line running from a pt on NELY line 41 ft SELY of NELY corner to a pt on SWLY line 85.68 ft SELY of NWLY corner, Block 116, Duluth Proper Third Division, notice by registered mail to Sten Walfrid Bylund, 315 East First Street, Duluth, Minnesota 55805, signed by Sten Bylund on September 23, 2010; and

Parcel 2: 5715 Cody Street, legally described as S 15 ft of E 25 ft of W 75 ft of Lot 13 and E 25 ft of W 75 ft of Lots 14, 15 and 16, Block 165, West Duluth Fifth Division, notice by registered mail to Michael A. Slaviero, 1031 86th Avenue West, Duluth, Minnesota 55808, signed by Michael Slaviero on February 2, 2012; and

Parcel 3: 3215 Elm Street, legally described as Lot 24 and 25, Block 2, Centredale Addition to Duluth, notice by registered mail to Ted W. Sutkowy, 3215 Elm Street, Duluth, Minnesota 55806, returned marked "NOT DELIVERABLE AS ADDRESSED UNABLE TO FORWARD" and advertised in the Duluth News Tribune on February 10, 2012, and February 17, 2012; and

Parcel 4: 13002 West Third Street, legally described as Lots 97 and 99, Fond Du Lac Third Street Duluth, notice by registered mail to Wells Fargo Bank NA as trustee, c/o BAC Home Loans Servicing, LP, 400 Countrywide Way, Simi Valley, California 93065, signed by Nelson Hernance on February 13, 2012; and

Parcel 5: 315 East First Street, legally described as Lots 7 and 8, Block 28, Portland Division including all of frac Lot 55, East First Street Duluth Proper First Division, notice by registered mail to Sten Walfrid Bylund, 315 East First Street, Duluth, Minnesota 55805, signed by Sten Bylund on March 24, 2011; and

Parcel 6: 824 East Seventh Street, legally described as Lot 12, Block 141, Portland Division, notice by registered mail to Johnny Gilbert Olson, 11751 East Pocket Road, Gordon, Wisconsin 54838, returned marked "UNCLAIMED" and advertised in the Duluth News Tribune on March 2, 2012 and March 9, 2012; and

(b) All such orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$74,000, and there is a current unobligated balance in Fund 110-150-1504-5453 of \$74,864.62.

BE IT FURTHER RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered, or to contract to have the work done, payable from Fund 110-150-1503-5453; and

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

Resolution 12-0234 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved May 14, 2012
DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Canal Park Drive and Lake Avenue between the Aerial Lift Bridge and Railroad Street during the marathon on June 16, 2012, to coincide with Grandma's Marathon special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 12-0242 was unanimously adopted.

Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept \$47,002 from the Arrowhead Library System for use in 2012 by the Duluth public library to purchase library materials, said sum to be deposited in Fund No. 110-121-1218-4654-02 (general, public administration, library services).

Resolution 12-0236 was unanimously adopted.

Approved May 14, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute and implement a three-year agreement with the Duluth Area Family YMCA, substantially the same as that on file with the city clerk as Public Document No. 12-0514-17, for the operation and management of the Park Point beach house and recreation area, located at 5000 Minnesota Avenue, with all payments to the city to be deposited into General Fund 110, Department/Agency 121 (public administration), 1219 (parks operation), 4627 (concessions and commissions).

Resolution 12-0244 was unanimously adopted.

Approved May 14, 2012
DON NESS, Mayor

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The following resolutions were also considered:

WHEREAS, on October 10, 2011, the city council unanimously passed Ordinance No. 10112 authorizing the issuance of general obligation airport improvement bonds in the maximum amount of \$7,650,000 upon terms and conditions to be provided by resolution of the City Council; and

WHEREAS, on April 23, 2012, the city council unanimously passed Resolution 12-0209 authorizing the issuance and providing for the sale of the airport improvement bonds. The terms and conditions of the bonds provided that the city council would accept or reject the bond bids on May 10, 2012; and

WHEREAS, on May 10, 2012, the city received public competitive bids for the bonds with interest rates on the bids ranging from 2.6863 percent to 3.0113 percent. Municipal rates are near all-time lows, but did creep up later on May 10.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

that Resolution 12-0247 unanimously passed on May 10, 2012, relating to the issuance, sale and delivery of \$7,650,000 taxable general obligation airport improvement bonds, Series 2012B; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; is hereby ratified.

Resolution 12-0258 was unanimously adopted.

Approved May 14, 2012

DON NESS, Mayor

- - -

Resolution 12-0252, by Councilor Stauber, regarding the establishment of a higher education overlay district, was introduced for discussion.

Councilor Gardner moved to amend the resolution by replacing the current map with one that includes a new area that meets the ratio of rentals and residential properties for the overlay district, which motion was seconded for discussion.

Councilor Krause proposed a small area to be added to the western boundary of the overlay district going down Rice Lake Road over to North Blackman Avenue so the western boundary is the same as the original map.

Councilor Krug voiced concern that the map is not very clear and there seems to be an uncertainty as to the boundaries.

Councilor Gardner's amendment was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Larson, Stauber and President Hartmen -- 8

Nays: Councilor Krug -- 1

Councilor Krause moved to amend the resolution by amending the map to include a pie shaped area by Hickory Street, which motion was seconded.

Councilor Krause's amendment was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Larson, Stauber and President Hartmen -- 8

Nays: Councilor Krug -- 1

Councilor Larson stated that councilors do not seem to have all the information they need to pass this resolution and they should wait until the planning commission takes action on this resolution.

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

Yeas: Councilors Julsrud, Krause, Krug and Larson -- 4

Nays: Councilors Boyle, Fosle, Gardner, Stauber and President Hartman -- 5

Resolution 12-0252, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, the city council recently amended Resolution 12-0165 adopting the higher education small area plan and amending the comprehensive plan; and

WHEREAS, the amendment to Resolution 12-0165 was intended to begin the process of establishing a higher education overlay district which will provide additional tools for the city to address matters associated with the conversion of single family homes to rental properties and general development in that area.

THEREFORE, BE IT RESOLVED, the council hereby requests that the city planning department proceed expeditiously with the process of establishing a higher education overlay district which can be used to protect single family homes in the district.

FURTHER RESOLVED, the council recommends that the higher education overlay district

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

cover the area depicted on the map on file in the office of the city clerk as Public Document No. 12-0514-18.

Resolution 12-0252, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krause, Stauber and President Hartman -- 6

Nays: Councilors Fosle, Krug and Larson -- 3

Approved May 14, 2012, in accordance with Section 12 of the Duluth City Charter.

[Editor's Note: A motion to reconsider Resolution 12-0252 at the May 29, 2012, council meeting failed.]

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WHEREAS, the Duluth City Council approved Resolution 12-0182 on April 9, 2012, authorizing the purchase of a vactor combination sewer machine from MacQueen Equipment, Inc.; and

WHEREAS, the city included the purchase of a 2013 Freightliner 114SD cab and chassis unit in the same resolution and has since determined that the unit should have been separate from the vactor machine; and

WHEREAS, the city administration has been informed it has to purchase the Freightliner unit from a different state contract vendor; and

WHEREAS, the city has removed this unit from the original purchase order to MacQueen Equipment, Inc.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to change vendors, and to contract with I-State Truck Center, Inc., for the purchase and delivery of one 2013 Freightliner 114SD cab and chassis unit, automatic, tandem axle, engine upgraded to 450 hps, and engine brake - all in accordance with Minnesota State Contract 31618, Release T-647(5) specifications and pricing for a total of \$108,816 plus \$7,073.04 vehicle sales tax (6.5 percent), plus \$101.50 tax exempt plates and title fees, for a combined total amount of \$115,990.54, payable as follows:

(a) \$57,995.27 - Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);

(b) \$57,995.27 - Stormwater Fund 535, Department/Agency 500 (public works utilities), Division 1905 (capital), Object 5580 (capital equipment).

Resolution 12-0225 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved May 14, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-029 - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FINES, PENALTIES, CITATIONS AND VIOLATIONS TO BE SET BY RESOLUTION, AMENDING SECTIONS 1-7, 6-78, 8-9, 10-3, 10A-7, 11-5, 12-14, 12-16, 24-17.1, 24-26, 29B-7, 33-46, 33-237, 34-17, 34-23, 35-30, 36-7, 36-20, 42A-48, 43-33.4, 43-50.7, 43-66, 45-82, 45-82.1, 45-108, 48-15, 48-210, 50-37.1, 50-39.2 AND 50-39.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BY COUNCILOR BOYLE

12-032 - AN ORDINANCE AMENDING CHAPTER 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

Chief Administrative Officer David Montgomery requested that the council withdraw the ordinance from the agenda as the language was not clear in the intent of the ordinance as it applies to single family residential rentals and where the four bedroom limit would be allowed and who gets grandfathered in.

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

Barb Montee, John Peterson, David Krech and Gregg Schmaedeke voiced concern on the rental ordinance for the following reasons: questioned why there is a need for another regulation after the reform last year that included off street parking citywide, increased fees and two different types of licenses; the overlay district which was passed tonight is the same thing as a protective zone that was removed in the last change; difficulty of being a landlord and not having predictable and dependable rules when the city and council can change the requirements at any time; some older large houses that have over four bedrooms do not have any other viable option by virtue of their size and location than to convert them to a rental unit and UMD students want to live close to campus and need to live in these houses.

Councilor Boyle moved to withdraw the ordinance from the agenda, which motion was seconded and unanimously carried.

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BY COUNCILOR GARDNER

12-030 - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

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

Doug Bowen Bailey explained this diverse group has been working for the last four years to build trust between the police department and the citizens of Duluth, as this ordinance will increase transparency in the investigation of complaints against officers and creates a formalized structure so that the department can get input and suggestions from the community regarding policies and procedures.

Scot Bol stated that the Duluth human rights commission has approved this ordinance since communities of color and low income individuals do not trust the police and feels there needs to be more transparency in the community.

Tom Maida, president of the police union, stated that the police union opposes this ordinance and does not feel it is needed, it is not a wise use of resources and it would not reach the goal of community trust with the department.

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INTRODUCED BY COUNCILOR JULSRUD

12-031 - AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, ADDING A NEW SECTION 48-15.5 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Julsrud moved to return the ordinance back to the administration per their request, which motion was seconded and unanimously carried.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

12-024 (10151) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS PARK (MU-B) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY LOCATED AT 4526 AND 4528 REGENT STREET (DAWN STRUMBEL AND DANIEL ROMSA).

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

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INTRODUCED BY COUNCILOR STAUBER

12-025 (10152) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE-NEIGHBORHOOD (MU-N) THE PROPERTY LOCATED AT 1819 AND 1831 EAST EIGHTH STREET (CARLA BLUMBERG-1831 LLC).

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

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INTRODUCED BY COUNCILOR STAUBER

12-026 (10153) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.3, 50-22.1, 50-24.4, 50-24.6, 50-25.1, 50-25.2, 50-25.8, 50-26.1, 50-26.4, 50-30.5, 50-31.3, 50-37.1, 50-37.6 AND 50-37.9, AND ADDING SECTION 50-26.5, OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO REVISIONS OF THE UNIFIED DEVELOPMENT CHAPTER.

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

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INTRODUCED BY COUNCILOR STAUBER

12-027 (10154) - ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MU-C, MIXED USE-COMMERCIAL, TO FORM DISTRICTS, MID-RISE COMMUNITY SHOPPING/OFFICE (F-5), DOWNTOWN SHOPPING (F-7) AND DOWNTOWN MIX (F-8), THE DOWNTOWN BUSINESS DISTRICT, THE PROPERTY LOCATED FROM MESABA AVENUE TO NORTH NINTH AVENUE EAST AND FROM MICHIGAN STREET TO THE ALLEY ABOVE SECOND STREET (CITY OF DULUTH).

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

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The meeting was adjourned at 8:45 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10151

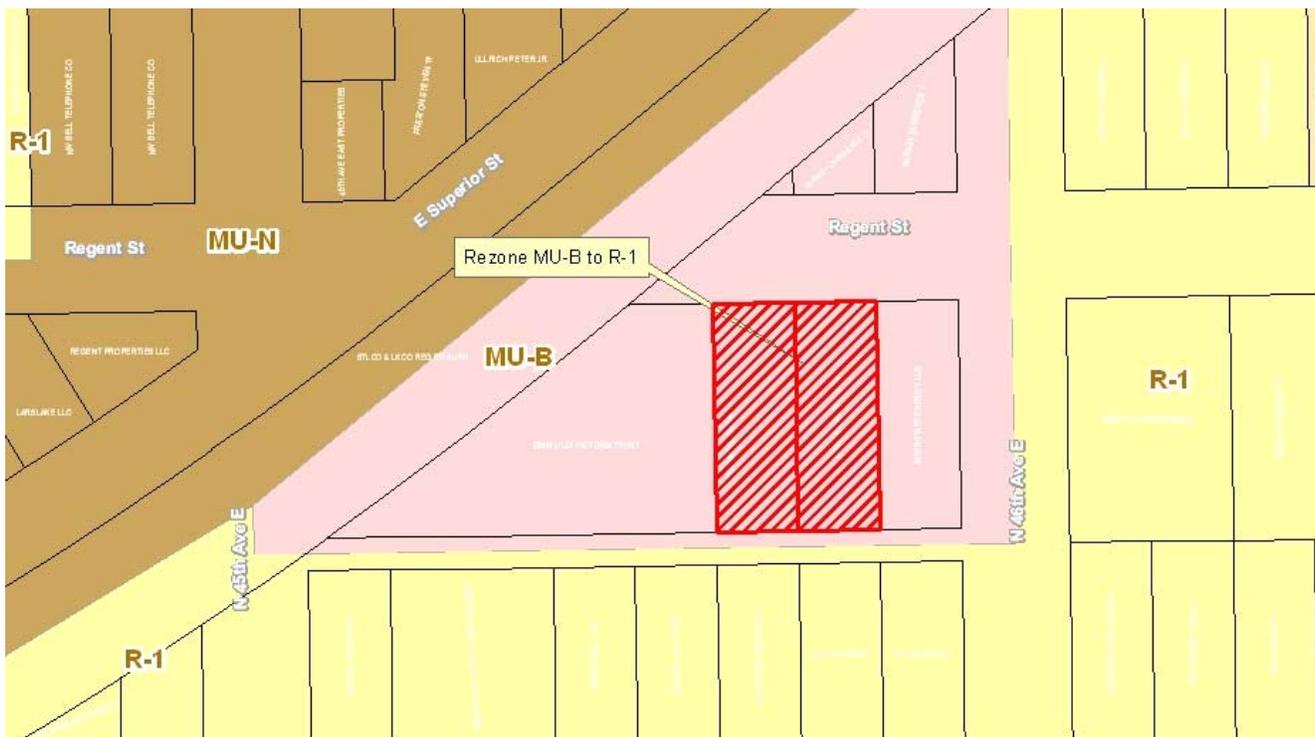
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS PARK (MU-B) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY LOCATED AT 4526 AND 4528 REGENT STREET (DAWN STRUMBEL AND DANIEL ROMSA).

The city of Duluth does ordain:

Section 1. That .32 acres of the subject property located at 4526 and 4528 Regent Street between North 46th Avenue East and North 45th Avenue East south of Superior Street and as more particularly described as:

Lots 6 and 7, Block 28, London Addition to Duluth;

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



(Ref. File No. 12-023)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 15, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 14, 2012
Approved May 14, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

ORDINANCE NO. 10152

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE-NEIGHBORHOOD (MU-N) THE PROPERTY LOCATED AT 1819 AND 1831 EAST EIGHTH STREET (CARLA BLUMBERG-1831 LLC).

The city of Duluth does ordain:

Section 1. That .32 acres of the subject property located at 1819 and 1831 East Eighth Street between North 19th Avenue East and North 18th Avenue East and as more particularly described as Lots 11 and 12, Block 28, Highland Park Addition of Duluth, be reclassified from R-1 to MU-N and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-023)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 15, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 14, 2012
Approved May 14, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10153

AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.3, 50-22.1, 50-24.4, 50-24.6, 50-25.1, 50-25.2, 50-25.8, 50-26.1, 50-26.4, 50-30.5, 50-31.3, 50-37.1, 50-37.6 AND 50-37.9, AND ADDING SECTION 50-26.5, OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO REVISIONS OF THE UNIFIED DEVELOPMENT CHAPTER.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of Chapter 50 be amended as follows:

50-19.8 Permitted use table.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper

Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use Or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use Only

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
LAND USE CATEGORY																									
RESIDENTIAL USES																									
Household Living																									
Dwelling, one-family	P	P	P	P	P	P	P					U	U	U	U	U	P	U	U	U					
Dwelling, two-family				P	P	P	P					U	U	U	U	U	P	U	U	U					50-20.1.A
Dwelling, townhouse				S	P	P	P				P														50-20.1.B
Dwelling, multi-family					P	P	P	P	P	P	P	U	P	U	P	P	P	U	P	P					50-20.1.C
Dwelling, live-work						P	P	P	P	P	P	P	P	P	P	P	P		P	P					
Group Living																									
Co-housing facility				S	S	P	P																		
Residential care facility/assisted living (6 or fewer)		P	P	P	P	P	P					U	P	U	P	P	U	U	P	P					
Residential care facility/assisted living (7 or more)				S	P	P	P	P	P	P	P	U	P	U	P	P	U	U	P	P					
Rooming house					S	P	P	P	P	P	P	U	P	U	P	P	U	U	P	P					
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S	P	S	S	S	S														S	
Club or lodge (private)					S	P	P	P	P	P		P	P	P	P	P	P	P	P						50-20.2.A
Government building or public safety facility		P	P	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	S	S	S		
Museum, library, or art gallery				S	S	P	P	P		S	P	P	P	P	P	P	P	P	P				S		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper

Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use Or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use Only

Zone District Name	Residential					Mixed Use					Form									Special			Use-Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1	
LAND USE CATEGORY																									
Park, playground, or forest reserve	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P				P	
Religious assembly		P	P	S	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P						
Educational Facilities																									
Business, art, or vocational school							P	P	P	P	P	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P	P	P	P				U	P	U	P	P	U	U	U						
School, middle or high		S	S	S	S	P	S	S				U	P	U	P	P	U	U	U						
University or college						I			P					U	P	P	U	U	U						
Health Care Facilities																									
Hospital									P																
Medical or dental clinic					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.2.B	
Nursing home					P	P	P	P	P		P	P		P											
Other institutional support uses not listed in this table									P																
COMMERCIAL USES																									
Agriculture and Animal-Related																									
Agriculture, general	P	P																							
Agriculture, urban		P	P	P	P	P																			
Kennel	S	S						S	S	P															
Riding stable	S	S	S			P					S												S		
Veterinarian or animal hospital	S	S			P	P	P	P	P	P	P	P		P	P										

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE P = Permitted Use U = Upper
 Story A = Accessory Use
 NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1 S = Special Use Or Interim Use
 NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2 I = Interim Use Only
 NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

Zone District Name	Residential					Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
LAND USE CATEGORY																								
Food, Beverage, and Indoor Entertainment																								
Adult entertainment establishment																						P		50-20.3.A
Convention or event center								P		P	P				P	P		P	P	P				50-20.3.H
Indoor entertainment facility								P		P	P		P	P	P		P	P	P					
Restaurant (no drive-in/drive-through)					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.3.P
Restaurant (with drive-in/drive-through)								P		P			P	P										
Theater							P	P		P		P	P	P			P	P	P					
Lodging																								
Hotel or motel						P	P	P	P	P	P		P	P	P		P	P	P					
Bed and breakfast				S	P	P	P	P	P	P	P		P	P		P								50-20.3.F
Seasonal camp or cabin	P	P				P				P												S		50-20.3.S
Offices																								
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P					50-20.3.E
Office				S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.3.M
Data Center							S	P	P	P	S	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																								
Golf course		S	S			P																	P	
Marina or yacht club											P											S	S	
Tourist or trailer camp	S	S	S								S											S		50-20.3.T

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE P = Permitted Use U = Upper

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NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

Zone District Name	Residential					Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
LAND USE CATEGORY																								
Other outdoor entertainment or recreation use not listed		S						S	S	S														50-20.3.N
Personal Services																								
Business park support activities										P														
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	S	P	S					
Day care facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P					50-20.3.I
Day care facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	S	P	S					50-20.3.I
Funeral home or crematorium					S		S	P	P	P			P		P						P			
Mini-storage facility										P											P	P		50-20.3.L
Personal service and repair, small						P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Personal service and repair, large						I	S	P	P	P	P		P		P		P				P			
Retail Sales																								
Adult book store																					P			Chapter 5
Building materials sales								S		P														50-20.3.G
Garden material sales		S						P						P										
Grocery store, small						P	P	P			P	P		P	P	P	P	P						50-20.3.K
Grocery store, large								P																50-20.3.K
Retail store not listed, small					S	P	P	P	P		P	P	P	P	P	P	P	P	P					50-20.3.R
Retail store not listed, large.								P			P			P	P	P	P	P						50-20.3.R
Vehicle-Related																								

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

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Story

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NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use Or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use Only

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
LAND USE CATEGORY																									
Automobile and light vehicle repair and service							S	P		P			P		P	P	P					P			
Automobile and light vehicle sales, rental, or storage								P		P												P			
Filling station					S	P	P	P		P	P		P		P	P	P					P	P	50-20.3.J	
Parking lot or parking structure (primary use)					I			P	P	P	P	S	S	S	S	S	S	S	S	S	S	P	P	50-20.3.O	
Truck or heavy vehicle sales, rental, repair, or storage										P												P			
INDUSTRIAL USES																									
Industrial Service																									
Contractor's shop and storage yard										P					P							P	P	50-20.4.B	
Dry cleaning or laundry plant										P												P			
Research laboratories									P	P												P	P		
Industrial services										P												P	P		
Manufacturing and Mining																									
Manufacturing, light									P	P					P							P		50-20.4.F	
Manufacturing, heavy																						P			
Manufacturing, hazardous or special																						S		50-20.4.G	
Mining, extraction and storage																						S	S	50-20.4.H	
Water-dependent manufacturing, light or heavy																							P		
Transportation-Related																									
Airport and related facilities	S																					P		50-20.4.A	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1 A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2 S = Special Use Or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area I = Interim Use Only

Zone District Name	Residential					Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
LAND USE CATEGORY																								
Railroad yard or shipyard and related facilities																						P	P	
Truck freight or transfer terminal										P												P	P	
Utilities																								
Electric power or heat generation plant																						P	P	
Electric power transmission line or substation	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S	50-20.4.I
Solar, geothermal, or biomass power facility (primary use)		S				P		S	S	P												P	S	
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																						P	P	
Wind power facility (primary use)		S								S	S											P	S	50-20.4.M
Waste and Salvage																								
Junk and salvage services																						S	S	50-20.4.D
Recycling collection point (primary use)								S	S	S												P	P	
Solid waste disposal or processing facility		S								S												S	S	50-20.4.J
Wholesale Distribution and Storage																								
Storage warehouse										P					P							P		50-20.4.K
Wholesaling										P					P							P		50-20.4.L
Bulk storage not listed elsewhere																						P		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Zone District Name	Residential					Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
LAND USE CATEGORY																								
Water-dependent bulk storage or wholesaling not listed elsewhere																							P	
ACCESSORY USES																								
Accessory agriculture roadside stand	A	A																					A	50-20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A	A														50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A	A														50-20.5.C
Accessory caretaker quarters										A											A	A	A	
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Accessory dwelling unit	A	A	A	A	A	A	A																	50-20.5.D
Accessory heliport	A								A												A			50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K
TEMPORARY USES																								

P = Permitted Use U = Upper

Story

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A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use Or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use Only

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper

Story

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Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
LAND USE CATEGORY																									
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. That Section 50-20.3 of Chapter 50 be amended as follows:
50-20.3 Commercial uses.

A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

B. Agriculture, general.

1. No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;
2. All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

C. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

D. Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

E. Bank.

1. In the MU-N district, banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

F. Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events

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hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to 6 days per year and shall be restricted to the period of October 15 through June 15;

7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

G. Building materials sales.

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;
2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;
3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

H. Convention or event centers.

1. A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

I. Day care facility, small and large.

1. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

J. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

K. Grocery stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

L. Mini-storage facility.

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;
2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

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5. Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
6. Signage shall be limited to one 40 square feet illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;
7. In the RR-1 district, there shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines;

M. Office.

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;
2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;
3. In the F-6 district, offices may not have drive-through facilities;

N. Other outdoor entertainment or recreation use not listed.

1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

O. Parking lot or parking structure (primary use).

1. In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;
2. In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

P. Restaurant (no drive-in/ drive-through).

In the R-2 district, no use shall exceed 5,000 square feet in gross floor area;

Q. Restaurant (with drive-in/drive-through).

Drive through lanes must be located at least 25 feet from the boundary of any RR or R district and impacts along the boundary with those districts shall be buffered through the use of a dense urban screen;

R. Retail stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
3. Retail stores limited to one drive-through window;
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

S. Seasonal camp or cabin.

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
2. In the R-C district, the design of the site shall preserve the rural character by:
 - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

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- (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
- (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

T. Tourist or trailer camp.

When located in a flood plain, this use is limited to trailers without foundations that can be easily moved should flooding occur;

U. Veterinarian or animal hospital.

1. In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;
2. In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation.

Section 3. That Section 50-22.1 of Chapter 50 be amended as follows:

50-22.1 General requirements.

A. Intent.

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

B. Applicability.

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

C. General requirements.

All construction in the form districts must meet the following requirements:

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1. Zone districts.
No primary building shall be developed within a Form District unless it matches one of the building types approved for that district in Table 50-22.2-1;
2. Planning review required.
Development of any building type must be reviewed and approved by the city through the planning review process in Article 5;
3. Permanent structures.
All buildings constructed must be permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile. Temporary structures and uses are permitted as shown in Article 3;

D. Alternative compliance for renovation of existing primary structures.

Where compliance with the specific requirements of Section 50-22 is not possible as a result of unique site conditions, an owner may propose alternatives consistent with the goals of sections 50-16 and 50-22. Approval of an alternative approach is authorized where an applicant can demonstrate the following:

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

Section 4. That Section 50-24.4 of Chapter 50 be amended as follows:

50-24.4 Maximum parking limits.

No more than 150 percent of the minimum required number off-street parking spaces, excluding the adjustments allowed in Section 50-24.3, shall be provided. This limit does not apply to the following uses: one-family, two-family, townhouse, and live-work dwellings. Off-street parking spaces that existed on November 18, 2010, and that were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials may continue even if they exceed the maximum parking limit.

Section 5. That Section 50-24.6 of Chapter 50 be amended as follows:

50-24.6 Location of parking spaces.

A. On site location and exceptions.

1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;
2. If an increase in the number of parking spaces is required by a change or enlargement of any use the increased parking requirement may be satisfied by utilizing:
 - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
 - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement;
3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they

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serve shall be required on a form approved by the city and shall be filed with the application for a building permit;

B. Parking location within the site.

Unless a front yard parking permit was issued for the property on or before June 1, 2009, required parking spaces shall only be provided on those portions of the lot indicated in Table 50-24-3.

Section 6. That Section 50-25.1 of Chapter 50 be amended as follows:

50-25.1 Applicability.

A. The landscaping provisions of sections 50-25.2 through 25.4 and 25.7 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur:

1. A new primary structure is constructed;
2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25 percent;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 50 percent or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor;
5. A new parking lot containing 25 or more spaces is constructed or an existing parking lot containing 25 or more spaces is reconstructed;

B. In any form district, landscaping shall not be required on the portion of a lot occupied by a principle structure;

C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district;

D. The landscaping between differing land uses provisions of Section 50-25.5 apply to all development or redevelopment on lots and parcels when there is a change of use.

Section 7. That Section 50-25.2 of Chapter 50 be amended as follows:

50-25.2 General landscaping standards.

A. Landscape plan required.

A landscape plan shall be submitted as a part of all development applications for those activities listed in Section 50-25.1.A, unless the land use supervisor determines that compliance with the provisions of Section 50-25 can be demonstrated without the use of a landscape plan. A landscape plan may be combined with other required application materials if compliance with Section 50-25 can be demonstrated in the combined materials;

B. Plant materials.

Plant materials shall be from the city's approved landscaping plant list as shown in the UDC Application Manual. All plant material shall be hardy to Northeast Minnesota,

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suitable for the site, free of disease and insects and conform to the American Standard for Nursery Stock of the American Nursery and Landscape Association;

C. Minimum living materials.

In all areas where landscaping is required, a minimum of 50 percent of the surface area shall be covered by living materials, rather than bark, gravel or other non-living materials;

D. Existing vegetation.

Existing vegetation shall be protected during construction through use of a fence around an area sufficient to protect the health of the vegetation, and shall be incorporated into the landscape plan wherever possible;

E. Vegetation grouping.

Landscaping shall generally incorporate large irregular groupings of the same species of shrub, avoiding rigid or repeated specimen planting except for boulevard trees, and shall introduce multiple varieties within one general area. Except for plantings used for screening, no one species of tree or shrub may make up more than 50 percent of the total amount of landscape plantings;

F. Soil condition.

All required landscaping shall be planted in uncompacted soil with a minimum depth of two feet;

G. Grading and drainage.

All open areas shall be graded, properly drained and maintained according to storm water standards in Section 50-18.1.E;

H. Rain gardens and stormwater management features.

Areas included in rain gardens or vegetated site features created to meet stormwater management requirements in Section 50-18.1.E shall be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers shall count towards those buffer requirements;

I. Minimum plant sizes.

Where included as part of the required landscaping, deciduous trees shall have a minimum caliper of 2.5 inches, coniferous trees shall be a minimum of six feet in height, large shrubs shall be of a minimum five gallon container size and have a height of at least six feet at maturity, small shrubs shall be of a minimum five gallon container size and have a height of less than six feet at maturity, and ground cover shall be of a minimum one gallon container size. The above dimensions apply to sizes at time of planting;

J. Plant material spacing.

Except for buffer zone provisions of Section 50-25.5, *Landscaping Between Differing Land Uses*, plant materials shall not be placed closer than four feet from any fence line or property line. Where tree planting requirements are based on linear street frontage, areas occupied by driveways shall be included when calculating the number of trees required to be planted, and any trees that would otherwise be required in driveways shall be planted in other landscaped front yard areas unless prohibited by minimum spacing requirements for that species as recommended by the American Standard for Nursery Stock of the American Nursery and Landscape Association. The land use supervisor may authorize adjustments to these spacing requirements when required due to topography, drainage, utilities or obstructions, provided that the total amount of required landscaping is not reduced;

K. Snow storage areas.

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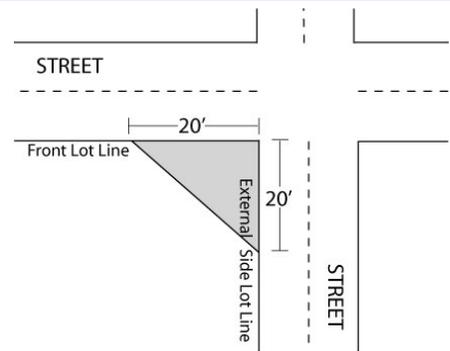
Areas required for snow storage and areas required for landscaping shall not overlap, except that snow may be stored on ground cover landscape areas (e.g., turf) that do not contain required landscape trees or other plantings;

L. City right-of-way.

Tree removal or planting in city rights-of-way shall be done only with the approval of the city forester;

M. Protection of site distances.

On any corner lot on which a front and side yard are required, no wall, fence, structure, sign, or any plant growth that obstructs sight lines at elevations between 2.5 feet and six feet above the driving surface of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 20 feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection;



N. Delay of installation due to season.

Whenever the installation of required landscaping is not possible by the time construction on the primary structure or primary use parking lot has been completed, the city may authorize a delay in installation until no later than the following August 31. As a condition of authorizing a delay in installation, the city may require that a surety or other guarantee, in a form acceptable to the city, in the estimated amount of such installation be provided, or the city may issue a temporary certificate of occupancy, with the permanent certificate of occupancy to be issued following installation of all required landscaping;

O. Flexibility for redevelopment.

Where the requirements of this Section 50-25 apply to a redevelopment or reconstruction project, rather than a new development, the land use supervisor may authorize a reduction of minimum off-street parking requirements established in Section 50-24 by up to ten percent if required to accommodate street frontage landscaping required by Section 50-25.3 or parking area landscaping required by Section 50-25.4.

Section 8. That Section 50-25.8 of Chapter 50 be amended as follows:

50-25.8 Alternative landscaping.

Where compliance with the specific requirements of Section 50-25 is not possible as a result of unique site conditions abutting or surrounding a proposed site, an owner may propose alternatives consistent with the goals of Section 50-25. The land use supervisor may approve an alternative proposal where an applicant can demonstrate that the alternative proposal achieves required landscaping to the same degree, or better than, the provisions of Section 50-25.

Section 9. That Section 50-26.1 of Chapter 50 be amended as follows:

50-26.1 Screening of mechanical equipment.

A. Applicability.

The standards of this section shall apply to all of the following uses that contain a primary structure in all zones, except I-G and I-W: a multi-family, mixed use, commercial, institutional, industrial, or parking principle use, when any of the following conditions occur:

- 1. A new primary structure is constructed;

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2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25 percent;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 25 percent or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor.

The following exterior mechanical features shall be screened: (i) electrical and gas-powered mechanical equipment and power systems equipment; (ii) heating, ventilating and air conditioning equipment ductwork, and lines; and (iii) power systems equipment.

Roof or wall-mounted antennas and vent openings shall not be considered mechanical equipment for purposes of these screening standards.

The standards of this Section shall not apply if the only feasible location for mechanical screening would impede the functioning of solar, wind or geothermal energy equipment or systems if such systems are otherwise in compliance with applicable building codes and zoning requirements.

Section 10. That Section 50-26.4 of Chapter 50 be amended as follows:

50-26.4 Fences and walls.

Unless otherwise expressly provided for in this Chapter, or unless expressly provided for in conjunction with the approval of a special use permit, fences and walls shall comply with the following general standards:

A. Fence/wall height.

1. General front yard standards.

(a) No fence or wall located between the principal structure on a lot and the front property line shall exceed four feet in height;

(b) Chain link fences, fences that are electrically charged, fences constructed of barbed or razor wire and fences constructed of temporary plastic fencing (snow fences) are prohibited;

(c) Prohibitions on electrically charged fences shall not apply to fences used to protect gardens and landscaping on residential lots. Prohibitions on electrically charged fences and fences constructed of barbed or razor wire shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes;

2. General side and rear yard standards. Fences that are electrically charged, and those constructed of barbed or razor wire shall be prohibited.

(a) This prohibition shall not apply to electrically charged fences used to protect gardens and landscaping on residential lots;

(b) This prohibition shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes;



Figure 50-26.4A. Form District front setback wall height.

3. Residential zone districts. The maximum height of a fence or wall within required side and rear yard area is eight feet. The maximum height for fences and walls for entry gates at the residential subdivision entrance shall be eight feet;
4. Mixed use and special purpose zone districts. The maximum height of a fence or wall within required side and rear yard area is eight feet, but the land use supervisor may approve a fence or wall up to 12 feet in height where additional height is needed to provide adequate security because of topography or the nature of the material or equipment stored in the area;
5. Form districts. The maximum height of a fence or wall within required side and rear yard area is eight feet, but the land use supervisor may approve a fence or wall up to 12 feet in height where additional height is to provide adequate security because of topography or the nature of the material or equipment stored in the area. Fences and walls are not permitted in required front yard areas, except for wrought iron fences used to enclose outdoor patio or dining areas, in which case the maximum height of the fence shall be three feet;
6. Vacant property. As an exception to other fence height limits, vacant property may be fenced with chain-link fencing not to exceed six feet in height when the purpose of such fencing is to prevent unauthorized dumping or soil disturbance that results in fugitive dust or nuisance conditions. Such fencing of vacant property shall not be construed to allow use of the property for outdoor storage;

B. Retaining walls.

1. Applicability. The requirements of this Section apply to construction of new retaining walls in all districts, except for (a) retaining walls on properties containing only one-family and two-family dwellings, and (b) retaining walls that will not be visible from neighboring sites or from a public street frontage;
2. Design standards. All retaining walls shall comply with the following standards:
 - (a) Retaining walls more than six feet tall shall be terraced to minimize visual impacts on residents, neighboring properties and the public realm;
 - (b) Terracing shall be limited to three tiers;
 - (c) A terrace at least four feet wide, with a maximum slope of 3:1, shall be provided between each tier to create pockets for landscaping. Reduced terrace depths may be administratively approved by the building official where site constraints limit the amount of space available to accommodate the minimum required width;
 - (d) Terraces between retaining wall tiers shall be vegetated with permanent landscaping to screen retaining walls and provide visual interest unless



Figure 50-26.4-B: Retaining wall terracing and articulation

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soil conditions are determined by a licensed engineer to be unsuitable due to geologic hazards;

- (e) Retaining walls shall be stacked natural stone or faced with stone or earth-colored materials, textured and colored Mechanically Stabilized Earth (MSE) blocks or other material compatible with the primary building materials;
- (f) Retaining walls constructed of railroad ties, timber and gabion-type materials are not allowed;

C. Materials and signs.

No fence, wall or retaining wall shall be constructed of scrap or waste materials unless those materials have been recycled or reprocessed into building materials for sale to the public. No sign may be posted on any fence, wall or retaining wall except for a property identification/management sign not exceeding one square foot in size.

Section 11. That Section 50-26.5 be added to Chapter 50 as follows:

50-26.5 Alternative screening.

Where compliance with the specific requirements of Section 50-26 is not possible as a result of unique site conditions abutting or surrounding a proposed site, an owner may propose alternatives consistent with the goals of Section 50-26. The land use supervisor may approve an alternative proposal where an applicant can demonstrate that the alternative proposal achieves required landscaping to the same degree, or better than, the provisions of Section 50-26.

Section 12. That Section 50-30.5 of Chapter 50 be amended as follows:

50-30.5 Parking design standards.

Each primary use or accessory parking structure shall comply with the following requirements:

- A Each facade of the parking structure that faces a public street shall contain, or have the appearance of containing, horizontal rather than sloped floor planes and shall not reveal interior ramps;
- B All sides of the structure not occupied by retail, office or residential uses must be articulated through the applicant's choice of at least three of the following:
 - 1. Windows or window shaped openings;
 - 2. Decorative wall insets or projections;
 - 3. Awnings;
 - 4. Changes in color or texture of materials;
 - 5. Public art approved by the Duluth Public Arts Commission pursuant to its established review and approval criteria;
 - 6. Integrated landscape planters;
 - 7. Pedestrian-scaled lighting;
 - 8. Benches, plazas, or other pedestrian areas;
 - 9. Other features as approved by the land use supervisor as providing an equivalent degree of architectural articulation, visual interest or pedestrian amenity;

- C Openings in the podium or tuck under parking areas shall be screened with architectural screens.

Section 13. That Section 50-31.3 of Chapter 50 be amended as follows:

50-31.3 Design and illumination standards.

All exterior lighting regulated by this Section shall not be altered or replaced except where the alteration or replacement would comply with the provisions of this Section. All exterior lighting shall meet the following design standards:

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- A Any light source or lamp that emits more than 900 lumens (13 watt compact fluorescent or 60 watt incandescent) shall be concealed or shielded with an Illuminations Engineering Society of North America (IESNA) full cut-off style fixture with an angle not exceeding 90 degrees, with 90 percent of the light below 80 degrees. Exterior lighting shall be designed, constructed, and maintained in a manner that minimizes off-site glare, light trespass on adjacent property, and traffic hazards for pedestrian and motorists;

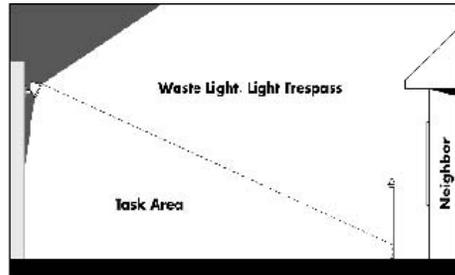


Figure 50-39.1-A: Does not comply -- Light trespass

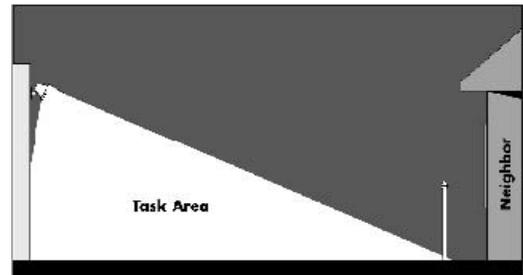


Figure 50-39.1-B: Complies - No light trespass

- B All lighting shall have the intensities and uniformity ratio consistent with the IESNA Lighting Handbook, and shall be designed and located so that the illumination measured in footcandles at the finished grade shall comply with the standards in Table 50-31-1, *Minimum and Maximum Illumination Values.* All exterior lighting shall meet the requirements of the Minnesota State Energy Code, except for temporary decorative seasonal lighting;

Table 50-31-1: Minimum and Maximum Illumination Values (in Footcandles)				
Use	<u>Maximum Illumination On Property</u>	<u>Maximum Illumination at Property Line (Excluding Rights-of-Way)</u>	<u>Maximum Illumination at Right-of-Way</u>	<u>Maximum / Minimum Ratio In An Illuminated Area</u>
<u>Residential Uses and Agricultural and Animal Related Uses</u>	<u>5</u>	<u>.5</u>	1.0	<u>10:1</u>
<u>All Other Uses</u>	<u>10</u>	1.0	2.0	<u>15:1</u>

- C The maximum height of any lighting pole serving a residential use is 20 feet. The maximum height serving any other type of use is 25 feet, except that:
- (1) In parking lots larger than 5 acres, the maximum height of any pole located at least 100 feet from any residential use is 35 feet, and
 - (2) In the I-G and I-W zone districts, the maximum pole height is 50 feet. The calculation for the height of lighting poles excludes the pole's base (up to 30 inches;
- D Sign illumination shall conform to the provisions of Section 50-27.
- E Lighting of free standing canopies for automobile service stations, convenience stores, and other similar uses shall have a maximum light level of 15 footcandles. Lighting shall be fully recessed into the canopy and shall not protrude downward

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beyond the ceiling of the canopy. Maximum lighting level uniformity (maximum to minimum) on the site shall be 15:1;

- F The use or operation of searchlights for advertising purposes is prohibited. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizon, is prohibited;
- G All outdoor light not necessary for security purposes shall be reduced to 30 percent of design levels or less, activated by motion sensor detectors, or turned off during non-operating hours;
- H Light fixtures used to illuminate statues, monuments, or any other objects mounted on a pole, pedestal or platform shall use a narrow cone beam of light that will only illuminate the object;
- I For upward-directed architectural, landscape and decorative lighting, and flood lights, direct light emissions shall be contained by the buildings and not be visible above the building roof line, and shall not be utilized to light any portion of a building façade between 10:00 pm and 6:00 am.;
- J No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.

Section 14. That Section 50-37.1 of Chapter 50 be amended as follows:

50-37.1 Common procedures and requirements.

A. Pre-application meetings.

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the historic preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;
7. Special use or interim use permit;

B. Authority to file applications.

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section 50-37.1.B or in Sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of Sections 50-37.2 through 16, the provisions of Sections 50-37.2 through 16 shall govern;
2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so;
3. Applications for designation of a historic resource are governed by Section 50-37.8;

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4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site;

C. Application materials and fees.

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council;
2. The city may reject applications not meeting the requirements of this Chapter, the UDC application manual, or as required or authorized by MSA 15.99;
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city;
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the Code, to defray estimated staff costs and expenses of processing applications;
5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section 50-37.1.D below, for the same proposed development;
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied;

D. Determination of completeness.

A determination of completeness shall be made for each application pursuant to MSA 15.99;

E. Inactive complete applications.

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99;

F. Withdrawal of applications.

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded;

G. Successive applications.

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months;

H. Public notice.

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the

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application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

(a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least 10 days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;

(b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this section has been made;

(c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1.2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;

2. Content of notice.

Each required notice shall include the following information:

(a) The name of the applicant;

(b) The address of the property;

(c) A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;

(d) The type of permit or approval being sought;

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- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing;
- 3. Special notice provision for appeals.
In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal;

I. Public hearings.

- 1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law;
- 2. Attendance shall be open to the public;
- 3. All hearing and decision timeframes shall comply with MSA 15.99;

J. Review criteria.

- 1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:
 - (a) The application is consistent with the adopted Comprehensive Land Use Plan, as that plan may have been amended after adoption;
 - (b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;
 - (c) The application complies with all additional approval criteria listed in Section 50-37.2 below.
- 2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or approve it with conditions to bring the application into conformance with the above criteria;
- 3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance;
- 4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter;

K. Conditions on approval.

- 1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property;
- 2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property,

- or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services;
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;
 4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts;
 5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter;

L. Administrative adjustments.

Where an application concerns development or redevelopment of a lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways.

1. The front, side or rear setbacks of a new or modified structure are no more than one foot smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than two feet taller than the maximum required by this Chapter;
3. For properties where Section 50-24 requires more than three off-street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains one less parking space than is required;
4. Handicap accessibility structures can encroach into the yard setbacks;
5. For properties where 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50 feet in length may be granted if the Land Use Supervisor determines that further extension of the street is not anticipated due to topography, comprehensive land use plan, or utility availability;

M. Modifications of approvals.

1. Application. An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable;
2. Minor modifications. Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the

project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony;

3. Major modifications. Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification;

N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50 percent of the land covered by the preliminary plat is submitted within 5 years of the preliminary plat approval;
2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within 90 days after approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;
5. Erosion and sediment control permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70 percent successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse one year after issuance unless construction has begun by that date;
7. The MS-4 statement of compliance and accompanying drainage report will be valid for two years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within two years, and extension of one year may be granted if a written request is submitted and approved by the city engineer. The written request should document the reasons for the extension and the current state of completion of the project;

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O. Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General provisions for appeal to planning commission.
 - (a) Except as noted in Subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal;
 - (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within 10 days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;
 - (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed;
 - (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal;
 - (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I;
 - (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant;
 - (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence;

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2. Exceptions.
 - (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I *No Safety Obstructions*, 50-27.1.L *Attachment to Buildings*, 50-27.1.M *Wind Pressure Design*, 50-27.1.N *Electrical Wiring*, or 50-27.1.O *Certification of Structural Engineer* must be taken to the state building official as provided in the State Building Code;
 - (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Chapter 10 of the Code or to the state building official;
 - (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board;
 - (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this section, but may authorize variations to those standards, in accordance with the procedures in Article 5 of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor;
3. Powers of planning commission on appeal.
 - (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application;
 - (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official;
 - (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district;
 - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below;
4. Appeals of planning commission decisions to council.
 - (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council;
 - (b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal;

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- (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal;
 - (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal;
 - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located;
 - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied;
5. Appeal of planning commission decisions to the courts.
- (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission;
 - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission;
 - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01;
6. Appeals of historic preservation commission decisions to council.
- (a) Where applicable, Section of 50-37.1.O.4 shall apply of historic commission decisions, when appealable to city council;

P. Security for improvements.

- 1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense;
- 2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110 percent of the estimated cost for the city to complete the improvements;
- 3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case

of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security may be made after construction or dedication of some but not all of the required improvements, but financial security equal to 110 percent of the estimated cost of for the city to complete the improvements shall be retained;

4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least 110 percent of the estimated cost for the city to complete the improvements.

Section 15. That Section 50-37.6 of Chapter 50 be amended as follows:

50-37.6 Vacation of streets.

This Section applies to all applications to vacate a public street, highway or utility easement. This Section is intended to comply with the provisions of City Charter Section 100.

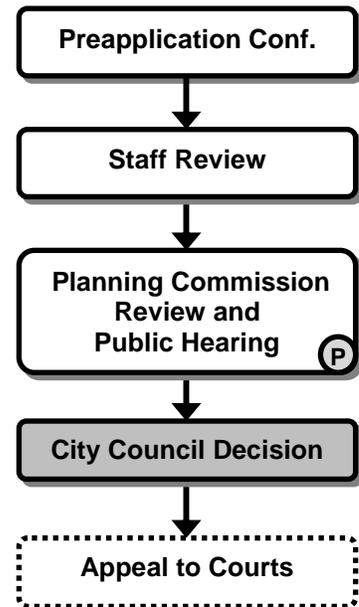
A. Application.

1. An application for vacation of a public street, highway or utility easement must be accompanied by a petition of the person or persons who own a majority of the lineal frontage of the land abutting the portion of the street, highway or utility easement proposed to be vacated;
2. The application shall be filed with the city and forwarded to the planning commission for review;
3. Other application provisions of Section 37.1.B shall apply to the extent they are consistent with subsections 1 and 2 above;

B. Procedure.

1. Review and recommendation. The city assessor shall review the application to determine the sufficiency of the signatures on the petition. The planning commission shall review the application, conduct a public hearing on the proposed vacation pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the petition meets the criteria in subsection C below;
2. Council decision. Upon receipt of the planning commission recommendation, and a copy of the vacation plat prepared by the applicant and approved by the city engineer, the council shall make a final decision by resolution pursuant to Section 100(b)5 of the City Charter. Failure to present a vacation

Vacation of Street



(P) Indicates Public Hearing Required

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plat meeting the city engineer's requirements to the land use supervisor within 90 days of the planning commission's recommendation shall result in the application being denied;

C. Recording. After approval of the vacation, the city clerk shall file the vacation plat and authorizing resolution in the office of the county recorder;-

D. Criteria.

The planning commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

Section 16. That Section 50-37.9 of Chapter 50 be amended as follows:

50-37.9 Variances.

This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

A. Application.

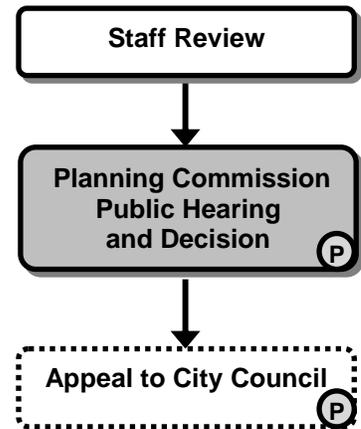
An application for a variance shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections 50-37.9.C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.1.P or a development agreement regarding the design, construction and operation of the project, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

C. General variance criteria.

Variance



(P) Indicates Public Hearing Required

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Unless different or inconsistent criteria or limitations are stated in subsections 50-37.9.D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in peculiar and exceptional practical difficulties or exceptional or undue hardship to the property owner;
2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;
7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;

D. No use variances.

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located;

E. Variances to lot size in unsewered areas.

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county;

F. Variances for two-family dwellings in the R-1 district.

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

1. A variance from the required front yard setback;
2. A variance reducing the minimum dimensional requirements by up to ten percent;

G. Variances from parking and loading regulations.

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1. Residential districts.
 - (a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases:
 - (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;
 - (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship;
 - (b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:
 - (i) On a non-corner lot with frontage of less than 50 feet, only one parking area may be located outside the R district parking area;
 - (ii) On a corner lot with frontage of less than 50 feet, the variance may allow for compliance with the off street parking requirements of this Chapter;
 - (iii) On a corner or non-corner lot with frontage of 50 feet or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30 percent of the front yard;
 - (iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;
 - (v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;
 - (vi) Economic considerations, in whole or part, shall not constitute a hardship;
2. Reducing required parking spaces. Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;
3. Exceeding required parking spaces. Variances from the maximum parking limits provided in 50-24.4 shall not exceed 175 percent of the minimum requirement provided in Table 50-24.1;

H. Variances to reduce setbacks.

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing

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and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter;

I. Variances in the MU-C district.

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in Sections 50-15.3 and 50-21 by no more than ten percent. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way;
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four feet in height and screen out at least 50 percent of the view of any parking area, unless the setback is reduced to less than five feet, in which case it shall screen out at least 75 percent of the view of the parking area;

J. Variances in A-O airport overlay district.

Variances shall be pursuant to and consistent with the procedures in the Duluth International Airport zoning ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that airport zoning ordinance and this Chapter, the provisions of the airport zoning ordinance shall govern;

K. Variances from flood plain regulations.

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. In a floodway:
 - (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
 - (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
 - (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
 - (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping. The building official shall notify the applicant for a variance that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
 - (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;

4. General considerations. The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:
 - (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - (e) The importance of the services to be provided by the proposed use to the community;
 - (f) The requirements of the facility for a waterfront location;
 - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

L. Standards for variances in shorelands.

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas;

M. Reconstruction of a non-conforming building.

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 50 percent of its reproduction value, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

Section 17. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: June 15, 2012)

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

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

Nays: None -- 0

Passed May 14, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ATTEST:
JEFFREY J. COX, City Clerk

Approved May 14, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10154

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MU-C, MIXED USE-COMMERCIAL, TO FORM DISTRICTS, MID-RISE COMMUNITY SHOPPING/OFFICE (F-5), DOWNTOWN SHOPPING (F-7) AND DOWNTOWN MIX (F-8), THE DOWNTOWN BUSINESS DISTRICT, THE PROPERTY LOCATED FROM MESABA AVENUE TO NORTH NINTH AVENUE EAST AND FROM MICHIGAN STREET TO THE ALLEY ABOVE SECOND STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject property located in the Downtown Business District from Mesaba Avenue to North Ninth Avenue East and from Michigan Street to the alley above Second Street (PL 11-134) and as more particularly described as:

Downtown F-5 Zoning

Those parts of Duluth Proper First Division and Duluth Proper Third Division, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Second Street centerline;

Thence northwesterly along Third Avenue East centerline to the northeasterly extension of the Third Street Alley centerline;

Thence southwesterly along said Third Street Alley centerline and its extension to the Third Avenue West centerline;

Thence northwesterly along said Third Avenue West center line to the West Third Street centerline;

Thence southwesterly along said West Third Street centerline line to the Mesaba Avenue centerline (State Route 194);

Thence southerly along said Mesaba Avenue centerline to the Second Street Alley centerline;

Thence northeasterly along said Second Street Alley centerline to the Third Avenue East centerline;

Thence northwesterly along said Third Avenue East centerline to the point of beginning.

Downtown F-7 Zoning

Those parts of Duluth Proper First Division, Central Division of Duluth, and Portland Division, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Superior Street centerline;

Thence northwest along Third Avenue East centerline to the northeasterly extension of the First Street Alley centerline;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Thence southwest along said First Street Alley centerline and its extension to the First Avenue West centerline;

Thence southeast along said First Avenue West center line to the West Superior Street centerline;

Thence northeast along said West Superior Street centerline line to the northeasterly extension of Lake Avenue centerline as platted in Industrial Division;

Thence southeasterly along said extension of Lake Avenue centerline to the Michigan Avenue centerline;

Thence northeasterly along said Michigan Avenue centerline to the southeasterly extension of the northeast line of Lot 21, Block 5 of Portland Division;

Thence northwest along said northeast line of Lot 21 and its extension to East Superior Street centerline;

Thence southwest along the East Superior Street centerline to the point of beginning.

Downtown F-8 Zoning

Those parts of Duluth Proper First Division, Duluth Proper Third Division, Central Division of Duluth, Fitgers Division and Portland Division, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East First Street centerline;

Thence southeast along Third Avenue East centerline to the northeasterly extension of the First Street Alley centerline;

Thence southwest along said First Street Alley centerline and its extension to the First Avenue West centerline;

Thence southeast along said First Avenue West centerline to the West Superior Street centerline;

Thence northeast along said West Superior Street centerline line to the northwesterly extension of Lake Avenue centerline as platted in Industrial Division;

Thence southeasterly along said extension of Lake Avenue centerline to the West Michigan Avenue centerline;

Thence southwest along said West Michigan Avenue centerline to Fifth Avenue West centerline;

Thence southeast along said Fifth Avenue West centerline to the northwest edge of the southbound lane of Interstate 35 (Highway Plan No. S.P. 6982);

Thence southwest along said northwest edge of the southbound lane of Interstate 35 to the southerly extension on the Mesaba Avenue centerline (State Highway 194);

Thence northerly along said Mesaba Avenue centerline and its extension to the southwesterly extension of the West Second Street Alley centerline;

Thence northeast along said Second Street Alley centerline and its extension to said Third Avenue East centerline;

Thence southeast along said Third Avenue East centerline to the East Superior Street centerline;

Thence northeast along said East Superior Street centerline to the northwesterly extension of the northeast line of Lot 17, Block 5, Portland Division;

Thence southeast along said northeast line of Lot 17 to the southeast line of Block 5, Portland Division;

Thence northeast along said southeast line of Block 5, Portland Division to the northwesterly extension of a line that is southwesterly 143.2 feet parallel and distant from the

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southwest line of Fitgers Addition;

Thence southeasterly along said line 97.2 feet to a line that is perpendicular to and extended 143.2 feet from the southwest line of Fitgers Addition;

Thence northeasterly along said line to the southwest line of Fitgers Addition;

Thence southeast along said southwest line of Fitgers Addition to the southeast line of Fitgers Addition;

Thence northeast along said southeast line of Fitgers Addition to the southwesterly extension of the southeast line of Block 3, Portland Division;

Thence northeast along said southeast line of Block 3 and its northeasterly extension to the to the southwest line of Block 2, Portland Division;

Thence northwest along said southwest line of said Block 2 to the northwest line of Block 2, Portland Division;

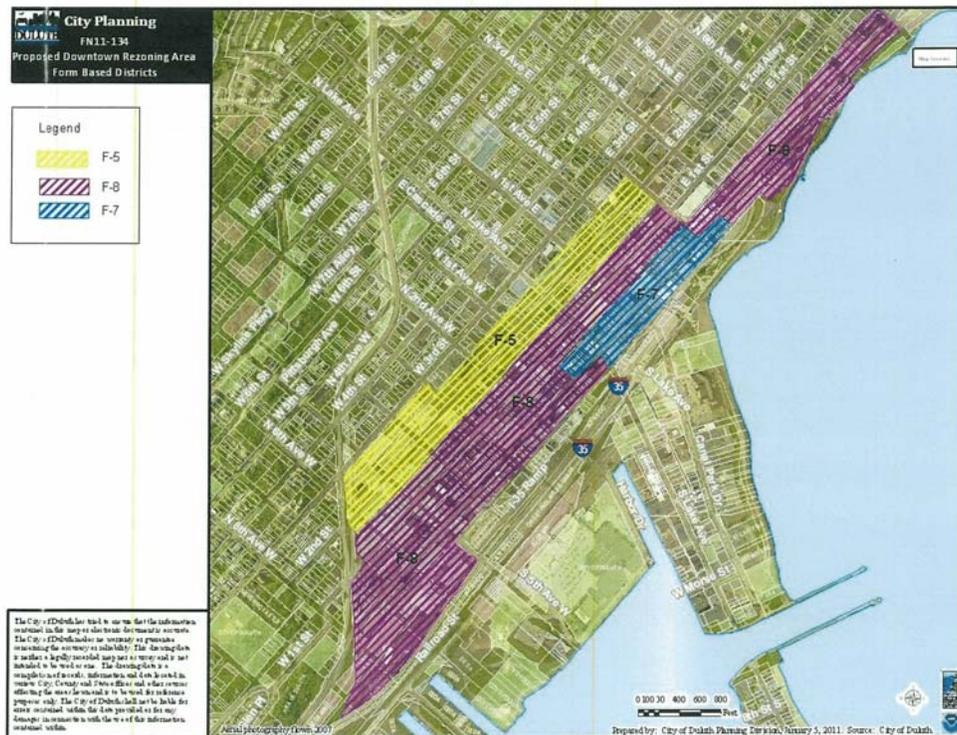
Thence northeast along said northwest line of Block 2 and its northeasterly extension to the southeasterly extension of the Ninth Avenue East centerline;

Thence northwest along said Ninth Avenue East centerline and its extension to the northeast extension of the East First Street Alley centerline;

Thence southwest along said First Street Alley centerline and its extension to said Third Avenue East centerline;

Thence northwest along said Third Avenue East centerline to the point of beginning;

be reclassified from its current designation as Mixed Use-Commercial (MU-C) to Form Districts, Mid-Rise Community Shopping/Office (F-5), Downtown Shopping (F-7) and Downtown Mix (F-8) 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:



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(Ref. File No. PL 11-134)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: June 15, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 14, 2012
Approved May 14, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 29, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0529-01 The following communications regarding the proposed ordinance concerning rental licensing (12-032-O): (a) Courtney Cochran; (b) John Devich; (c) Robert Evans; (d) Michael Hoffman; (e) Katie Krikorian; (f) Cheryl Lemien; (g) Denette Lynch; (h) Pete Mattson; (i) Barbara Montee; (j) John Peterson; (k) Blake Shippee; (l) Lawrence J. Skoglund; (m) Liz Vandersteen. -- Received

12-0529-22 The following communications regarding the proposed rezoning of 1102 Maple Grove Road (12-033-O): (a) Brenda Anderson; (b) ZMC Hotels. -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported that with the heavy rains this past weekend, there was no overflowing in the storm sewer system.

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0529-02 Duluth parking commission resolutions, pursuant to Section 33-78 of the Duluth City Code:

- (a) Designating uses for parking spaces around City Hall (2012-1);
- (b) Shortening the bus stop at 108 East Second Street, creating one new on street parking space (2012-2);
- (c) Creating a loading zone at 109 East Michigan Street and to allow additional metered parking on East Michigan Street (2012-3);
- (d) Eliminating the alternate side parking system and prohibit parking on the even side of Main Street between Grand Avenue and 63rd Avenue West (2012-4);
- (e) Expanding the handicapped accessible and the ten minute parking zones and to restore a bus/van parking area in front of the Downtown YMCA (2012-5);
- (f) Converting five metered parking spaces on the east side of Third Avenue West back to a time limit of one hour and 20 minutes (2012-6);
- (g) Adding two metered parking spaces on the west side of Fourth Avenue West just above the intersection with Superior Street (2012-7);
- (h) Creating a drop off zone at 2029 East Third Street in front of Lakeview Montessori School (2012-8);
- (i) Allowing parking on both sides of 13th Avenue East between London Road and First Street (2012-9). -- Received

12-0529-04 Duluth public utilities commission minutes of April 17, 2012, meeting. -- Received

12-0529-05 Duluth Seaway Port authority minutes of: (a) December 15, 2011; (b) January

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- 31; (c) March 23, 2012, meetings. -- Received
12-0529-06 Housing and redevelopment authority minutes of: (a) February 28;
- (b) March 27, 2012, meetings. -- Received
12-0529-03 Library board minutes of March 27, 2012, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martel commented on the history of the state overpaying school districts and then they started to withhold ten percent of their payments until the enrollment numbers were known. He further noted how the past governor cut aid to schools and districts had to borrow and what affect this has had on the school district.

- - -

MOTION FOR RECONSIDERATION

Councilor Julsrud moved to reconsider Resolution 12-0252, regarding the establishment of a higher education overlay district, which motion was seconded and failed upon the following vote:

Yeas: Councilors Fosle, Julsrud, Krug and Larson -- 4

Nays: Councilors Boyle, Gardner, Krause, Stauber and President Hartman -- 5

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the assessment roll levied to defray the assessable portion of demolitions at the following locations be confirmed.

411 South 71st Avenue West	0370-04070	15,780.24
2917 West Third Street	4440-00320	23,269.96
25 North 58th Avenue West	4480-04260	17,351.04
8721 Vinland Street	0240-00160	15,212.92
2224 West 11th Street	2110-07445	27,230.16
1017 East Sixth Street	3850-01620	2,217.36
1130 East Sixth Street	3850-00120	5,250.00

The total assessable amount of the project (Contract #5443 - Fund 110) is \$106,311.68.

Resolution 12-0266 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

- - -

WHEREAS, the city council authorized Contract 21609 with Hovland, Inc., for construction of the Enger Tower gazebo in the amount of \$138,000 through passage of Resolution 12-0192 on April 9, 2012; and

WHEREAS, city officials have since found that additional work and materials are required as a result of unknown allowable costs, such as having to move the site back due to the large amount of exposed bedrock, and as further itemized in the e-mail on file with the city clerk as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Public Document No. 12-0529-07.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to implement Change Order No. 1 to the Contract 21609 with Hovland, Inc., for an increase of \$109,110, and a total contract amount of \$247,110, payable from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. Cpmisc-engtr).

Resolution 12-0229 was unanimously adopted.
Approved May 29, 2012
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix (fine) as needed during year 2012 for street maintenance in accordance with city-approved bid specifications, the vendor's bid of \$46 per ton, and an estimated tonnage of 10,608, for a total cost of \$487,968 plus \$33,547.80 sales tax, for a total combined amount of \$521,515.80, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop).

Resolution 12-0251 was unanimously adopted.
Approved May 29, 2012
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 license, subject to departmental approvals, with any specific restrictions:

Alpine Bar & Lounge, Inc. (Alpine Bar & Lounge), 1308 Commonwealth Avenue, for June 22, from 7:00 p.m. to midnight, June 23, 2012, from 7:00 p.m. to 12:30 a.m., and June 24, 2012, 10:00 a.m. to 4:00 p.m.

Resolution 12-0253 was unanimously adopted.
Approved May 29, 2012
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 licenses, subject to departmental approvals:

Twin Ports Miracle League (Minnesota State Police and Fire Softball Tournament), Wheeler Field, for July 28-29, 2012, with Matt McShane, manager.

Resolution 12-0262 was unanimously adopted.
Approved May 29, 2012
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Ulland Brothers, Inc., for the purchase of hot mix (fine) as needed during year 2012 for street maintenance in accordance with city approved bid specifications, the vendor's bid of \$45.93 per ton, and an estimated tonnage of 7,000, for a total cost of \$321,510 plus \$22,103.81 sales tax, for a total combined amount of \$343,613.81, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0281 was unanimously adopted.
Approved May 29, 2012
DON NESS, Mayor

- - -

RESOLVED, that the job specifications for the appointed department head position of director of business and economic development, which is filed with the city clerk as Public Document No. 12-0529-08, is approved; that said appointed position shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said appointed position shall be ranges 1135-1170.

FURTHER RESOLVED, the proper city officials are authorized to execute and implement an agreement with the supervisory association to provide for employing a unit member consistent with this resolution.

Resolution 12-0279 was unanimously adopted.
Approved May 29, 2012
DON NESS, Mayor

- - -

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of Christopher Eng to the position of director of business and economic development; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Christopher Eng to the position of director of business and economic development for the city of Duluth.

Resolution 12-0280 was unanimously adopted.
Approved May 29, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division, which is implementing the comprehensive land use plan by developing new zoning regulations, looked at how zoning could encourage the new and appropriate development in locations in and near existing commercial centers, along major transit lines; and

(c) The city planning division held a public meeting on April 25, 2012, on the proposed amendment to the comprehensive land use plan - future land use map, to discuss the opportunities for the Fourth Street corridor and to gather feedback from the community; and

(d) Based on public comments received and the review of the area completed by the city planning division, recommended to the city planning commission that the future land use map be amended for the Fourth Street corridor, from Mesaba to Fourth Avenue East between the alley above and the alley below Fourth Street, from urban residential to neighborhood mixed-use; and

(e) The city planning commission has reviewed this future land use amendment, conducted a public hearing on May 8, 2012, at their regular planning commission meeting, and recommends adoption of the proposed future land use map amendment; and

(f) The city council action shall be by resolution, with the affirmative votes of at least 2/3's of those members constituting a quorum required to take action.

IT IS FURTHER RESOLVED, that the adopted comprehensive land use plan - future land

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

use map is amended as identified in Public Document No. 12-0529-09.

Resolution 12-0261 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) Independent School District 709 closed Central High School in 2011 as part of its long range facilities plan; and

(c) The Central High School site will no longer be used for school purposes and therefore the future land use map designation as Institutional is no longer necessary; and

(d) The city community development division held three public meetings on November 16, 2011, December 14, 2011, and April 26, 2012, on the proposed amendment to the comprehensive land use plan - future land use map, to discuss the opportunities for the Central High School site and to gather feedback from the community; and

(e) Based on public comments received and the review of the area completed by community development staff, the city planning division recommended to the city planning commission that the future land use map be amended for the Central High School site from Institutional to business park, urban residential and recreation; and

(f) The city planning commission has reviewed the future land use amendment, conducted a public hearing on May 8, 2012, at their regular planning commission meeting, and recommends adoption of the proposed future land use map amendment; and

(g) The city council action shall be by resolution, with the affirmative votes of at least 2/3's of those members constituting a quorum required to take action.

IS IT FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map is amended as identified in Public Document No. 12-0529-10.

Resolution 12-0263 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the easement described below in (d) and rededication of the easement described in (e) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its Tuesday, May 8, 2012, regular meeting, recommended approval of the vacation and rededication petition; and

(d) The city council of the city of Duluth approves the vacation of the following described utility easement described below and as described and depicted on Public Document No. 12-0529-11:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The northerly 12.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof, St. Louis County, Minnesota;

(e) The city council of the city of Duluth approves the dedication of the following described utility easement and as described and depicted on Public Document No. 12-0529-11:

The southerly 10.00 feet of the northerly 22.00 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof, St. Louis County, Minnesota;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and public document showing the utility easement to be vacated and rededicated.

Resolution 12-0267 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the platted alley described below in (d) and alley easement described in (e); and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned portions of platted alleys and alley easement are useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 8, 2012, 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 portions of platted alley described below and as described and depicted on Public Document No. 12-0529-12:

That portion of the alley within Block 121, Duluth Proper Second Division, extending from the extended common easterly line of Lots 391 and 392 of Block 121, Duluth Proper Second Division to 24th Avenue West;

(e) The city council of the city of Duluth approves the vacation of the following described alley easement and as described and depicted on Public Document No. 12-0529-12:

The alley lying within the easterly 20 feet of Lot 389, Block 121, Duluth Proper Second Division, as the same is evidenced by resolution of the common council of the city of Duluth recorded at Book C of Miscellaneous, Page 598;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and public document showing the platted alley and alley easement to be vacated.

Resolution 12-0268 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth does hereby approve the conditional grant agreement on file in the office of the city clerk as Public Document No. 12-0529-13, between the Duluth economic development authority (DEDA) and A&L Duluth Renaissance, LLC, related to the renovation of commercial building space in Old Downtown for lease to Enbridge Energy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Limited Partnership in an amount not to exceed \$350,000.

Resolution 12-0276 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that Contract C21268 with Ayres Associates, Inc., for professional services for design and construction of the Riverside community utility and street improvements project be amended to include additional engineering design and construction services at the direction of city staff for the addition of a second entrance, bridge over Munger Trail, BNSF Railroad and Munger Trail crossings, Phase II environmental health hazard investigation, and a second bid package for storm sewer construction, and an increase in construction time from 1-1/2 years to 2-1/2 years. This amendment is in the amount of \$235,600 for a new total of \$829,036, with \$56,473 payable from Street Improvement Fund 440, Department 038 (special assessment contract), Object 5530 (improvements other than buildings); with \$50,000 payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement); with \$30,000 payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement); with \$76,716 payable from Storm Water Fund 535, Department 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvement - revenue); and with \$22,411 payable from Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvement - revenue), City Project No. 0699SN/TR.

Resolution 12-0232 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to entire into a license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0529-14, with the Duluth Seaway Port authority for the installation of an electric service on authority property for use in conjunction with Sanitary Sewer Lift Station No. 40, and the relocation of a power supply to an existing authority building, at no cost to the city.

Resolution 12-0259 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

- - -

RESOLVED, that for recorded agreement reasons and by resolution of intent numbered 12-0217 the council did request the administration to prepare plans and specifications for the construction of approximately 265 feet of sanitary sewer in Livingston Avenue and Spear Avenue (City Project No. 0439TR). It is hereby ordered that said sanitary sewer be improved.

FURTHER RESOLVED, that said work be done by contract, and that the estimated total of said improvement as estimated by the city engineer is \$25,404, assessable to benefitting properties and payable from Special Assessment Fund 410, Agency 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 0439TR.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the municipal bond index plus 1.50 percent.

Resolution 12-0260 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that City Council Resolution No. 11-0153 authorizing advanced home energy audits under the advance home energy audit program is hereby amended by increasing the number of audits authorized under the program from 400 to 600 and by increasing the authorized cost thereof from \$80,000 to \$120,000, the increased amount to be payable from Fund No. 555-500-5441 (home energy conservation, public works and utilities, other services and charges).

Resolution 12-0264 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-1 Excavating, Inc., for the reconstruction of Oxford Street, Livingston Avenue and Glenwood Street from Woodland Avenue to Snively Road in the amount of \$3,799,505, payable out of Permanent Improvement Fund 411, Department 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 0439TR.

Resolution 12-0273 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with ISD No. 709 to provide law enforcement officers in the public schools, said agreement to be substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0529-15; payments from the school district to be deposited in Fund No. 110-160-1610-4261 (general, police, administration and investigation).

Resolution 12-0250 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with St. James Home of Duluth, Inc. dba Neighborhood Youth Services (NYS) to provide summer youth programming in the city's Morgan Park neighborhood, substantially the same as that on file with the city clerk as Public Document No. 12-0529-16, and providing for the payment of \$40,000 for the first year, and \$20,000 thereafter, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0265 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a five-year agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0529-18, with the state of Minnesota through the Minnesota office of higher education (the "state") related to Minnesota Library Information Network ("MnLINK"), payments to the city payable into Fund No. 110-121-1218-4220-02 (general, public administration, library services, state of Minnesota operating).

Resolution 12-0274 was unanimously adopted.

Approved May 29, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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The following resolutions were also considered:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 1300 Block of Commonwealth Avenue on June 22-24, 2012, to coincide with the Far West Fest special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 12-0256 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved May 29, 2012

DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in conjunction with the Downtown Sidewalk Days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

July 11, 2012	Superior Street from Third Avenue East to Fifth Avenue West	4:00 p.m. to 8:00 p.m.
July 12, 2012	Superior Street from Sixth Avenue East to Eight Avenue East	3:00 p.m. to 8:00 p.m.
July 13, 2012	First Street between First Avenue West and Second Avenue West	6:00 p.m. to midnight
July 13, 2012	First Street between Third Avenue West and Fourth Avenue West	6:00 p.m. to midnight
July 14, 2012	Superior Street from First Avenue West to Second Avenue West	5:00 p.m. to midnight

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 12-0257 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved May 29, 2012

DON NESS, Mayor

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Resolution 12-0269, authorizing a three year agreement with Grant Community School Collaborative to provide summer youth programming in the city's East Hillside neighborhood at an annual cost of \$20,000, was introduced by Councilor Larson for discussion.

Councilor Larson moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Katherine Bogen thanked the administration and council for this funding opportunity to provide for a safe place for the youth to be this summer.

Councilor Krause felt that this and the other similar resolutions should have gone out for proposals.

Resolution 12-0269 was adopted as follows:

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Grant Community School Collaborative (GCSC) to provide summer youth programming in the city's East Hillside neighborhood, substantially the same as that on file with the city clerk as Public Document No. 12-0529-19, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0269 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved May 29, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Welsh Center, Inc., dba Copeland Valley Youth Centers (CVYC), to provide summer youth programming in the city's West Duluth neighborhood, substantially the same as that on file with the city clerk as Public Document No. 12-0529-20, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0270 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved May 29, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Boys and Girls Club of the Northland (B&GCN) to provide summer youth programming in the city's Lincoln Park neighborhood, substantially the same as that on file with the city clerk as Public Document No. 12-0529-17, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0271 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved May 29, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three year agreement with St. James Home of Duluth, Inc., dba Neighborhood Youth Services (NYS), to provide summer youth programming in the city's Central Hillside neighborhood, substantially the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

same as that on file with the city clerk as Public Document No. 12-0259-21, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0272 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved May 29, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR BOYLE

12-032 - AN ORDINANCE AMENDING CHAPTER 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

Councilor Gardner moved to amend subsection 29A-32(h) of the ordinance to read as follows:

"(h) Except as provided in this Section 29A-32(h), the maximum number of bedrooms in a multi-tenant rental unit that can be occupied by any tenant under new rental licenses, short-term licenses, and rental license renewals shall be based on the number of bedrooms on record in the city assessor's office on the date of rental application;

(1) The number of tenants cannot exceed the number of bedrooms applied for and paid for in the license application;

(2) In no case shall a bedroom be allowed that does not comply with all applicable state and city building and housing codes;

(3) If the multi-tenant rental unit is a one-family or two-family dwelling, the maximum number of bedrooms that can be occupied by any tenant shall be based on the lesser of the number of bedrooms on record in the city assessor's office on the date of the rental application or four bedrooms. The four bedroom limitation shall not apply to multi-tenant one-family or two-family dwellings licensed on *[Note: insert effective date of ordinance]* or containing more than four original bedrooms in existence prior to the last sale of the house; instead, the number of bedrooms that may be occupied shall be the greater of the number of bedrooms authorized by the license in effect on *[Note: insert effective date of ordinance]*, the number of original bedrooms in existence prior to the last sale of the house, or four bedrooms;"

which motion was seconded and discussed.

Councilor Gardner commented that her intent was to allow for houses that are being sold with over five original bedrooms and have the required parking to be licensed, but that the new owner cannot make more bedrooms.

Councilors discussed the amendment at length, noting issues of: getting accurate information about these larger homes to determine what the original number of bedrooms were; determine what was "original" lacking those original floor plans; how to enforce it; that there is a distinct difference between "original" and "legal" bedrooms; this is an attempt to avoid a mass density issue; this amendment needs more work and what realtors call a bedroom differs from what the city considers a bedroom.

Councilor Larson moved to table the amendment, which motion was seconded and carried

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upon the following vote:

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

Nays: Councilors Fosle and Gardner -- 2

Councilor Fosle expressed concern that if this ordinance passes it will affect the whole city and suggested that it only apply to the new "overlay" area.

Councilor Gardner moved to suspend the rules to hear speakers, which motion was seconded and unanimously carried.

John Glendenning spoke of his concerns that taxpaying neighbors have with this proposed change. He reviewed the changes in his neighborhood with the increase of rentals. He further noted that the definition of "resident" has never been stated.

Joe Deters expressed his concerns of how this will: help the students; increase the cost of student housing and affect new rental housing that is developed.

Kristie DuCharm, former student and now Duluth landlord of six units, felt that while the ordinance has a point to be made, that a decision should be delayed in order to talk to realtors, neighbors, investors, landlords and students. She also suggested that parking permits should be allowed for each house in the densely populated areas and that the large lots of St. Mary's and St. Luke's could be for permit parking.

Barbara Monte, landlord, president of Duluth Landlord Association and resident in the campus area, expressed concerns of the grandfathering in of existing locations. She felt that: this issue could better be addressed by being based on square footage; that the whole parking issue be looked at by the Duluth parking commission; that there are different standards for families and unrelated individuals and that there are so many blight houses.

Greg Schmaedeke, real estate agent, stated that in 1982 when he started to buy property, they were derelict and no one was standing in line to buy these houses. He further commented that: investors purchased these houses, fixed them up and put people into these houses; these folks all contribute to the economic base and jobs come out of these tenants and with the shortage of housing and high costs, this ordinance will have an adverse affect.

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INTRODUCED BY COUNCILOR STAUBER

12-033 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE-NEIGHBORHOOD (MU-N) THE PROPERTY LOCATED AT 1102 MAPLE GROVE ROAD (ZMC HOTELS).

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was second and unanimously carried.

Mike Kruger and Sharon Mosiniak opposed the ordinance for reasons of: this property was residential property and should remain that way; that a restaurant is being talked about for this property, which is more than the hotel that has been mentioned; just west of Joshua is all commercial property which is for sale, so this is not needed in the residential neighborhood; realtors have stated that residents will have difficulty selling their houses for what they are worth and individuals purchased their houses never thinking that they were going to be living across the street from a hotel and restaurant.

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INTRODUCED BY COUNCILOR STAUBER

12-034 - AN ORDINANCE AUTHORIZING THE SALE OF THE SOUTHERLY TEN FEET OF LOTS 31-34, NEW YORK PIER, ONEOTA, TO ZENITH INVESTMENT AND MANAGEMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

CORPORATION FOR \$2,000.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-035 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE WEST DULUTH AREA TO ROBERT M. AND LEANNE E. LIND FOR \$7,500.

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INTRODUCED BY COUNCILOR STAUBER

12-036 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-RURAL 1 (RR-1) THE PROPERTY LOCATED AT 415 WEST NINTH STREET (KBJR, INC., AND STATE OF WISCONSIN EDUCATIONAL COMMUNICATIONS BOARD).

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-029 (10155) - AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FINES, PENALTIES, CITATIONS AND VIOLATIONS TO BE SET BY RESOLUTION, AMENDING SECTIONS 1-7, 6-78, 8-9, 10-3, 10A-7, 11-5, 12-14, 12-16, 24-17.1, 24-26, 29B-7, 33-46, 33-237, 34-17, 34-23, 35-30, 36-7, 36-20, 42A-48, 43-33.4, 43-50.7, 43-66, 45-82, 45-82.1, 45-108, 48-15, 48-210, 50-37.1, 50-39.2 AND 50-39.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Nays: Councilor Krause -- 1

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BY COUNCILOR GARDNER

12-030 - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

Councilor Gardner moved to table the ordinance for a committee meeting, which motion was seconded and unanimously carried.

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COUNCILOR QUESTIONS AND COMMENTS

Councilors discussed the need for a closed session for further information on the casino litigation and also an open session to discuss the history and other aspects of the casino litigation as much as legally possible.

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The meeting was adjourned at 8:22 p.m.
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10155

AN ORDINANCE MODIFYING VARIOUS FEE LANGUAGE, PROVIDING FOR FINES, PENALTIES, CITATIONS AND VIOLATIONS TO BE SET BY RESOLUTION, AMENDING

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

SECTIONS 1-7, 6-78, 8-9, 10-3, 10A-7, 11-5, 12-14, 12-16, 24-17.1, 24-26, 29B-7, 33-46, 33-237, 34-17, 34-23, 35-30, 36-7, 36-20, 42A-48, 43-33.4, 43-50.7, 43-66, 45-82, 45-82.1, 45-108, 48-15, 48-210, 50-37.1, 50-39.2 AND 50-39.3 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 1-7 of the Duluth City Code, 1959, as amended, is 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 an amount which shall be 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 Section 6-78 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-78. Feeding of pigeons or deer prohibited.

(a) Feeding of pigeons or deer. Except for operation of the Duluth zoo and its programs, feeding a wild deer on publicly-owned or occupied, or publicly-controlled, land is prohibited. Feeding of a wild deer or allowing one or more of them to be fed on one's privately-owned or occupied property is prohibited within the city. No person shall feed a nondomesticated pigeon, nor place feed in a place or manner that a reasonable person would expect to result in feeding a nondomesticated pigeon, in any area of the city that is not in a district zoned suburban (or its successor designation), as set out in Chapter 50, Article VII, or its successor, of Duluth City Code, except in a designated feeding area of a city park. This Section does not apply to domesticated pigeons such as those kept for racing, entertainment performances or agricultural purposes;

(b) Enforcement. Any employee or agent of the city who is authorized to cite another for violation of Duluth City Code and any peace officer is authorized to enforce this ordinance;

(c) Penalty. The minimum fine for a violation of Section 6-78, or its successor, shall be set in accordance with Section 31-8 of this Code.

Section 3. That Section 8-9 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-9. Suspension and revocation of licenses; civil penalty; presumptive penalties.

(a) When it comes to the attention of the alcohol, gambling and tobacco commission that any establishment licensed pursuant to this Chapter may have violated the provisions of this Chapter or any other law relating to the operation of a liquor establishment, or that such establishment may be engaging in other conduct that may constitute good cause for the suspension or revocation of its liquor license, the alcohol, gambling and tobacco commission may call for a hearing to determine

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the validity of the allegations and to determine what, if any, disciplinary measures shall be recommended to the city council for their implementation against the licensee;

(1) Any hearing called pursuant to the provisions of this Section shall be held before the alcohol, gambling and tobacco commission and shall be held pursuant to the procedural and evidentiary provisions of Minnesota Statutes, sections 14.57 to 14.69, and rules promulgated thereunder. At such hearing, the commission shall hear all relevant evidence and arguments from all parties. After due deliberation, the commission shall determine the validity of the allegations and what, if any, corrective or punitive measures will be recommended to the city council;

(2) At the completion of the hearing and deliberations, the commission shall direct the city clerk to prepare a report to the city council which shall consist of the commission's findings of fact, conclusions and recommendation to the city council. The report shall be filed with the city council and served personally or by first class mail upon the parties to the hearing. The council shall also receive a copy of the transcript of the commission's hearing and any exhibits introduced as evidence;

(3) The city council shall not render a decision on the matter until at least ten days after it has received the report of the alcohol, gambling and tobacco commission. During this ten day period, either party to the hearing may present written exceptions to the report of the alcohol, gambling and tobacco commission or make arrangements to be placed on the agenda of the city council to present oral argument to the city council concerning the matter;

(4) The city council's decision on the matter shall be in the form of a written resolution which shall contain findings of fact and conclusions on all material issues and shall set forth any punitive action taken against the license. A copy of the resolution shall be served upon the licensee personally or by first class mail;

(b) Without limiting other grounds for suspension or revocation, the following shall be deemed to be good cause for suspension or revocation of a liquor license:

(1) Violation of any law relating to the operation of a liquor establishment, including, but not limited to, state, federal and local laws on liquor, gambling, prostitution, health and fire safety;

(2) The establishment is operated in such a way as to constitute a public nuisance;

(3) The establishment has failed to pay license fees or city or state sales tax or that property taxes on the building have not been paid;

(4) The establishment has failed to file or maintain any insurance or bond required by law;

(5) The establishment is insolvent, bankrupt or otherwise financially unable to continue business;

(6) Refusal to cooperate with the board or the police in any investigation and the refusal to admit police officers into the establishment at any time when people are in the establishment;

(7) Failure to follow the procedures set forth in this Chapter with respect to change of ownership, change of location or changes in serving area of the establishment;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (8) Nonuse of the license;
- (9) The filing of a license application containing information or statements known by the applicant to be false;
- (10) The failure to follow the procedures applicable to the use of a caterer's permit issued by the state;

(c) The city council may, for the causes enumerated above, revoke a license, suspend a license for up to 60 days, or impose a civil penalty, not to exceed an amount set in accordance with Section 31-8 of this Code for each violation, or any combination of these sanctions. No portion of the payment of a civil penalty or period of suspension may be stayed or excused. All civil penalties are due and payable within 30 days of council action. The council shall determine the dates any suspension shall be served, but in no event may the suspension period commence earlier than ten days after council action. Absent aggravating or mitigating circumstances, the presumptive penalties for violations shall be as follows:

(1) First offense - a civil penalty set in accordance with Section 31-8 of this Code;

(2) Second offense within one year of the occurrence of the first offense - a civil penalty set in accordance with Section 31-8 of this Code and one day license suspension;

(3) Third offense within two years of the occurrence of the first offense - a civil penalty set in accordance with Section 31-8 of this Code and five day license suspension;

(4) Fourth offense within three years of the occurrence of the first offense - a civil penalty set in accordance with Section 31-8 of this Code and 30 day license suspension;

(5) Fifth offense within four years of the occurrence of the first offense - license revocation;

(d) The city council may request that the alcohol, gambling and tobacco commission conduct a hearing concerning the operation of any establishment licensed pursuant to this Chapter. The commission shall conduct any hearings so requested.

Section 4. That Section 10-3 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the city assessor or as adjusted by the assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by registered mail to his or her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by registered mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or with whom he or she resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state;

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a

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nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this Section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection; public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within

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30 days after it becomes a vacant building. In this Section, a vacant building is at least one of the following:

1. Condemned;
2. Unoccupied and unsecured for 30 days or more;
3. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;
4. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;

(B) The registration shall be submitted on forms provided by the building official and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official;

(D) The owner shall comply with all applicable laws and codes. The owner shall notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official;

(E) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(F) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(G) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(H) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(I) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The

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fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit;

3. Unpaid fees shall be levied and collected as a special assessment against the property as provided for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

(J) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

Section 5. That Section 10A-7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 10A-7. Gambling tax imposed.

(a) Pursuant to Minnesota Statutes, Section 349.212, Subdivision 5, the city of Duluth hereby imposes a tax, set in accordance with Section 31-8 of this Code, of the gross receipts, less prizes actually paid out, of all lawful gambling revenues from the sale of pull-tabs in the city of Duluth. The tax shall be collected, utilized and reported in the manner provided in Minnesota Statutes, Section 349.212, Subdivision 5. To implement this tax, the city council may, by resolution, promulgate and establish any rules, regulations or forms it deems necessary. The tax due hereunder shall be paid monthly to the administrator of sales tax. The tax imposed by this Section shall take effect on January 1, 1989;

(b) Any person who violates any of the rules and regulations promulgated pursuant to this Section shall be guilty of a misdemeanor;

(c) If any tax imposed by this Section is not paid within the time specified for payment, there shall be added thereto a specific penalty equal to that set in accordance with Section 31-8 of this Code, of the amount remaining unpaid;

(d) The amount of the tax not timely paid, together with any penalty provided by this Section, shall bear interest at the rate set in accordance with Section 31-8 of this Code per annum from the time the tax should have been paid until the tax is paid. Any interest and penalty shall be added to the tax and collected as a part thereof.

Section 6. That Section 11-5 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 11-5. Same--Revocation or suspension, administrative penalties.

(a) Every license issued under this Chapter may be suspended up to 60 days or revoked by the alcohol, gambling and tobacco commission for any cause set forth in paragraph (b) of this Section after a public hearing held for such purpose, notice of which shall be mailed to the licensee at his or her place of business ten days before the holding of such hearing. Any decision to suspend or revoke a license shall be made in writing. Any licensee aggrieved by a decision of the alcohol, gambling and tobacco commission may appeal such decision to district court as provided in Minnesota Statutes, Section 461.12, Subd. 7;

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(b) The following shall be good cause to revoke or suspend a tobacco license:

(1) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the sale or possession of tobacco or tobacco related devices;

(2) That the applicant, its managers or employees were convicted of a crime that directly relates to the sale of tobacco or tobacco related devices and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

(3) That the applicant made material misstatements of fact or omissions of fact on its present or past applications;

(4) A refusal by the applicant or its managers or employees to cooperate with the police in any investigation of unlawful tobacco sales;

(c) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this Chapter, the licensee shall be charged an administrative penalty set in accordance with Section 31-8 of this Code. An administrative penalty set in accordance with Section 31-8 of this Code must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty set in accordance with Section 31-8 of this Code must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No penalty or suspension under this paragraph shall be imposed until the licensee has been served personally by mail with notice of the alleged violation and been given an opportunity for a hearing as provided in paragraph (a) of this Section;

(d) If it appears that a licensee or the licensee's employees acting under the scope of the license have sold tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions during any 24 month period, the alcohol, gambling and tobacco commission must set a disciplinary hearing for the licensee. If, at the hearing, it is shown that the licensee or licensee's employees did sell tobacco to persons under 18 years of age or otherwise violated this Chapter on four separate occasions in a 24 month period, the alcohol, gambling and tobacco commission must revoke the license. In addition, the licensee shall be ineligible to apply for a cigarette license in the next succeeding license year;

(e) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty set in accordance with Section 31-8 of this Code. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing as provided in paragraph (a) of this Section.

Section 7. That Section 12-14 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 12-14. Late payment charge.

There shall be added to any penalty not paid within the times prescribed for payment thereof in sections 12-9 or 12-13(a) above an amount equal to an amount set in accordance with Section 31-8 of this Code as a late payment charge.

Section 8. That Section 12-16 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 12-16. Assessment.

In addition to the remedies provided for above, in the event that any violator

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fails to pay any amount owed to the city under this Chapter with regard to any property violation, the city shall have the right to assess the amount owed against the property with regard to which the property violation arose in the manner set forth in this Section, which property shall be deemed to have been benefitted thereby;

(a) On or before June 1 of each year, the administrator shall transmit to the city assessor a list of properties upon which property violations have occurred and with regard to which property violations there is outstanding any moneys pursuant to this Chapter in the immediately preceding 15 months, together with the amount due with respect to each such property. For each such property, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs;

(b) Upon the receipt of such list, the city assessor shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him or her, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in paragraph (a) above;

(c) On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent. After any appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution;

(d) After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with a penalty added, which penalty amount shall be set in accordance with Section 31-8 of this Code, after which the assessment shall follow the provisions of Article IX of the City Charter.

Section 9. That Section 24-17.1 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 24-17.1. Items to be segregated from and not included with solid waste for collection.

(a) No person shall place any yard waste, motor oil, motor vehicle batteries, tires, hospital waste, pathological waste, infectious waste, medical sharps, hazardous substances, household hazardous wastes or unacceptable waste with solid waste that is placed in containers for collection by a licensed collector. These items shall be disposed of by the owner or occupant of the property in accordance with this Chapter or WLSSD regulations;

(b) No person shall place any recyclable materials with solid waste that is placed in containers for collection by a licensed collector. Recyclable materials shall be placed in separate containers for monthly collection by licensed collectors or brought to recycling facilities for processing. Nothing in this Section or Chapter shall be construed to require owners or managers of buildings or areas frequented by the

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general public to sort recyclable materials from solid waste placed by the general public in containers placed in such buildings or areas by the owners or managers for the convenience of the general public (this Subsection takes effect on 1-1-92);

(c) Presence of any of the above-mentioned prohibited articles in solid waste containers serving any property shall constitute prima facie evidence that the prohibited articles in the containers were placed there by the occupant of the property;

(d) When any licensed collector finds any of the above-mentioned prohibited articles in solid waste containers to be collected, the licensed collector may, at the licensed collector's option, refuse to empty the container into his or her vehicle. The licensed collector shall leave a written notice affixed to the solid waste container informing the occupant what prohibited articles are in the container. The notice shall be made in duplicate and the collector shall retain a copy. If, after notice is given to the customer, the same type of improper articles are found in solid waste containers at that address on future collections, the licensed collector may impose a penalty, set in accordance with Section 31-8 of this Code, on any container that he or she empties into his or her vehicle which contains the type of prohibited article mentioned in the former notice. Penalties shall be included in regular billings for solid waste collection. The licensed collector shall submit a list of penalties charged to the solid waste compliance officer on or before June 1 each year.

Section 10. That Section 24-26 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 24-26. Same--Certification of delinquent assessments.

After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with a penalty added, which penalty amount is set in accordance with Section 31-8 of this Code, after which the assessment shall follow the provisions of Section 70 of the City Charter.

Annually, the city treasurer shall remit to the licensed collectors, or their designated agents, all sums together with the interest thereon collected with regard to delinquent accounts submitted to the city treasurer pursuant to Section 24-22 of this Chapter. Any penalty collected by the city treasurer on such accounts shall be retained by the city. All accounts, including interest and penalty thereon, collected by the city treasurer for services rendered and paid for by the city under Section 24-36 of this Chapter, shall be retained by the city.

Section 11. That Section 29B-7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 29B-7. Assessment for any violation of this Chapter.

(a) On or before June 1 of each year, the department head of the police department or designee, may transmit to the city assessor a list of the properties, which have outstanding fees for violation(s) under this Chapter, including the amount due. Such list shall be accompanied by a verified statement that the amounts indicated are in fact due and owing, and that the police department has made a reasonable attempt to collect such amounts. For each account transmitted, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs;

(b) Upon the receipt of such list, the city assessor shall make an assess-

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ment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed. The assessment roll shall include the collection fee set forth in Section 29B-7(a);

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

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

(e) After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with a penalty added, which penalty amount is set in accordance with Section 31-8 of this Code, after which the assessment shall follow the provisions of Section 70 of the City Charter.

Annually, the city treasurer shall remit to the police department all sums together with the interest thereon collected with regard to delinquent accounts submitted to the city treasurer. Any penalty collected by the city treasurer on such accounts shall be retained by the city treasurer;

(f) The provisions of sections 64, 65, 66 and 67 of the City Charter with reference to appeals to the district court shall apply to the provisions of this Chapter in reference to the confirmation of assessments.

Section 12. That Section 33-46 of the Duluth City Code, 1959, as amended, is amended to read as follows:

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Sec. 33-46. Penalties.

(a) Violations of the provisions of Articles VII and VIII of this Chapter shall be punished as set forth in this Section;

(b) Violations of the following Sections or subsections shall be punishable by a fine of not less than that set in accordance with Section 31-8 of this Code:

(1) Section 33-84, time limit parking;

(c) Violations of the following Sections or subsections shall be punishable by a fine of not less than that set in accordance with Section 31-8 of this Code:

(1) Section 33-82(a)(4), parking too close to a fire hydrant;

(2) Section 33-111(g), aggravated parking meter violation;

(3) Section 33-95, government area parking violations except meters;

(4) Section 33-97(a), no parking zone violations;

(5) Section 33-97.8, alternate side parking violations;

(6) Section 33-87(a), truck zone violations;

(7) Section 33-87(b), loading zone violations;

(8) Section 33-82(a)(1), parking on a sidewalk;

(9) Section 33-82(a)(2), parking in front of a driveway;

(10) Section 33-82(a)(3), parking within an intersection;

(11) Section 33-82(a)(5), parking on a crosswalk;

(12) Section 33-82(a)(6), parking within 20 feet of an intersection crosswalk;

(13) Section 33-82(a)(7), parking within 30 feet of a stop sign or traffic control device;

(14) Section 33-82(a)(8), parking within seven feet of an alley or driveway;

(15) Section 33-82(a)(9), parking within 50 feet of a railroad crossing;

(16) Section 33-82(a)(10), illegal parking near a fire station;

(17) Section 33-82(a)(11), illegal parking near street obstruction;

(18) Section 33-82(a)(12), double parking;

(19) Section 33-82(a)(13), parking on a bridge or in a tunnel;

(20) Section 33-82(a)(14), no stopping zones;

(21) Section 33-82(a)(15), parking on boulevards;

(22) Section 33-83, illegal alley parking;

(23) Section 33-85, 24 hour parking limit;

(24) Section 33-93, facing wrong way;

(25) Section 33-93, parking parallel to curb;

(26) Section 33-90, parked with for sale sign;

(27) Section 33-92, failure to set parking brake or turn wheels to the curb;

(28) Section 33-94, angle parking violation;

(29) Sections 33-124 through 33-130, dealing with residential permit parking;

(30) Any other parking offense in violation of any section contained in Article VII of Chapter 33;

(31) Section 33-109, overtime parking at a parking meter;

(32) Section 33-106(a), improper parking at a single meter;

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- (33) Section 33-106(b), improper parking at a tandem meter;
- (d) Violations of the following Sections or subsections shall be punishable by a fine of not less than that set in accordance with Section 31-8 of this Code:
 - (1) Section 33-88, parking in a taxi stand;
 - (2) Section 33-82(a)(16), parking in a fire lane;
 - (3) Sections 33-97.1 through 33-97.7, snow emergency violations;
 - (4) Section 33-91, leaving keys in the ignition;
 - (5) Section 33-87(d), unattached semi trailer parked on street;
- (e) Violations of the following sections or subsections shall be punishable by a fine of not less than that set in accordance with Section 31-8 of this Code:
 - (1) Section 33-88, parking in a bus stop;
- (f) Violations of the following sections or subsections shall be punishable by a fine of not less than that set in accordance with Section 31-8 of this Code:
 - (1) Section 33-89, improper roadway clearance.

Section 13. That Section 33-237 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 33-237. Owner's responsibility.

A person registered as owner of a snowmobile may be fined an amount not to exceed that set in accordance with Section 31-8 of this Code if a snowmobile bearing his or her registration number is operated contrary to the provisions of this Code. The registered owner may not be so fined if:

- (a) The snowmobile was reported as stolen to the Duluth police department at the time of the alleged unlawful act; or if
- (b) The registered owner demonstrates that the snowmobile either was stolen or was not in use at the time of the alleged unlawful act; or if
- (c) The registered owner furnishes to law enforcement officers, upon request, the identity of the person in actual physical control of the snowmobile at the time of such violation.

The provisions of this Section do not apply to any person who rents or leases a snowmobile if such person keeps a record of the name and address of the person or persons renting or leasing such snowmobile, the registration number thereof, the departure date and time, and the expected time of return thereof. Such record shall be preserved for at least six months, and shall be prima facie evidence that the person named therein was the operator thereof at the time it was operated contrary to the provisions of this Code. The provisions of this Section do not prohibit or limit the prosecution of a snowmobile operator for violating any of the provisions of this Code.

Section 14. That Section 34-17 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 34-17. Predatory offenders residency--prohibited conduct.

- (a) Findings and intent:
 - (1) Repeat predatory offenders present an extreme threat to the public safety. Predatory offenders are likely to use physical violence and to repeat their offenses, and most predatory offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of predatory offender victimization to society at large, while incalculable, unmistakably steep;
 - (2) It is the intent of this Section to serve the city's compelling

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interest to promote, protect and improve the health, safety, and welfare of Duluth citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence;

(b) Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning;

(1) Designated predatory offender. Any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of reoffense;

(2) Permanent residence. A place where a person abides, lodges, or resides for 14 or more consecutive days;

(3) Temporary residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence;

(4) School. A public or nonpublic elementary or secondary school;

(5) Licensed child care center. A group child care center currently licensed by the St. Louis County, Minnesota, public health and human services department;

(6) Public playground. A city-owned, improved outdoor area designed, equipped, and set aside for children's play and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation and related structures;

(c) Predatory offenders prohibition; penalties; exceptions.

(1) Prohibited location of residence. It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed child care center or public playground;

(2) Measurement of distance. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of the school, licensed child care center, or public playground;

(3) Penalties. A person who violates this Section shall be punished by a fine of an amount not exceeding that set in accordance with Section 31-8 of this Code or confinement for a term not exceeding 90 days, or be both such fine and confinement. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation;

(4) Exceptions. A designated predatory offender residing within a prohibited area as described in Section 34-17(c)(1)-(2) does not commit a violation of this Section if any of the following apply:

(A) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute, prior to June 10, 2010;

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(B) The person was a minor when he/she committed the offense and was not convicted as an adult;

(C) The person is a minor;

(D) The school, licensed child care center or public playground within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes sections 243.166 and 243.167, or a successor statute;

(E) The residence is also the primary residence of the person's parents, grandparents, siblings or spouse;

(F) The residence is a property purchased, leased, or contracted with and licensed by the Minnesota department of corrections prior to June 10, 2010.

Section 15. That Section 34-23 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 34-23. Vehicle noise limits for electronically amplified sound.

(a) No motor vehicle, as defined in Section 33-1 of this Code, shall emit any electronically amplified sounds that are plainly audible at a distance of 50 feet from the vehicle, provided that this Section shall not apply to:

(1) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section 169.01;

(2) Vehicles in parades or other civic celebrations duly authorized by the city;

(3) Motor vehicle horns when actually used as a warning of danger;

(4) Anti-theft devices installed on motor vehicles;

(b) Violations of this Section are punishable by fines of not to exceed those set in accordance with Section 31-8 of this Code for the first and second offenses and a fine as provided in Section 1-7 of this Code for all subsequent offenses.

Section 16. That Section 35-30 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 35-30. Regulations relating to trees, shrubs and plants on private property.

(a) The tree inspector shall have the authority, and it shall be his or her duty to order the trimming, treatment or removal of trees, shrubs or plants upon private property when he or she shall find such action necessary to public safety or to prevent the spread of disease or insects to trees, shrubs or plants located on public property;

(b) Any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement, shall be so trimmed by the owner of the real property upon which the same is located that there is a clear height of 14 feet over that portion of such easement that is used for vehicular traffic, and a clear height of ten feet over that portion of such easement used for pedestrian travel, unobstructed by branches, and such persons shall remove the dead or diseased branches or stubs of such trees which are or may become a hazard to the public use of such easement;

(c) All orders to trim, remove or treat trees, shrubs or plants given pursuant to this Section shall be in writing and shall be served personally or by mail upon the owner of the property where such trees, shrubs or plants are located.

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Such orders shall give the owner of the property not less than ten days from the date of delivery or mailing of such notice to comply with such order. It shall be unlawful for an owner of property receiving such an order to fail to comply with such order within the specified time;

(d) If the required action is not taken by the property owner within the specified time, the tree inspector may cause the trees, shrubs or plants concerned to be trimmed, removed or treated, with the costs being borne by the property owner. If not voluntarily paid to the city by such owner, the costs of such trimming, removal or treatment may be recovered by the city by special assessment upon the property of said owner. On or before July 1 of each year, the tree inspector shall send to the city assessor a list of all unpaid charges under this Section and the assessor shall prepare and transmit to the city council an assessment roll spreading such charges against the appropriate properties. The council, after a public hearing upon at least ten days' notice by certified mail to all affected property owners, and after making whatever corrections in such assessment roll that are deemed appropriate, may confirm such assessment roll by resolution. Immediately thereafter, notice of the confirmed assessment and its amounts shall be sent by the city clerk by certified mail to the owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date will render the assessment delinquent. On or before the tenth of October of each year, the city assessor shall file with the county auditor a certified statement of all assessments delinquent under this Article, describing the land affected and giving the amount of the assessment, with a penalty added, which penalty shall be set in accordance with Section 31-8 of this Code, after which the assessment shall follow the provisions of Section 70 of the City Charter. The provisions of sections 64 through 67 of the City Charter shall apply to assessments made under this Article.

Section 17. That Section 36-7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 36-7. Daily reports to chief of police.

Every pawnbroker shall make available to the chief of police every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by Section 36-6 and Minnesota Statutes Chapter 325J or its successor, for all transactions occurring on the previous day. If the chief of police requires computerized record keeping for pawnbroker records, the chief shall also set and enforce specifications for each licensee's transmittal of those records to local and statewide authorities or data systems.

(a) Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification or similar automated record system as may be specified by the city, licensees must submit every reportable transaction to the police department daily in the following manner:

(1) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not

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meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily;

(b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department;

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;

(2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in Section 36-6(a) of this Code, and must be charged a reporting failure penalty, daily, until the error is corrected, which penalty shall be set in accordance with Section 31-8 of this Code;

(3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in Section 36-6(a) of this Code, and resubmit all such transactions via modem when the error is corrected;

(4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed;

(5) Section 36-7(b)(1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Section 18. That Section 36-20 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 36-20. Daily reports to chief of police.

Every precious metal dealer shall make available to the chief of police every day, before the hour of 12:00 noon, a complete, legible and correct copy of the records required by Section 36-19 and Minnesota Statutes Chapter 325F or its successor, for all transactions occurring on the previous day. If the chief of police requires computerized recordkeeping for these records, the chief shall also set and enforce specifications for each licensee's transmittal of those records to local and statewide authorities or data systems.

(a) Effective no later than 60 days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification or similar automated record system as may be specified by the city, licensees must submit every reportable transaction, except transactions involving coins exclusively, to the police department daily in the following manner:

(1) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected

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and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the police department daily;

(b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department;

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;

(2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in Section 36-19(a) of this Code, and must be charged a reporting failure penalty, daily, until the error is corrected, which penalty shall be set in accordance with Section 31-8 of this Code;

(3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in Section 36-19(a) of this Code, and resubmit all such transactions via modem when the error is corrected;

(4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed;

(5) Section 36-20(b)(1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Section 19. That Section 42A-48 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 42A-48. Penalties.

(a) If any tax imposed by this Chapter or by Section 54(d) of the Duluth City Charter or any portion of such tax is not paid within the time specified for the payment, or an extension thereof, or within 30 days after final determination of an appeal to the board of review relating thereto, there shall be added thereto a specific penalty, which amount shall be set in accordance with Section 31-8 of this Code, of the amount remaining unpaid;

(b) In case of any failure to make and file a return within the time prescribed by this Chapter or by rules and regulations promulgated pursuant to Section 54(d) of the Duluth City Charter or an extension of such prescribed time, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax, in lieu of the specific penalty provided in subsection (a) of this Section, an amount which shall be set in accordance with Section 31-8 of this Code if the failure is for not more than 30 days with an additional penalty which shall be set in accordance with Section 31-8 of this Code for each additional 30 days or fraction thereof during which such failure continues, not exceeding an amount which shall be set in accordance with Section 31-8 of this Code in the aggregate. If the penalty as computed does not exceed an amount which shall be set in accordance with Section 31-8 of this Code, a minimum penalty shall be assessed, which shall be set in accordance with Section 31-8 of this Code. The amount so added to any tax shall

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be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax;

(c) If any person wilfully fails to file any return or make any payment required by this Chapter or by Section 54(d) of the Duluth City Charter or rules and regulations promulgated pursuant thereto, or wilfully files a false or fraudulent return, or wilfully attempts in any manner to evade or defeat any such tax or payment thereof, there shall also be imposed on him or her as a penalty an amount equal to an amount which shall be set in accordance with Section 31-8 of this Code of any tax (less any amounts paid by him or her on the basis of such false or fraudulent return) found due from him or her for the period to which such return related. The penalty imposed by this subsection shall be collected as part of the tax, and shall be in addition to any other penalties, civil and criminal, provided by this Section;

(d) In addition to the penalties hereinbefore prescribed, any person who wilfully fails to make a return or wilfully makes a false return or wilfully fails to pay over taxes collected for or on behalf of the city, with intent to evade any tax imposed by this Chapter, shall be guilty of a misdemeanor, punishable by a fine of up to that amount which shall be set in accordance with Section 31-8 of this Code or imprisonment for 90 days or both. The term "person," as used in this subsection includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs;

(e) All payments received shall be credited first to penalties next to interest, and then to the tax due;

(f) The administrator shall have power to abate penalties or interest when in his or her opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the city attorney if the abatement exceeds an amount which shall be set in accordance with Section 31-8 of this Code;

(g) The amount of tax not timely paid, together with any penalty provided by this Section, shall bear interest at the rate of 18 percent per annum from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as a part thereof.

Section 20. That Section 43-33.4 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-33.4. Repairs required at time of sale.

(a) This Section 43-33.4 applies to transfers of ownership of or of possessory rights in property which property is required to be served by the city's public sanitary sewer, as set out in Section 43-16, or its successor;

(b) Unless there is then in effect a valid POS certificate pertaining to such property, upon the signing and acceptance of a legally binding offer to purchase or at least 30 days before a transfer of title to, or the entering into of a contract for deed for, or contract for sale of, real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession, whichever occurs first, the seller or transferor shall notify the director of the date of the proposed sale or transfer closing and arrange for a building sewer inspection to determine whether the property requires a sump pump, building sewer trap removal, and footing drain disconnect in order to be in compliance with this Chapter. The seller or transferor

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shall pay an inspection fee to city in advance of the inspection to defray the city's costs of such inspection in an amount established from time to time by resolution of the city council. No person shall sell, transfer or enter in a contract for deed for or contract for sale of real estate, which sale, transfer or contract gives a party other than the seller or transferor a right of possession in any property, nor shall any person purchase, accept transfer of or enter into any contract for deed or contract for sale of real property as a transferee which sale, transfer or contract results in such person acquiring a right of possession in any property unless the director has been so notified and the property so inspected, except as provided for in subsection (e) below. The seller or transferor may choose to utilize an inspector other than the city inspector to perform said inspection, providing the inspector is bonded and meets the qualifications as a licensed plumbing contractor in the city of Duluth, holds a Class S-C wastewater license and passes a city administered training course. The private inspector must make certification that the building either needs a sump pump or that there is a sump pump in place and properly functioning or that no sump pump is required. No fee except a nominal filing fee to the city will be required under these circumstances;

(c) If a building sewer contains a house trap and the footing drains are active, the trap shall be removed. If the property requires footing drain disconnections and sump pump installation, it shall be done. The required repairs shall be completed within 90 days of the date of the inspection referred to in subparagraph (b) above. If they are satisfactorily completed, the director shall issue a POS certificate with regard to footing drain contribution only but such POS certificate shall not evidence total compliance with all of the requirements of Section 43-31(a) above. If the required repairs are not satisfactorily completed within said 90 day period, the owner or customer shall be charged a monthly surcharge each month until the repairs are satisfactorily completed, which surcharge shall be set in accordance with Section 31-6(a) of this Code;

(d) If, upon the inspection provided for in subparagraph (b) above, the director determines that the property qualifies, the director shall issue or cause to be issued a POS certificate which shall be valid for the proposed sale or transfer related to that inspection and for any other such sale or transfer occurring within one year of said proposed sale or transfer unless the director determines in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question. Provided, however, if the director has issued a POS certificate because the building served by sanitary sewer on the subject property does not have a basement or cellar, said certificate shall continue to be valid unless and until revoked by the director upon the director's determination in the exercise of his or her discretion that there is sufficient reason to believe that said POS certificate does not accurately represent the existing condition of the property in question;

(e) In the event that the director receives notice of a proposed sale or transfer and request for city inspection which complies with the requirements of subsection (b) above, but the department fails to complete the inspection required by this Section prior to the date of the proposed closing contained in the notice or the date of the actual closing, whichever is later, the director shall provide a temporary waiver of the inspection requirement contained in subsection (b) above which shall be effective until the department shall offer to perform the required

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inspection on the property during ordinary business hours; the department shall attempt to make reasonable accommodation to the schedule of the acquiring party. Such waiver shall be subject to the acquiring party agreeing in writing to allow representatives of the department to enter upon the property for the purposes of making the inspection and shall be effective only until date the department proposes to make such inspection. Upon the inspection being made under this subsection, the property inspected and the acquiring party shall be subject to the requirements of this Article as if the inspection had been made prior to closing;

(f) In the event that neither the seller or transferor nor the acquiring party shall have paid for the inspection provided for in paragraph (b) above within 30 days of the date of closing on the sale or transfer of the subject property, the city shall have the right to assess the amount owed against the property in the manner set forth in this Section, which property shall be deemed to have been benefitted thereby;

(g) On or before June 1 of each year, the director shall transmit to the city assessor a list of properties upon which inspections have been performed and with regard to which the payment therefore has not been made in the immediately preceding 15 months, together with the amount due with respect to each such property. For each such property, a collection fee in the amount set by city council resolution shall be added to reimburse the city its administrative costs;

(h) Upon the receipt of such list, the city assessor shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him or her, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in paragraph (g) above;

(i) On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent. After any appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution;

(j) After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with penalty added, which shall be set in accordance with Section 31-8 of this Code, which the assessment shall follow the provisions of Article IX of the City Charter.

Section 21. That Section 43-50.7 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-50.7. Penalties and assessments for FOG program noncompliance.

In the event that the owner of an FSF or the owner of any structure in which an FSF is located is found to have failed to comply with the provisions of this division, the following penalties or assessments or both may be applied:

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(a) For introduction of FOG into any wastewater facility resulting in obstruction to said facility or in an SSO:

(1) The city may disconnect water and sewer service to the FSF and to the structure in which the FSF is located;

(2) City may impose a fine of not more than that amount set in accordance with Section 31-8 of this Code per month until such owner demonstrates that the subject FSF or structure is in compliance with the requirements of this Division;

(b) For failure to maintain records as required by the BMP program for any FSF, or failing or refusing to timely comply with any request for records required to be provided to the director, a fine of up to that amount set in accordance with Section 31-8 of this Code per day until such records are provided;

(c) For failure to pass the FOG inspection due to lack of or ineffective FOG equipment the director may:

(1) Require the subject FSF to install additional FOG equipment as necessary to resolve the problem;

(2) Change the sewer rate class of the FSF to reflect the presence of the excessive FOG contribution by the FSF.

Section 22. That Section 43-66 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 43-66. Rates and charges.

(a) The stormwater utility shall charge utility fees as provided in this Article to recover from property benefitting from the system the capital costs, debt service, operation and maintenance costs of stormwater facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth;

(b) Utility fees shall be based upon the amount of impervious area on the benefitting property and shall be computed as provided in this Article. Each parcel of property within the city shall be categorized as residential, nonresidential, or undisturbed property. The utility fees for each type of property shall be as follows:

(1) The utility fee for residential property shall be the ERU rate multiplied by the number of dwelling units existing on the property;

(2) The utility fee for nonresidential property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area for a nonresidential property by one ERU. The minimum utility fee for any nonresidential property shall be equal to one ERU rate;

(3) Undisturbed parcels of land shall be exempt from the utility fee;

(c) The Duluth public utilities commission shall, by resolution, adopt a schedule of utility fees sufficient to produce revenue equal to the budget of the stormwater utility. The resolution shall state the utility fee rate per ERU;

(d) The director shall gather impervious area data on residential property within the city and calculate an ERU value. The utility fees shall be based on this ERU value. In determining the ERU value, the director shall not be required to measure and consider all residential property in the city, but shall consider a reasonable sample representing areas throughout the city. The director shall further investigate nonresidential properties within the city to determine the impervious area on each property. The determination of impervious area made by the director shall be conclusive unless modified by the adjustment procedure set forth in this Article.

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The director shall endeavor to investigate and reestablish an ERU value for the city every five years after the effective date of this ordinance;

(e) Public rights-of-way and airport runways and taxiways shall be exempt from utility fees;

(f) The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The director shall cause monthly bills to be sent for each lot or parcel and shall develop a billing and collection system for said fees. Bills may be combined with other city utility bills. The Duluth public utilities commission may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(g) Delinquent utility fees shall be collected as provided in Minnesota Statutes 444.075, Subd. 3, in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent stormwater utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a penalty added, set in accordance with Section 31-8 of this Code, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of Chapter 70 of the City Charter.

Section 23. That Section 45-82 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 45-82. Certification and approval of assessment roll; publication of assessments; manner of paying assessments.

(a) Approval of assessment roll. After local improvement as provided in this Chapter shall have been completed and accepted by the city, the city engineer shall compute and certify to the city council the cost thereof, including any incidental expenses of publication, mailing, etc., and the city assessor shall certify to the city council an assessment roll. At the next regular meeting thereafter, the city council shall consider and adopt said assessment roll, or return said assessment roll to the city assessor with instructions as to any corrections or modifications required. In the event that said assessment is so returned, the city assessor shall make said corrections and return said assessment roll as corrected to the council prior to its

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next regular meeting, at which time it shall be considered and approved with or without further amendment and correction by the council;

(b) Hearing; time for payment. Within ten days after such approval, the council shall have published in the official paper of the city and shall have mailed to each person whose name appears on said assessment roll a notice briefly describing the improvement for which the assessment is made, and stating that the assessment is payable at the treasurer's office at any time within 90 days subsequent to the publication of said notice in the case of assessments which are not eligible for payment in installments, and within 40 days subsequent to the publication of said notice in the case of assessments which are eligible for payment in installments, and that unless the same is so paid within said period, or in the case of assessments eligible for payment in installments, an application is made to the city treasurer for an extension of time of payment as herein provided within such 40 day period after the publication of notice, a penalty, set in accordance with Section 31-8 of this Code, will be added to such assessment. Assessments shall be eligible for payment in installments when so determined by the council, except that an assessment against an owner of property which is less than that amount which shall be set in accordance with Section 31-8 of this Code for any single description of land as shown on the records of the city assessor shall not be so eligible;

(c) Installment payment. Within the 40 days after the publication of the notice of assessment, upon application in writing to the city treasurer by any owner of real estate against which an assessment which is eligible for payment in installments is made, the treasurer shall extend the time for paying such assessment in installments extended in the manner determined by the council not to exceed the estimated useful life of the improvement and, in any event, not exceeding 15 in number, payable yearly from 40 days after the date of the approval by the council of said assessment. Each of said installments of extended assessments shall be payable annually from the date the entire assessment would be payable, without penalty, and shall bear interest at a rate which shall be from time to time by resolution of the city council. Such installments of extended assessments, together with the accrued interest thereon, from the first Monday in January following, shall be considered to be delinquent under Section 45-82.1 below when they shall severally become due and payable, but not before. Any such installments may be paid prior to its maturity with interest to the date of payment only. Installment payment of assessments as authorized herein shall be computed in such a way that the minimum installment payment for any single parcel of land as shown on the records of the city assessor shall be that amount which shall be set in accordance with Section 31-8 of this Code, except for the final payment;

(d) Default. In the event of default in timely payment of an installment assessment levied upon a tract or parcel of land, the council may, at its option, declare all subsequent installment assessments at once due and payable;

(e) Modification by the board. Within 18 months after an assessment is confirmed by the city council, the special assessment board is authorized to withdraw such assessment and either extend the time during which the property owner may elect to pay such assessment in installments in those cases where the board is satisfied that good cause exists for such extension, or correct a mathematical error made in the computation of such assessment; provided, however, that whenever such correction results in an increase of the assessment,

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the affected party shall be given notice by mail of such increased assessment, and such party may, within 14 days after such notice is given, request the special assessment board to submit such increased assessment to the city council for its approval. Upon receipt of such request, the special assessment board shall submit such increased assessment to the city council and the council may approve or disapprove such assessment or make such adjustment to such assessment as it deems appropriate. If the city council approves all or any part of the modified assessment roll, the affected party may appeal such assessment within 30 days of the date of the city council's action on the matter, such appeal to be governed by the provisions of Section 67 of the Charter. Action by the special assessment board pursuant to this paragraph shall be approved by at least three members thereof and a copy of the minutes of the board relating to such action shall be attached to the assessment roll affected by such action.

Section 24. That Section 45-82.1 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 45-82.1. Delinquencies in payments of assessments--penalties; assessments to be lien upon real estate.

Each assessment not paid on or before 40 days after the publication of the notice directing payment shall be deemed delinquent except as hereinafter provided for, and a penalty, which shall be set in accordance with Section 31-8 of this Code, shall thereupon be added, unless an extension of the assessment shall have been made by the council, as provided for in the next preceding Section. All installments of extended assessments shall be deemed delinquent if not paid at the time fixed for payment in the extension, and when delinquent a ten percent penalty shall in each case be added except as hereinafter provided for; provided, however, that no penalty or interest shall accrue or be charged against any property which is assessed during such time as it is owned by the state of Minnesota pursuant to forfeiture for nonpayment of real estate taxes until said property is redeemed pursuant to Minnesota Statutes, Chapter 281, or any successor statute. Every assessment shall be a lien upon the property against which the assessment is made, from the time such assessment is confirmed by the council.

Section 25. That Section 45-108 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 45-108. Utility fees and charges.

(a) The utility shall charge utility fees established from time to time by the council by resolution to recover from property benefitting from the system the debt service, operation and maintenance costs of street lighting system facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth. The council may establish differing rates for residential property and non-residential property based on its determination of the reasonable benefits accruing to each such classification of property;

(b) The fees charged under this Article shall be charged along with and in the same manner as stormwater utility fees pursuant to Article XI of Chapter 43 of this Code. The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(c) In the event that any utility fees under this Article are not paid when

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due, the payment thereof may be enforced in the same manner as any other unpaid utility fee owed to the city including those owed with regard to water, gas or sewer service, which enforcement may include but shall not be limited to the right to discontinue any or all such water, gas or sewer service being provided to the benefitted property;

(d) In addition, delinquent utility fees shall be collected in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent street lighting system utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a penalty added, which shall be set in accordance with Section 31-8 of this Code, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of the City Charter.

Section 26. That Section 48-15 of the Duluth City Code, 1959, as amended, is amended to read as follows:

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

(a) Payment for the supply of water, gas and sewage shall be made monthly, on or before time for payment stated on the bill, but in no case shall such time be less than 20 days after the date of mailing of the bill. The department shall charge interest on delinquent bills for service charges and budget plan payments at the rate of the amount set in accordance with Section 31-8 of this Code per month. Interest on such delinquent bills shall be charged from the date of the mailing of the delinquent bill, but interest of less than \$1 accruing during a billing period shall be waived. The department shall waive interest on the delinquent bills of applicants who have been determined pursuant to the provisions of this Chapter to be unable to pay such bills immediately, and on budget plan payments between April 1 and August 31 of any year when the amount then actually owed the department for service for any billing period is less than said budget payment; but interest on unpaid delinquent bills for actual service shall be applicable during said time period;

(b) Except in unusual cases or when approval is obtained from the applicant, readings of all meters used for determining charges to applicants shall be made at least every other month unless otherwise authorized by resolution of the

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city council; provided, however, that in the case of premises not served by gas, the department shall not be required to read water meters more frequently than once every four months. The term, month, for meter reading and billing purposes is the period between successive meter reading dates which shall be as nearly as practicable to a 30 day interval.

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

(c) When access to a meter cannot be gained an estimated bill may be rendered; provided that in cases of emergency, the department may render estimated bills without reading meters. Estimated bills shall be based on the applicant's normal consumption for a corresponding period during the preceding year or any other reasonable and accurate method;

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

Section 27. That Section 48-210 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-210. Charges.

The charges for shutting off and turning on the supply of water or gas, where it has been shut off for nonpayment of charges, to facilitate maintenance or repair of any service or for violation of the rules, shall be not less than that amount set in accordance with Section 31-8 of this Code and shall include compensation to the department for all expenses incurred in such shutting off and turning on the supply.

Section 28. That Section 50-37.1 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-37.1. Common procedures and requirements.

A. Pre-application meetings.

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the historic preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;
7. Special use or interim use permit;

B. Authority to file applications.

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section

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50-37.1.B or in sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of sections 50-37.2 through 16, the provisions of sections 50-37.2 through 16 shall govern;

2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so;

3. Applications for designation of a historic resource are governed by Section 50-37.8;

4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site;

C. Application materials and fees.

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council;

2. The city may reject applications not meeting the requirements of this Chapter, the UDC application manual, or as required or authorized by MSA 15.99;

3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city;

4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the Code, to defray estimated staff costs and expenses of processing applications;

5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section D below, for the same proposed development;

6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied;

D. Determination of completeness.

A determination of completeness shall be made for each application pursuant to MSA 15.99;

E. Inactive complete applications.

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99;

F. Withdrawal of applications.

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded;

G. Successive applications.

If an application pursuant to this Chapter has been denied by the city, an

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application requesting the same or essentially the same approval shall not be accepted during the next 12 months;

H. Public notice.

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

(a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least ten days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;

(b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this Section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this Section has been made;

(c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1/2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;

2. Content of notice.

Each required notice shall include the following information:

(a) The name of the applicant;

(b) The address of the property;

(c) A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;

(d) The type of permit or approval being sought;

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(e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);

(f) Contact information for the assigned city staff member;

(g) The date, time and place of the public hearing;

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal;

I. Public hearings.

1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law;

2. Attendance shall be open to the public;

3. All hearing and decision timeframes shall comply with MSA 15.99;

J. Review criteria.

1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:

(a) The application is consistent with the adopted comprehensive land use plan, as that plan may have been amended after adoption;

(b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;

(c) The application complies with all additional approval criteria listed in Section 50-37.2 below;

2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or approve it with conditions to bring the application into conformance with the above criteria;

3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance;

4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter;

K. Conditions on approval.

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property;

2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or

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minimize adverse effects upon surrounding areas or upon public facilities and services;

3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;

4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts;

5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter;

L. Administrative adjustments.

Where an application concerns development or redevelopment of an existing platted lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways:

1. The front, side or rear setbacks of a new structure or modified building are no more than one foot smaller than the minimum setbacks required by this Chapter;

2. The height of a new or modified structure is no more than two feet taller than the maximum required by this Chapter;

3. For properties where Section 50-24 requires more than three off street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains one less parking space than is required;

4. Accessibility structures can encroach into the yard setbacks;

5. For properties where subsection 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50 feet in length may be granted if the land use supervisor determines that further extension of the street is not anticipated due to topography, comprehensive land use plan or utility availability;

M. Modifications of approvals.

1. Application.

An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable;

2. Minor modifications.

Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone

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district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony;

3. Major modifications.

Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification;

N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50 percent of the land covered by the preliminary plat is submitted within five years of the preliminary plat approval;

2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within 90 days after approval;

3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;

4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;

5. Erosion and sediment control permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70 percent successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;

6. Approved building permits shall lapse one year after issuance unless construction has begun by that date;

7. The MS-4 statement of compliance and accompanying drainage report will be valid for two years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within two years, and extension of one year may be granted if a written request is submitted and approved

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by the city engineer. The written request should document the reasons for the extension and the current state of completion of the project;

O. Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General provisions for appeal to planning commission.

(a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal;

(b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;

(c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed;

(d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal;

(e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I;

(f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant;

(g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence;

2. Exceptions.

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(a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I, *No safety obstructions*, 50-27.1.L, *Attachment to buildings*, 50-27.1.M, *Wind pressure design*, 50-27.1.N, *Electrical wiring*, or 50-27.1, *Certification of structural engineer*, must be taken to the state building official as provided in the State Building Code;

(b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Section 10 of the City Code or to the state building official;

(c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board;

(d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this Section, but may authorize variations to those standards, in accordance with the procedures in Article V of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor;

3. Powers of planning commission on appeal.

(a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application;

(b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official;

(c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district;

(d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below;

4. Appeals of planning commission decisions to council.

(a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council;

(b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal;

(c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and

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provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal;

(d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal;

(e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located;

(f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied;

5. Appeal of planning commission decisions to the courts.

(a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission;

(b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission;

(c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01;

6. Appeals of historic preservation commission decisions to council.

Where applicable, subsection 50-37.1.O.4 shall apply of historic commissions decisions, when appealable to city council;

P. Security for improvements.

1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense;

2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110 percent of the estimated cost for the city to complete the improvements;

3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security may be made

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after construction or dedication of some but not all of the required improvements, but financial security equal to 110 percent of the estimated cost of for the city to complete the improvements shall be retained;

4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least that amount set in accordance with Section 31-8 of this Code of the estimated cost for the city to complete the improvements.

Section 29. That Section 50-39.2 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-39.2. Enforcement.

A. Responsibility.

The building official is responsible for enforcing this Chapter. No permit or approval for the construction, alteration or demolition of any building, or for the use of land, shall be issued if the building as proposed to be constructed, altered or demolished would be a violation of this Chapter;

B. Authorization for inspections.

For the purposes of enforcing this Chapter, the building official is authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m., any property subject to the regulations of this Chapter. Prior to making an inspection based on a possible violation, the building official shall inform the owner of the property to be inspected, or their agent, of the date and time of the inspection in writing at least four days prior to the inspection. Advance notice need not be given in the case of routine inspections. After written notice has been given, the owner or occupant of the property to be inspected, or the person in charge of that property, shall give the building official free access to the property between 8:00 a.m. and 5:00 p.m., for the purpose of inspection. The inspection shall not have for its purpose the harassment of the owner or occupant and shall be made so as to cause the least amount of inconvenience to the owner or occupant of the property consistent with the efficient performance of the duties of the building official. Nothing in this Section 50-39.2.B shall be construed to prohibit the entry of the building official:

1. At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists;

2. At any time when an inspection is requested by the owner or occupant;

C. Enforcement tools.

The city may use any of the following tools and powers to enforce this Chapter, in any order, and the use of one tool or power shall not restrict the city from using an additional tool or power to remedy the same violation.

1. Order requiring compliance.

(a) The city may issue a written order identifying the violation(s) of this Chapter and requiring that the property owner or occupant bring the property into compliance with this Chapter, at the owner or occupant's expense,

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within a specified time. The notice shall state what actions are necessary to bring the property into compliance;

(b) The time allowed for correction shall be not less than 30 days, except that (i) if the order identifies a threat to public health or safety then a compliance shorter than 30 days may be required, and (ii) if the order involves a violation of the provisions of the Airport Overlay district or the sign regulations in Section 50-27, the time for compliance shall be ten days. In determining a reasonable time for performance the building official shall consider the nature and extent of the work involved, the season of the year, the existence of any immediate danger to public health and safety, and any other pertinent factors. The building official may extend the time for compliance in writing for good cause shown;

(c) The property may continue to be used for occupancy or habitation pending compliance with the order unless the notice identifies an imminent threat to public health or safety and requires that occupancy or habitation be limited or end by a certain date;

(d) When an order to correct a violation of this Chapter has been issued, the building official is authorized to enter and re-inspect the property subject to the order for the purpose of determining compliance with the order. The owner or occupant of the property, or the person in charge of the property, shall give free access to the property for the purpose of the inspection;

(e) Every occupant of property shall give the owner of the property, or his agent or employee, access to any part of the property at all reasonable times for the purpose of making repairs or alterations required to comply with the order;

(f) The city shall not charge a fee for inspections made in response to complaints or to confirm compliance with an order;

2. Enforcement of wireless telecommunications facility violations.

(a) If the city determines that the wireless telecommunication facility is a public nuisance, the building official shall notify the holder of the special use permit in writing and order the correction of the violation or removal of the facility;

(b) If the order requires removal of the wireless telecommunication facility the holder of the special use permit, or its successors or assigns, shall dismantle and remove such facility and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within the deadline provided for in the order to remove. If the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so if the land use supervisor determines that the retention of those access roads would promote the purposes of this Chapter;

(c) Notwithstanding anything in this subsection to the contrary, the building official may approve a temporary extension of the order, for no more 90 days, during which time a suitable plan for the repair, sale, removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the special use permit and the city. If such a plan is not developed, approved and executed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

within the 90 day time period, then the city may exercise all available legal rights;

(d) The holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with an order of the building official or any provision of Section 50-20.4.D;

(e) If compliance or substantial progress towards compliance with the order has not been made by the compliance deadline, the city may exercise any legal remedies available to secure compliance with the order at the sole expense of the owner or special use permit holder;

3. Withholding permits or approvals.

The city may refuse to process applications for permits and approvals under this Chapter if the application concerns a property where (a) the building official has determined to be in violation of the Chapter, (b) the city has issued an order requiring that the violation be corrected, and (c) the owner occupant has not remedied the violation within the time stated in that order, unless the application is for the purposes of remedying the existing violation;

4. Prevention of violation.

If the city becomes aware that a building, structure, sign or site feature is about to be constructed in violation of this Chapter, the city may take appropriate action to prevent the violation. The city's action may include but is not limited to withdrawal of any permits or approval related to the construction or activity that would constitute a violation;

5. Abatement.

(a) The city may take action to abate or remove the violation, and to charge the costs of the abatement or removal to the property owner if the property owner or occupant of a property fails to comply with an order to correct a violation of this Chapter within the time specified in the order, as that time may be extended by the building official in writing for good cause shown, and the building official determines that the continuance of the violation creates a threat to public health or safety;

(b) Following the abatement or removal, the city shall issue an order that the owner of the land on which the violation occurred pay to the city the documented costs of the abatement or removal with 30 days;

(c) If the owner of the land does not pay the documented costs of abatement or removal to the city within 30 days, those costs may be assessed against the land on which the violation occurred, and the city shall provide the owner of the land written notice of the assessment. Unless the assessment is paid within 90 days from the service of notice on the property owner, the sum shall bear interest at the rate, set in accordance with Section 31-8 of this Code, per annum from the date the cost was incurred until paid, and shall be collected in the same manner as are general taxes;

(d) The city shall end the process of assessing abatement and removal costs against the land, or shall cancel the assessment if it has been finalized, upon receipt of payment in full of all costs documented in the order and all accrued interest on those costs;

6. Administrative citations.

The city may issue an administrative citation pursuant to Chapter 12 of the City Code and may take all actions authorized;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

7. Court actions.

The city may enforce this Chapter by filing an action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, a request for a restraining order or a temporary or permanent injunction, or a request for money damages based on the penalties for violation established in this Chapter or elsewhere in the City Code. The decision as to whether to seek enforcement in the courts, and what type of enforcement to seek, shall be at the discretion of the city;

8. Nuisance abatement.

If the building official determines that the violation constitutes a public nuisance under state law, the city may use all powers granted by state law to abate public nuisances;

9. Other enforcement powers.

The city may enforce this Chapter through any other powers granted to the city by state law;

D. Notices and orders.

1. Any notice and order under Section 50-39.2.C.1 shall be served upon the owner or the owner's agent and the occupant as the case may require. In the case of a notice involving the sign regulations in Section 50-27, the notice shall also be served on the owner of the sign or the person or entity that erected or caused the erection of the sign;

2. The notice shall be deemed to be properly served upon those individuals or entities identified in subsection 1 if a copy of the notice is:

- (a) Served personally; or
- (b) Sent by United States mail, postage prepaid, to the last known address of the owner, occupant or agent shows in the city records; or
- (c) Posted in a conspicuous place in or about the property affected by the notice; or
- (d) Served by any other method authorized or required by state law;

3. Any notice served pursuant to subsection 1 shall automatically become an order if a written petition for a hearing is not filed with the building official within 15 days after the notice is served. An order is final unless an appeal is filed pursuant to Section 50-37.1.O;

4. If the building official finds that an emergency exists that requires immediate action to protect the public health and safety, the building official may, without notice or hearing, issue an order declaring that emergency and requiring those actions that the building official deems necessary to meet the emergency notwithstanding the other provisions of this Chapter, and that order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but may file with the building official a request for a hearing following compliance with the order.

Section 30. That Section 50-39.3 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-39.3. Penalties.

A. The owner of any property where the violation of this Chapter occurs, and any person violating this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of the City Code;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

B. In the case of violation of a stormwater permit, if the contractor or owner fails to install or correct deficiencies related to erosion or sediment control BMPs ordered by the city engineer, the city engineer may withhold payment from related work or levy a fine until adequate BMPs are installed by the contractor or owner. When the contractor or owner fails to conduct quality control or adequately inspect BMPs to ensure function, or fails to take action ordered by the city engineer to remedy erosion or sediment control problems, the city engineer will issue a written order to the contractor and owner. The contractor or owner shall respond within 24 hours with sufficient personnel, equipment, and materials and conduct the required remedial work or be subject to a per calendar day deduction or fine for noncompliance, which shall be set in accordance with Section 31-8 of this Code;

C. Penalties shall be waived if the violation is corrected within the time stated in any enforcement notice or order.

Section 31. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: June 29, 2012)

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

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

Nays: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 29, 2012
Approved May 29, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 11, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Krause, Krug, Larson, Stauber and President Hartman -- 8

Absent: Councilor Julsrud -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0611-12 Larry and Jan Kraemer communication regarding the proposed rezoning of 1102 Maple Grove Road (12-033-O). -- Received

12-0611-01 The following communications regarding the proposed ordinance concerning rental licensing (12-032-O): (a) Sherri Fedora; (b) John Peterson; (c) Sandra Schauer; (d) Alida and Joe Viele. -- Received

12-0611-11 The following communications regarding the proposed ordinance to establish a citizen review board (12-030-O): (a) William J. Andersen; (b) Jan Karon. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0611-02 Building appeal board minutes of April 11, 2012, meeting. -- Received

12-0611-03 Duluth airport authority minutes of April 17, 2012, meeting. -- Received

12-0611-04 Duluth human rights commission minutes of April 11, 2012, meeting. -- Received

12-0611-05 Special board of review minutes of May 16, 2012, meeting. -- Received

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At this time, 7:02 p.m., the public hearing on AAR Aircraft Services, Inc., Minnesota investment fund application began.

No one appeared who wished to be heard and the public hearing was closed at 7:03 p.m. and the regular order of business resumed.

-- --

REPORTS OF COUNCIL OPEN ISSUES

Councilor Gardner commented that while this is not specifically an open issue, she felt that it was important to recognize the passing of former City Councilor Meg Bye.

At her request, President Hartman stated that there would be a moment of silence in respect for Ms. Bye.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Joseph Balach commented at length on the failures of governmental agencies to address a toxic waste issue and a prior city council resolution supporting the creation of the Lake Superior Watershed Protection Laws regarding the deposit of any toxic waste into the Lake Superior watershed. He reviewed his discussions with Mayor Ness and that nothing has been done on this issue.

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Loren Martel commented on a resolution from a prior meeting regarding the land use of the Central High School property. He reviewed at length on: the school district's debt for this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

property; the value that they think they will get from the sale; that there was a purchaser who had dollars on the table, but was turned down by the school district and that he is circulating a petition for a state audit on the school district.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2012, and subject to departmental approvals:

Just Take Action, Inc. (Tycoon's Alehouse & Eatery), 132 East Superior Street, to include the front outside seating area.

Resolution 12-0254 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period beginning September 1, 2012, ending August 31, 2013 and issues an on sale 3.2 percent malt liquor license for the period ending April 30, 2013, subject to departmental approvals and further subject to approval of the Liquor Control Commissioner:

The Noodle Shop Company (Noodles & Company), 1600 Miller Trunk Highway, main floor including outdoor patio area.

Resolution 12-0255 was unanimously adopted.

Approved June 11, 2012

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:

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 16, 2012, from 8:00 a.m. to 3:00 p.m.

Hospitality of Duluth, LLC (Aces on First), 113 West First Street for July 13, 2012, (rain date July 14) from 6:00 p.m. to midnight.

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 13, 2012, from 6:00 p.m. to midnight.

Clyde Industrial Park, Inc. (Clyde Iron Works Restaurant & Bar), 2920 West Michigan Street, for June 28, 2012, from 5:00 p.m. to 10:15 p.m.

Resolution 12-0282 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city of Duluth (city) act as the legal sponsor for the project

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

contained in the business and community development application to be submitted on June 12, 2012, and that the mayor of the city is hereby authorized to apply to the Minnesota department of employment and economic development for funding of this project on behalf of the city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED, that the city has not incurred any costs and has not entered into any written agreements to purchase property.

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

FURTHER RESOLVED, that upon approval of its application by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the compliance section (S-7) of the business and community development application.

FURTHER RESOLVED, that the city has obtained credit reports and credit information from AAR Aircraft Services, Inc (AAR). The city and its city attorney will review the reports and information to ensure that no adverse findings or concerns regarding, but not limited to, tax liens, judgments, court actions and filings with state, federal and other regulatory agencies are identified.

Failure to disclose any such adverse information could result in revocation or other legal action.

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

Resolution 12-0286 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

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The city council of the city of Duluth hereby finds the following:

(a) The Duluth City Council adopted Resolution No. 03-0731 which authorized the Arrowhead Regional Development Commission to act as job opportunity building zone (JOBZ) zone sponsor and administrator to make program commitments on behalf of the city of Duluth;

(b) The Minnesota department of employment and economic development (DEED) approved the Northeast Minnesota regional JOBZ application for 4,031 acres including 351.12 acres within the city of Duluth;

(c) The Duluth City Council adopted Resolution No. 04-0236 designating those 351.12 acres within the city of Duluth into 11 subzones, including 62 acres in the Atlas Subzone #101 and 40 acres in the Canadian National Railroad Subzone #100, of which 14.4 acres was removed from Subzone #100 to create the Duluth Technology Park Subzone #100.1;

(d) The AAR maintenance, repair and overhaul facility project has been identified which requires creation of a new JOBZ subzone;

(e) The JOBZ program created in Minnesota Session Laws 2003, First Special Session, Chapter 21, Article 1, allows for the formation of tax free zones and for subzone boundaries to be amended with the approval of all taxing authorities.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth approves a modification to the Atlas Subzone #101 by removing a total of 1.5 acres (Parcel #010-2746-01260) and to the Canadian National Railroad Subzone #100 by removing a total of 25.6 acres from said subzone having the following parcel identification numbers: 010-2746-01330 and -01440.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT FURTHER RESOLVED, that the city of Duluth does hereby approve the creation of a new subzone of 27.1 acres called the Maintenance Facility Subzone #100.2 (parcel identification numbers: 010-2747-00050, -00080, and -00020) and approves the use of tax exemptions and tax credits within said subzone subject to proper review and approval by the Minnesota department of employment and economic development (DEED) and other appropriate taxing authorities with the zones and agrees to provide all of the local tax exemptions and credits required and provided for under the JOBZ legislation and agrees to forgo the tax benefits resulting from the same.

Resolution 12-0287 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officers are hereby authorized to enter into a Minnesota historical and cultural grant agreement amendment with the Minnesota historical society, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0611-06, accepting a grant in the amount of \$11,415, related to a historic resources survey of the East End residential area - Phase IVa, payable into Fund 210 (special projects), Agency 030 (finance), Organization 3150 (miscellaneous), Object 4210-02 (pass through federal grants).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a Minnesota historical and cultural subgrant agreement with Summit Envirosolutions, Inc., substantially in the form of that on file in the office the city clerk as Public Document No. 12-0611-06, to implement the historic resources survey of the East End residential area – Phase IVa, in the amount of \$16,415. The sum of \$11,415 payable from Fund 210 (special projects), Agency 030 (finance), Organization 3150 (miscellaneous), Object 5441 (other services and charges) and \$5,000 payable from Fund 265 (community development), Agency 020 (planning), Object 5441 (other services and charges).

Resolution 12-0288 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. One to Grant Agreement No. A-PSGP-2009-DULUTHCI-00010 from the Minnesota department of public safety, homeland security and emergency management division, a copy of which grant agreement amendment is on file in the office of the city clerk as Public Document No. 12-0611-07, extending the term of said grant through November 30, 2012.

Resolution 12-0275 was unanimously adopted.

Approved June 11, 2012

DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council awarded a contract to Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, for a port security system with wireless communication (Phase I), following the approval of Resolution 10-0496 on September 27, 2010; and

WHEREAS, the city desires to expand the citywide video surveillance system (Phase II) in accordance with the vendor's proposal dated January 18, 2012, and funding from a port security grant, and included with Change Order One.

RESOLVED, that the proper city officials are hereby authorized to execute Change Order One to Contract 21242 with Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0611-08, for an increase of \$313,109, payable as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(a) \$234,831.75, Special Projects Fund 210, Department/Agency 030 (finance), Organization 3177 (2008 port security grant program), Object 5580 (capital equipment);

(b) \$78,277.25, Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2010 (fiscal year), Object 5580 (capital equipment), Project No. CE250-E1002. Resolution 12-0285 was unanimously adopted.

Approved June 11, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Kovatch Mobile Equipment Corporation for the tax-exempt purchase and delivery of a fire truck with aerial apparatus in accordance with city-approved specifications and the vendor's bid of \$907,944, payable as follows:

(a) \$370,000, from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1101;

(b) \$480,000, from Special Projects Fund 210, Department/Agency 030 (finance), Division 3169 (FEMA assistance to firefighters), Object 5580 (capital equipment);

(c) \$57,944, from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE2501-V1201. Resolution 12-0290 was unanimously adopted.

Approved June 11, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the National Recreation and Park Association on behalf of Coca-Cola Company in the amount of \$7,000 and to execute a memorandum of understanding, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0611-09, for the purpose of refurbishing the basketball courts at the city's Central Hillside Park, funds to be deposited in Fund 205-130-1220-4270 (parks fund, community resources, capital, other grants).

Resolution 12-0284 was unanimously adopted.
Approved June 11, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0295, of intent to support tax increment financing assistance to Lincoln Park School Limited Partnership for the Lincoln Park School project, was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

George Sherman, purchaser of the Lincoln Park School building, reviewed in detail the plans and financing for this building, including neighborhood input meetings and community space.

Councilor Larson stated that she would be abstaining on any discussion or voting on this resolution because her husband and partner are involved in a competing project.

Councilors who supported the resolution also expressed concerns on: the need for parking; that the One Roof project could be affected by this and that a resolution of intent has never come to the council first.

Councilor Gardner expressed her concerns that: this has not followed the normal process;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

this has not gone through either the Duluth economic development authority (DEDA) or the housing and redevelopment authority (HRA); this conceivably hurt another project and this should be tabled.

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

Yeas: Councilors Boyle, Gardner and President Hartman -- 3

Nays: Councilors Fosle, Krause, Krug and Stauber -- 4

Abstention: Councilor Larson -- 1

Absent: Councilor Julsrud -- 1

Councilors discussed the concerns previously mentioned.

President Hartman moved to table the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Boyle, Gardner and President Hartman -- 3

Nays: Councilors Fosle, Krause, Krug and Stauber -- 4

Abstention: Councilor Larson -- 1

Absent: Councilor Julsrud -- 1

Resolution 12-0295 was adopted as follows:

RESOLVED, that the city council hereby expresses its intent to provide tax increment financing support to Lincoln Park School Limited Partnership, an affiliate of Sherman Associates, for the Lincoln Park School project subject to the approval by the council of a tax increment financing district and plan for said project and to the negotiation and approval of an acceptable development agreement therefore.

Resolution 12-0295 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Krause, Krug, Stauber and President Hartman -- 6

Nays: Councilor Gardner -- 1

Abstention: Councilor Larson -- 1

Absent: Councilor Julsrud -- 1

Approved June 11, 2012

DON NESS, Mayor

- - -

Resolution 12-0291, authorizing agreement with Ever-Green Energy Duluth LLC to operate and manage Duluth Steam District No. 1, was introduced by Councilor Larson for discussion.

Councilor Fosle moved to suspend the rules to hear from speakers on the resolution, which motion was seconded and unanimously carried.

Tom Karas and Bill Mittlefelt, Northeast energy coordinator for the state of Minnesota, commented that: this issue is much larger than many think it is; the leadership of this company is far and above everyone else; this company has a great educational component in addition to the service they provide and this energy enterprise is the wave of the future.

Councilor Fosle expressed concern over how much money this will cost taxpayers to convert the existing system to hot water pipes.

Chief Administrative Officer David Montgomery commented on the process that Ever-Green will use to study the issue of changing over to hot water heat to determine what will be best in this case.

Resolution 12-0291 was adopted as follows:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0611-10 with Ever-Green Energy Duluth, LLC, for the operation of Duluth Steam District

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

No. One through December 31, 2017, for a management fee of \$20,000 per month through December 31, 2013, \$20,600 per month between January 1, 2014, and December 31, 2016, and \$21,218 thereafter plus a one-time fee for development of a five-year strategic plan for the long-term development and operation of Duluth Steam District No. One for a cost not to exceed \$130,000, all payable from Fund No. 540-920-1495-5307 (steam, steam department, steam general and administrative).

Resolution 12-0291 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Absent: Councilor Julsrud -- 1

Approved June 11, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNCILORS GARDNER AND LARSON

12-030 - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

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

Councilor Krause moved to amend Subsection 2-70(b) of the ordinance to read as follows:

"(b) In selecting persons for appointment, the mayor and city council shall endeavor to achieve a membership that is representative of the racial, cultural and geographic diversity of the city. The following criteria should be considered, but do not represent the exclusive criteria for appointment..."

which motion was seconded and discussed.

Councilor Boyle also moved to amend subsections 2-70(b) and 2-70(c) of the ordinance to read as follows:

"(b) In selecting persons for appointment, the mayor and city council shall endeavor to achieve a membership that is representative of the racial, cultural and geographic diversity of the city. To the extent possible, the mayor and council shall seek to appoint at least three people of color two women, and one person with law enforcement background to the board. The following criteria should be considered, but do not represent the exclusive criteria for appointment..."

"(c) The members of the board shall be residents of, or employed within, the city. Current employees of the city are ineligible to serve on the board,"

which motion was seconded and discussed.

Councilor Gardner moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Scott Yeazle, chair of the Duluth human rights commission, Scott Bol, Bob Powless, Ellen O'Neill, executive director of the YWCA; Bob Grytdahl, city of Duluth human rights officer, Ricky DeFoe, co-chair of the American Indian commission, Doug Bown-Bailey, Xavier Bell, Robert Boone, Blair Powless and Michael Mancini supported the ordinance for the reasons of: the human rights commission reviewed this ordinance and recommended its approval; the citizens review

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

board would be an opportunity for citizens to come forth and comment; this board should represent under-represented groups; the police union was not willing to sit down and talk through issues and now hopefully it will be possible; this issue originally started with the American Indian commission; Police Chief Gordon Ramsay supports the ordinance; the intent of the ordinance is to strengthen trust and accountability between the police and the community; for the ordinance to be effective, the ordinance should be adopted without the proposed amendments because it represents a strong community perspective; this board is an opportunity to build trusting relations; racial injustice or bias is still in our society today and it needs to be addressed; the citizen review boards in Minneapolis and St. Paul, with police officers represented have been mentioned, but those boards are "pre-disciplinarian" situations, where here it is to be used for "post disciplinarian" situations; besides representing constituency groups, this ordinance develops a relationship with the police department; many police officers are completely honest in doing their job, which is incredibly complicated when people lie to them, but this ordinance is needed because some officers choose to "do as they please"; if individuals know that there are citizens to hear issues, they would come forth; the amendments weaken the ordinance and officers treated witnesses to the David Crowley beating by the police department as criminals.

Councilor Krause reviewed the rationale for his amendment to keep the appointments to the board's composition neutral.

Councilor Boyle moved to table both amendments and the ordinance so that Councilor Julsrud could vote on this issue, which motion was seconded and carried upon the following vote:

Yeas: Councilors Boyle, Gardner, Krause, Krug and President Hartman -- 5

Nays: Councilors Fosle, Larson and Stauber -- 3

Absent: Councilor Julsrud -- 1

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The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-037 - AN ORDINANCE AMENDING SECTION 50-25.1 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO LANDSCAPING AND TREE PRESERVATION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR BOYLE

12-032 - AN ORDINANCE AMENDING CHAPTER 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

Councilor Boyle moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Barbara Montee, Gary Kalligher, Gene Hansmeyer and Peggy Marvin commented on the ordinance, noting: the more people who come to the table and discuss this, the better the result will be; that supply and demand will affect this in the future and that should be considered; that flexibility for these larger houses is appreciated; with rental reform some bedrooms have been lost in rental properties; with the 3,000 square foot threshold, there are some houses that could support five to six bedrooms; with the 300 foot rule, there are individuals who have a very difficult time in selling their houses and there needs to be a mechanism to help them out; the real core issue is neighborhood respectability which landlords also want; there are a lot of properties that are presently licensed, but not well taken care of or managed and some landlords have been

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

carving up space to add additional bedrooms and increase the parking problems.

Councilor Fosle moved to amend the ordinance by adding the following sentence to Section 29A-32(h)(3):

"Further, the four bedroom limitation shall apply only to that area of the city depicted on the map on file in the office of the city clerk as Public Document No. 12-0514-18 and referenced by city council Resolution 12-0252," which motion was seconded and discussed.

Councilors Larson, Krug and Mr. Montgomery expressed concerns of: citywide equity between landlords; that this sends mixed messages and that this is a rental issue, not a neighborhood issue.

The amendment failed upon the following vote:

Yeas: Councilors Fosle and Stauber -- 2

Nays: Councilors Boyle, Gardner, Krause, Krug, Larson and President Hartman -- 6

Absent: Councilor Julsrud -- 1

Councilor Gardner moved to amend her replacement amendment to Subsection 29A-32(h)(3) of the ordinance by changing the second date reference from "January 1, 2012," to "June 9, 2012," which motion was seconded and carried unanimously.

Councilor Gardner's amended amendment carried unanimously.

With this amendment to the ordinance, this was considered a first reading.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-033 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE-NEIGHBORHOOD (MU-N) THE PROPERTY LOCATED AT 1102 MAPLE GROVE ROAD (ZMC HOTELS).

Councilor Stauber moved to remove the ordinance from the agenda and refer it back to the administration, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-034 (10156) - AN ORDINANCE AUTHORIZING THE SALE OF THE SOUTHERLY TEN FEET OF LOTS 31-34, NEW YORK PIER, ONEOTA, TO ZENITH INVESTMENT AND MANAGEMENT CORPORATION FOR \$2,000.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-035 (10157) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE WEST DULUTH AREA TO ROBERT M. AND LEANNE E. LIND FOR \$7,500.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-036 (10158) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-RURAL 1 (RR-1) THE PROPERTY LOCATED AT 415 WEST NINTH STREET (KBJR, INC., AND STATE OF WISCONSIN EDUCATIONAL COMMUNICATIONS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BOARD).

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

- - -

The meeting was adjourned at 9:17 p.m.

JEFFERY J. COX, City Clerk

- - -

ORDINANCE NO. 10156

AN ORDINANCE AUTHORIZING THE SALE OF THE SOUTHERLY TEN FEET OF LOTS 31-34, NEW YORK PIER, ONEOTA, TO ZENITH INVESTMENT AND MANAGEMENT CORPORATION FOR \$2,000.

The city of Duluth does ordain:

Section 1.

(a) As per Section 2-176(a), of the Duluth City Code, 1959, as amended (the Code), the manager of the city's physical planning division has reviewed this proposed conveyance for conformity with the city's comprehensive land use plan and determined that the conveyance is not in conflict with the plan;

(b) As per Section 2-176(b) of the Code, the city assessor has provided a written estimate of the fair market value of the subject property, which estimate is between \$1,750 - \$3,500;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale pursuant to Article XXXIII of Chapter two of the Code;

(d) The city council finds that the subject property is undeveloped pursuant to Section 2-178 of the Code because it consists of an approximately 10-foot wide strip of land bounded on the north by property owned by Zenith Investment and Management Corporation, on the east and west by other private property owners, and on the south by the main line of the Burlington Northern Santa Fe Railroad.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Zenith Investment and Management Corporation for the amount of \$2,000 to be deposited into Fund No. 110-700-1420-4640 (general, transfers and other functions, capital programs, sale of land), and further to execute all documents necessary with regard to said conveyance:

All those parts of Lots 31 through 34, inclusive, lying southeasterly of a line parallel with and distant 630 feet southeasterly from the southeasterly line of Oneota Street, New York Pier, Oneota, according to the recorded plat thereof.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 13, 2012)

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

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

Nays: None -- 0

Absent: Councilor Julsrud -- 1

Passed June 11, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ATTEST:
JEFFREY J. COX, City Clerk

Approved June 11, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10157

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN
PROPERTY IN THE WEST DULUTH AREA TO ROBERT M. AND
LEANNE E. LIND FOR \$7,500.

The city of Duluth does ordain:

Section 1.

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

(b) As per Section 2-176(b) of the Code, the city assessor has provided an estimate of the market value to be \$7,500 which estimated market value is hereby established as the minimum acceptable bid or reserve;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale pursuant to Article XXXIII of Chapter two of the Code;

(d) As per sections 2-177.1 and 2-177.2 of the Code, the property described in Section 2 below was advertised three times in the Duluth News Tribune during the 30 days prior to being offered at public auction on July 9, 2011, at the minimum bid price or reserve of \$7,500. No bids were received at auction. The purchaser named in Section 2 below subsequently came forward and submitted the minimum acceptable bid or reserve of \$7,500 for the property proposed to be sold.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property, by quit claim deed, to Robert M. Lind and Leanne E. Lind, husband and wife, for the amount of \$7,500 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Lot 3 except northerly 15 feet and all of Lots 4-6, Block 151, WEST DULUTH FIFTH DIVISION.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 13, 2012)

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

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

Nays: None -- 0

Absent: Councilor Julsrud -- 1

Passed June 11, 2012
Approved June 11, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

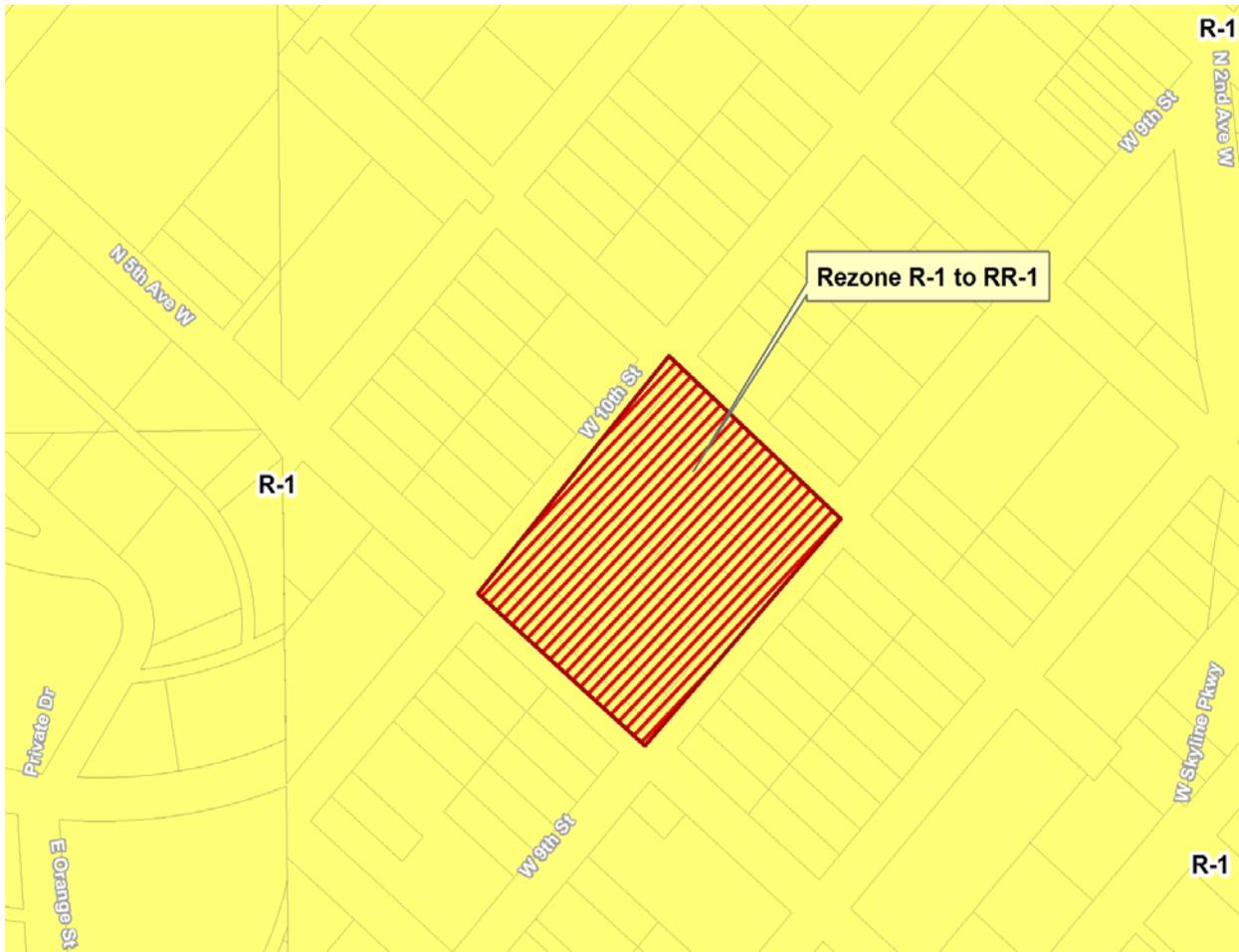
PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10158

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-RURAL 1 (RR-1) THE PROPERTY LOCATED AT 415 WEST NINTH STREET (KBJR, INC., AND STATE OF WISCONSIN EDUCATIONAL COMMUNICATIONS BOARD).

The city of Duluth does ordain:

Section 1. That the subject property located at 415 West Ninth Street (approximately 2.75 acres) and as more particularly described as Lots 65 to 80, Block 135, Duluth Proper Third Division, be reclassified from R-1 to RR-1 and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-077)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 13, 2012)

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: None -- 0

Absent: Councilor Julsrud -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 11, 2012
Approved June 11, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 25, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0625-04 The following communications regarding the proposed ordinance concerning rental licensing (12-032-O): (a) Colleen Allen; (b) Mary Allen; (c) David Benson; (d) Jim Gears; (e) John M. Glendenning, Jr.; (f) Carrie Heffernan; (g) Pam Kramer; (h) Katie Krikorian; (i) Judith McKeever; (j) Mark Otto; (k) Sandy Robinson; (l) Dianne Schmitz; (m) Nancy Sivertson; (n) Greg Tiburzi; (o) Kim Wickman. -- Received

12-0625-22 The following communications regarding the proposed ordinance to establish a citizen review board (12-030-O): (a) Christine Penney; (b) Tom Stolee. -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed in detail the status of the post-flooding phases in various locations.

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0625-01 Duluth economic development authority minutes of May 23, 2012, meeting. -- Received

12-0625-02 Duluth parking commission resolutions: (a) Establishing event parking rates for city-owned parking facilities for 6/16/12 (2012-10); (b) Increasing parking options on East First Street and East Second Street and to prohibit parking on the entirety of Tenth Avenue East between First Street and Second Street (2012-11); (c) Increasing parking options on West Third Street from the western edge of Mesaba Avenue to the eastern edge of Seventh Avenue West (2012-12); (d) Recommending that the city council enact an ordinance creating a parking violation with a \$21 fine for failing to pay upon exiting a city-owned gated parking facility (2012-13). -- Received

12-0625-03 Duluth public utilities commission: (a) Minutes of: (1) May 15; (2) May 23, 2012, meetings; (b) Resolutions regarding water rates effective with meter readings after: (1) July 1, 2012 (12 PUC-007); (2) December 31, 2012 (12PUC-008). -- Received

- - -

At this time, 7:02 p.m., the public hearing regarding the proposed Tax Increment Financing (TIF) District 25 plan; amendments to TIF plans for TIF districts 14, 15, 19, 20, 21, 22 and 24; and amendment to Development District 17, was opened.

No one from the public spoke on this matter and the public hearing was closed at 7:02 p.m.

- - -

At this time, 7:03 p.m., the public hearing regarding AAR Aircraft Services, Inc., business subsidy tax abatement agreements was opened.

Mr. Martinez from AAR Aircraft Services, Inc., stated that they are looking forward to a lengthy and profitable partnership with the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

No one else from the public spoke on this matter and the public hearing was closed at 7:04 p.m.

- - -

At this time, 7:05 p.m., the public hearing regarding AAR Aircraft Services, Inc., Minnesota investment fund and rural rehabilitation account business subsidies loan agreements; and guarantees under the MIF loan was opened.

No one from the public spoke on this matter and the public hearing was closed at 7:05 p.m.

- - -

At this time, 7:06 p.m., the public hearing regarding AAR Aircraft Services, Inc., job opportunity building zone (JOBZ) business subsidy was opened.

No one from the public spoke on this matter and the public hearing was closed at 7:06 p.m.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Wright reviewed the poor street access at the west entrance to Morgan Park and suggested and explained in detail how to take the bricks from the unused railroad trestle bridge to create a higher road entrance to Morgan Park.

- - -

Karen Lewis stated that the city needs to learn from the destruction of this part storm to plan for the next storm.

- - -

Loren Martell questioned what the real status of school district is and who is responsible for the deficit, since the school board faults the state. He stated the district responded that they would be in the same financial situation with or without the red plan and that the loss of students from ISD 709 to private schools is a national trend.

- - -

Preston Gunderson, representing the Bridge Festival, explained they are extending the festival a second day and will have a local band playing at Bayfront Festival Park with all proceeds going to the United Way to help the community for flood relief.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

Councilor Stauber moved to suspend the rules to hear a speaker who wished to speak on Resolution 12-0303, approving a building in Duluth 2012 conditional grant agreement between the Duluth economic development authority and TAJ Properties of Duluth, LLC (A.W. Kuettel and Sons) relating to the construction of a new building in the Duluth airpark, which motion was seconded and unanimously carried.

Linda Ross Sellner urged the council to stop building in the wetlands around the perimeter of Duluth. She noted the affect that wetlands play in the retention and slowing of water infiltration. Ms. Ross Sellner felt that this development would adversely affect the wetlands.

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

RESOLVED, that the 2012 fee schedule be amended by adding the following fees, fines

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

and penalty charges, pursuant to Section 31-8 of the Duluth City Code, 1959, as amended:

Citywide	
Fee, Fine or Penalty Name	2012 Fee
Code and ordinance violation - maximum (§ 1-7)	\$1,000.00
Clerk	
Fee, Fine or Penalty Name	2012 Fee
Alcoholic beverages - violation (§ 8-9)	
First offense	\$500.00
Second offense	\$1,000.00
Third offense	\$2,000.00
Fourth offense	\$2,000.00
Maximum fine	\$2,000.00
* Garbage customer - improper articles found in solid waste containers penalty - per container (billable by and payable to garbage collector) (§ 24-17.1)	\$25.00
Planning	
Fee, Fine or Penalty Name	2012 Fee
Stormwater permit noncompliance deduction or violation - per calendar day (§ 50-39.3)	\$500.00
Temporary certificate of occupancy - penalty percentage for failure to construct city-required improvement within one year (§ 50-37.1.P.4)	110 percent
Police	
Fee, Fine or Penalty Name	2012 Fee
Feeding of pigeons or deer - minimum (§ 6-78)	\$50.00
Parking violation (§ 33-46)	
Section 33-46(b) violation	\$10.00
Section 33-46(c) violation	\$15.00
Section 33-46(d) violation	\$20.00
Section 33-46(e) violation	\$25.00
Section 33-46(f) violation	\$40.00
Pawnbroker - failure to submit transaction report - per day (§ 36-7)	\$50.00
Precious metal dealer - failure to submit transaction report - per day (§ 36-20)	\$50.00
Predatory offender - residency violation - maximum (§ 34-17)	\$1,000.00
Snowmobile regulation violation - maximum (§ 33-237)	\$1,000.00
Vehicle noise limit violation - maximum (§ 34-23)	
First offense	\$50.00
Second offense	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Public Administration		
Fee, Fine or Penalty Name		2012 Fee
Administrative fines		
	Late payment charge (§ 12-14)	25 percent
	Tobacco - selling to minors (§ 11-5)	
	Individual penalty	\$50.00
	Licensee/employee penalty	
	First offense	\$75.00
	Second offense within 24 months	\$200.00
	Third offense within 24 months	\$250.00
Public Works and Utilities		
Fee, Fine or Penalty Name		2012 Fee
FOG program (§ 43-50.7)		
	Failure to maintain records - per day	\$100.00
	Noncompliance - maximum penalty - per month	\$1,000.00
Water and gas		
	Delinquent interest charge - per month (§ 48-15)	1.33 percent
	Shut off or turn on - minimum charge (§ 48-210)	\$1.00
Treasurer		
Fee, Fine or Penalty Name		2012 Fee
Gambling (§ 10A-7)		
	Gross receipt tax	3 percent
	Interest rate on unpaid tax - per annum	18 percent
	Late payment penalty	10 percent
Sales and use tax (§ 42A-48)		
	Interest rate - per annum	18 percent
	Failure to make and file a return	
	Less than 30 days late	10 percent
	More than 30 days late - each 30 days or fraction thereof	5 percent
	Maximum	25 percent
	For penalty not exceeding...	\$10.00
	Minimum penalty charge	\$10.00
	Late fee	10 percent
	Willful failure to file return or make payment	
	Abatement requiring city attorney approval - minimum	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

	Misdemeanor fine - maximum	\$500.00
	Penalty	50 percent
Special assessment		
	Interest rates - per annum	
	Administrative property violation (§ 12-16)	10 percent
	Alarm system violation (§ 29B-7)	10 percent
	Demolition (§ 10-3)	8 percent
	Local improvement	
	Delinquent penalty (§ 45-82.1)	10 percent
	Non-installment payment (§ 45-82)	10 percent
	Point of sale - inspection fee - delinquent penalty (§ 43-33.4)	10 percent
	Property violation abatement or removal (§ 50-39.2.C.5)	8 percent
	Solid waste account (§ 24-26)	10 percent
	Stormwater utility account - delinquent penalty (§ 43-66)	10 percent
	Street lighting system utility - delinquent penalty (§ 45-108)	10 percent
	Tree/shrub/plant trimming, removal or treatment (§ 35-30)	10 percent
	Local improvements	
	Installment payment (§ 45-82(c))	\$100.00
	Non-installment assessment limit - maximum (§ 45-82(b))	\$500.00
* Fee change		

Resolution 12-0220 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Michael Lundstrom to the Duluth airport authority for a term expiring on July 1, 2015, is confirmed.
 Resolution 12-0297 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Nick Patronas to the entertainment and convention center authority for a term expiring on June 30, 2015, is confirmed.
 Resolution 12-0299 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness of Jane Gilbert-Howard and Neale Roth to the Spirit Mountain recreation area authority for terms expiring on June 30, 2015, are

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

confirmed.

Resolution 12-0300 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Paul Thomsen to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2015, replacing Paul Heller, is confirmed.

Resolution 12-0301 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water lab chemist, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0625-05, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 32.

Resolution 12-0316 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the development agreement on file in the office of the city clerk as Public Document No. 12-0625-06, between the Duluth economic development authority (DEDA) and BlueStone Commons, LLC, related to the development of the BlueStone Commons project in the area of the former Woodland Middle School.

Resolution 12-0289 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the conditional grant agreement on file in the office of the city clerk as Public Document No. 12-0625-07, between the Duluth economic development authority (DEDA) and TAJ Properties of Duluth, LLC (A.W. Kuettel & Sons), related to the construction of a new building in the Duluth Airpark in an amount not to exceed \$350,000.

Resolution 12-0303 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the lease agreement on file in the office of the city clerk as Public Document No. 12-0625-08, between the Duluth economic development authority (DEDA) and AAR Aircraft Services, Inc. (AAR).

Resolution 12-0307 was unanimously adopted.
Approved June 25, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the conditional grant agreement on file in the office of the city clerk as Public Document No. 12-0625-09, between

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the Duluth economic development authority (DEDA) and AAR Aircraft Services, Inc. (AAR), related to the substantial rehabilitation of the MRO facility at the Duluth International Airport in an amount not to exceed \$350,000.

Resolution 12-0304 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-10(a), with AAR Aircraft Services, Inc., in an amount not to exceed \$500,000, payable from Economic Development Fund 255-020-5434, contingent upon receipt by the city of a Minnesota investment fund grant from the Minnesota department of employment and economic development (DEED) pursuant to Grant #CDAP-12-0010-H-FY12 (the "MIF grant").

FURTHER RESOLVED, that the city hereby accepts a guaranty provided by the Duluth economic development authority (DEDA), the Duluth airport authority, the county of St. Louis, Upper Minnesota Properties, Inc. (an Allete subsidiary), and the Northland Foundation ("guarantors"), in an amount not to exceed \$50,000 each, pursuant to which the city's repayment obligation to DEED under the MIF grant is being guaranteed in the amount of \$250,000, said guaranty substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-10(b).

Resolution 12-0310 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-11, with AAR Aircraft Services, Inc., in an amount not to exceed \$500,000, payable from Duluth Recovery Loan Fund 235-1330, contingent upon receipt by the city of a Minnesota investment fund grant and a rural rehabilitation grant from the Minnesota department of employment and economic development (DEED) pursuant to Grant #CDAP-12-0010-H-FY12 (the "MIF grant") and Grant #RUDB-12-0001-N-FY-12 (the "RR grant").

Resolution 12-0311 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a JOBZ business subsidy agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-12 with AAR Aircraft Services, Inc., (qualified business) related to property located at the former NWA MRO facility.

Resolution 12-0308 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

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

Section 1. Authorization and recitals.

1.01 The city, pursuant to Minnesota Statutes, Section 469.1812 to 469.1815, as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

amended (“act”), is authorized to grant an abatement of property taxes or personal property taxes in lieu of real property taxes imposed by the city on a parcel of property (“tax abatement”), if certain conditions are met, through the adoption of a resolution, specifying the terms of the abatement.

1.02 AAR Aircraft Services, Inc., (“AAR”) will be leasing approximately 152,300 square feet of a building (the “facility”) owned by the Duluth economic development authority (“DEDA”) located at 4600 Stebner Road, Duluth, St. Louis County, MN for operation of commercial aviation services including maintenance, repair and overhaul (“MRO”) services (the “project”).

1.03 The city has determined a need to grant a property tax abatement to property upon which the project is located (the “property”) in order to assist the project, pursuant to the act.

1.04 On June 25, 2012, the council conducted a public hearing on the tax abatement at which time the views of all interested persons were heard.

Section 2. Findings. On the basis of the information compiled by the city and elicited at the public hearing referred to in Section 1.04, it is hereby found, determined and declared:

2.01 That the benefits to the city from the tax abatement will exceed the costs to the city of the tax abatement since the project will infuse private investment of approximately \$4 million which will result in an annual payroll estimated at \$8 million. Additionally, DEDA will no longer need to expend approximately \$150,000 per year in holding costs for the facility.

2.02 The project is in the public interest because it will provide employment opportunities in the city, expand the tax base of the city, and reestablish an MRO presence in the city.

2.03 The project would not occur solely through private investment within the reasonably foreseeable future and, therefore, granting of a tax abatement is deemed necessary to encourage the project.

2.04 Tax abatement will not occur while the property is located in a tax increment financing district.

2.05 The granting of the proposed tax abatement will not cause the aggregate amount of tax abatements granted by the city under the act in any year to exceed the greater of (i) ten percent of the city’s net tax capacity for the taxes payable in the year to which the abatement applies, or (ii) \$200,000.

2.06 It is in the best interest of the city to grant the tax abatement authorized in this resolution.

Section 3. RESOLVED, that:

3.01 The tax abatement is hereby approved and the tax abatement will be paid in accordance with the terms set forth in Section 3.02 hereof and in the tax abatement agreement between the city and AAR described in Section 3.05 hereof.

3.02 The tax abatement will be for the city’s share of real estate taxes or personal property taxes in lieu of real property taxes generated by the project. The tax abatement will begin after the statutory sunset of the JOBZ program pursuant to Minnesota Statutes Sections 469.310 through 469.3201 which sunset is anticipated to occur in 2015. The tax abatement will continue for a period not to exceed ten years from the date that AAR first receives tax benefits under the JOBZ program. Therefore, unless the JOBZ program is extended and AAR is eligible for extended JOBZ benefits under that program, it is anticipated that the tax abatement shall be for a period of seven years applying to taxes beginning in 2016 and payable in years 2017 through 2023.

3.03 The tax abatement shall be subject to all terms and limitations of the act.

3.04 The proper city officials are hereby authorized to enter into a tax abatement agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-13, with AAR Aircraft Services, Inc., all such tax abatements payable from Debt Service 310.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

3.05 In accordance with Section 469.1813, subdivision 8 of the act, in no case shall the abatement, together with all other abatements approved by the city under the act and paid in any one year, exceed the greater of ten percent of the city's net tax capacity for taxes payable in the year to which the abatement applies or \$200,000, whichever is greater.

3.06 In accordance with Section 469.1815 of the act, the city will add to its levy in each year during the term of the tax abatement the total estimated amount of current year abatements granted.

Resolution 12-0309 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, by the city council of the city of Duluth, as follows:

Section 1. Recitals.

1.01 The council has established the Duluth economic development authority (DEDA) to promote development and redevelopment of property located in the city of Duluth (the "city").

1.02 In order to promote such development, DEDA has established Development District No. 17 (the "development district") in the city and adopted a development program (the "development program") therefor pursuant to Minnesota Statutes, Sections 469.124 through 469.134 (the "act"). DEDA has prepared the development program in accordance with Sections 469.125 and 469.126 of the act.

1.03 DEDA proposed and approved the establishment of Tax Increment Financing District No. 25 (the "TIF district") within the development district, the adoption of a tax increment financing plan (the "TIF plan") therefor pursuant to Minnesota Statutes, Sections 469.174 through 469.1799 (the "TIF act") for the purpose of financing public improvements and encouraging investment in the development district, and the amendment of the tax increment financing plans (the "combined plans") for tax increment financing district Nos. 14, 15, 19, 20, 21, 22 and 24 (the "combined districts"). DEDA has prepared the TIF plan and the amendment to the combined plans in accordance with the TIF act.

1.04 Pursuant to Minnesota Statutes, Section 469.175, Subdivision 4(b)(1), the enlargement of the development district is deemed to be a modification of the tax increment financing plans of all the tax increment districts located within the development district. All of the combined districts are located within the development district. Since the development district is being enlarged, the combined plans are deemed to be amended pursuant to the TIF act. There is no other modification with respect to the combined plans.

1.05 DEDA has transmitted a copy of the TIF plan and the combined plans to the council in a document entitled "Fifth Amendment to Development Program for Development District No. 17 and Tax Increment Financing Plan for Tax Increment Financing District No. 25 (BlueStone Commons) and Amendment to Tax Increment Financing Plans for Tax Increment Financing District Nos. 14, 15, 19, 20, 21, 22 and 24," which is now on file in the office of the city clerk as Public Document No. 12-0625-14.

1.06 DEDA and the council have performed all actions required by law to be performed prior to the approval and adoption of the TIF plan and the combined plans.

1.07 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the city held a public hearing on the TIF plan and amendment to the combined plans which hearing was held this day at which the views of all interested parties were heard.

1.08 Certain written reports (the reports) relating to the TIF plan and to the activities contemplated therein have been prepared and submitted to the council and/or made a part of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

city files and proceedings on the TIF plan including an inspection of the buildings and site by Short Elliott Hendrickson, Inc., (SEH) resulting in a TIF eligibility assessment report dated March 2, 2012, on file in the DEDA office.

1.09 After investigation of the facts, the council is of the opinion that:

(a) It is necessary for the sound and orderly development of the Development district and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the act and the TIF act be exercised by the city to provide public financial assistance to the development district;

(b) Proper development of the development district and implementation of the development program in accordance with the city's long range plans is essential to (i) the economic viability of the development district, (ii) the economic well-being of the city and its residents, (iii) the orderly development of the city, and (iv) the orderly and beneficial development of the development district to ensure the construction of and provide moneys for the payment of the cost of certain public improvements within the development district, including site improvements, in order to provide and finance development of suitable and necessary sites for development;

(c) There is a need for new development within the development district (i) to provide employment opportunities for residents of the city, the surrounding communities and the state of Minnesota (the "state"), (ii) to improve the tax base of the city and the state, (iii) to improve the general economy of the city and the state, and (iv) to provide other facilities identified in the development program and TIF plan;

(d) Creation of the TIF district and amendment to the combined plans is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; and

(e) The TIF district is intended and, in the judgment of city, its effect will be to promote the public purposes and accomplish the objectives specified in the development program, which are all consistent with the efforts already made for the development of the development district.

1.10 The council has fully reviewed the contents of the TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district, in order to provide employment opportunities, to improve the tax base, and to improve the general economy of the state.

2.02 DEDA hereby reaffirms the findings required for the establishment of the combined districts. The combined plans for the combined districts require an amendment to provide for the enlargement of the development district. DEDA is not modifying the boundaries or extending the terms of the combined districts.

2.03 Establishment of the TIF district will provide impetus for residential and commercial development; increase employment; enhance and diversify the city's tax base, and provide off-street parking to serve residents and employees of the development district and the TIF district.

2.04 The actions required to assist the implementation of the development program are a public purpose and the execution and financing of the development program are a public purpose.

2.05 It is the opinion of the council, based on discussions with the developer of the project proposed to be constructed in the TIF District and information contained in the development program and the TIF plan that:

(a) Development and redevelopment within the TIF district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future;

(b) The increased market value of the site to be included in the TIF district that could reasonably be expected to occur without the use of tax increment financing would be less than the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

increase in the market value estimated to result from development in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan; and

(c) The use of tax increment financing is necessary.

2.06 Based on information contained in the development program, the TIF plan and the amendment to the combined plans, the TIF plan and the amendment to the combined plans conforms to the general plan for the development and redevelopment of the city as a whole.

2.07 Based on information contained in the development program, the TIF plan and the amendment to the combined plans, the TIF plan and the amendment on the combined plans will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development and redevelopment of the development district by private enterprise.

2.08 the council further finds, declares and determinates that the city made the above findings stated in this Section and has set forth the reasons and supporting facts for each determination in writing, which findings are on file in the office of the city clerk as Public Document No. 12-0625-15.

Section 3. Approval.

3.01 The TIF district is established and TIF plan is approved.

3.02 The amendment to the combined plans is approved.

3.03 The geographic boundaries of the development district and TIF district are as described in the development program and TIF plan, which documents are incorporated herein by reference and which, together with this resolution, contain the requirements set forth in Section 469.175 of the TIF act.

Section 4. Designation of TIF district.

4.01 The proposed TIF district is a "redevelopment district" as defined in Section 469.174, Subdivision 10 of the TIF act because it consists of a portion of the development district within which the following conditions, reasonably distributed throughout the TIF district, exist:

Parcels consisting of 70 percent of the area of the TIF district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

4.02 The reasons and supporting facts for the determination that the TIF district meets the criteria set forth in Section 4.01 hereof will be retained and made available to the public by DEDA until the TIF district has been terminated.

4.03 At least 90 percent of the revenues derived from tax increments from the TIF district will be used to finance the cost of correcting conditions that allowed designation of the TIF District under Section 469.174 of the TIF act.

Resolution 12-0314 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a sublease agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-16, with the state of Minnesota, department of administration, acting on behalf of the Minnesota department of employment and economic development for the subleasing of space in the Duluth Athletic Club building at 402 West First Street in Duluth, Minnesota, for the joint workforce center, sublease payment to be deposited in Fund 268-031-6251-4622 (workforce development fund, grants division, office support, rent of building).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0315 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a first amendment to an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-17, to the HOME Program to assist low- to moderate-income homeowners to rehabilitate their homes, increasing the amount payable under the agreement to \$290,000, an increase from \$180,000 from Fund 260 (HOME investment partnership program), Agency 020 (planning department), Object 5434 (grants and awards), Project CD11HM, Sub-project CH11, Activity 1226.

Resolution 12-0318 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

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RESOLVED, that the following is the revised list of high priority bridges in the city of Duluth, and that the city intends to replace, rehabilitate or remove these bridges as soon as possible when funds become available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Const. Year
L8516	Fairmont Street	\$500,000	\$375,000		\$125,000	2012
N/A	Blackman Avenue	\$225,000	\$135,000		\$90,000	2012
L5931	Niagara Street	\$150,000	\$90,000		\$60,000	2012
L8491	38th Avenue West	\$135,000	\$81,000		\$54,000	2012
L6007	Skyline Parkway	\$1,150,000		\$800,000	\$350,000	2014
L6116	Lake Avenue	\$5,000,000	\$3,750,000		\$1,250,000	2013
L8486	Greene Street	\$100,000	\$60,000		\$40,000	2014
L6129	Woodland Avenue	\$150,000	\$90,000		\$60,000	2015
L8515	Lewis Street	\$250,000	\$150,000		\$100,000	2016

Resolution 12-0296 was unanimously adopted.
 Approved June 25, 2012
 DON NESS, Mayor

- - -

RESOLVED, that it is necessary to improve a permanent gravel street on Plum Street from Eighth Avenue East to Skywood Lane with ledge rock removal, regrading gravel base and placing a bituminous surface.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

FURTHER RESOLVED, that it is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 12-0305 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. A-HMEP-2011-DULUTHFD-00041 from the Minnesota department of public safety, homeland security and emergency management division, a copy of which agreement is on file in the office of the city clerk as Public Document No. 12-0625-18, in the amount of \$4,760, said funds to be deposited in Fund 210-030-3181-4210-02 (special projects, finance, haz mat emergency preparedness, pass through federal grant) for the purpose of hazardous material response training and committing \$1,190 from Fund 110-150-1505 (general fund, fire, hazardous materials [haz mat]) as the city's local matching cost.

Resolution 12-0302 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, by and through its sheriff's office, to share the cost of providing a public safety grant coordinator, said agreement to be substantially in the form of Public Document No. 12-0625-19 on file in the office of the city clerk, reimbursement funds payable to Fund No. 110-160-1610-4260 (general, police, administration and investigation - St. Louis County).

Resolution 12-0306 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0625-20, with the Duluth Amateur Youth Basketball Association (DAYBA) for the non-exclusive use of the Washington Recreation Center for DAYBA's basketball program with rent payments payable to Fund 210 (special projects), Agency 030 (finance), Object 3190 (special league), Revenue Source 4625-07 (rent of athletic fields Washington Center).

Resolution 12-0320 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0298, confirming the reappointments of Walter Kramer and Leslie Evans and the appointments of John Bostrom, Wayne D. Nelson and Anthony R. Orman, replacing Richard Towey, John Bostrom and Melanie Hendrickson, to the Duluth transit authority, was introduced by Councilor Boyle for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Councilor Krause stated that he could not support this resolution as one reappointment is serving more than the usual policy of two terms and that others should be given an opportunity to serve.

Resolution 12-0298 was adopted as follows:

RESOLVED, that the reappointments by Mayor Ness to the Duluth transit authority of Walter Kramer (at large) and Leslie Evans (Superior, Wisconsin) for terms expiring on June 30, 2015, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of John Brostrom (District 3) for a term expiring on June 30, 2013, replacing Richard Towey, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness to the Duluth transit authority of Wayne D. Nelson (at large) and Anthony R. Orman (District 1) for terms expiring on June 30, 2015, replacing John Brostrom and Melanie Hendrickson, are confirmed.

Resolution 12-0298 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved June 25, 2012

DON NESS, Mayor

- - -

Resolution 12-0293, vetoing Duluth public utilities commission Resolution 12PUC-007 establishing water rates effective after July 1, 2012; and Resolution 12-0294, vetoing Duluth public utilities commission Resolution 12PUC-008 establishing water rates effective after December 31, 2012, by councilors Stauber and Krause, were introduced for discussion.

Councilors Stauber, Fosle and Krause stated: disappointment that a request was not approved to have a committee meeting so councilors would have background information on these two resolutions; that the water rate structure would change significantly on July 1, which, along with the other increases, would be three increases in a year; that there is a need for a capital budget before consideration of these increases; that while the commission only considers utility rates, the council has to consider other budget priorities and other tax and fee increases for other projects that might be just as important as the infrastructure; many repairs face the city; many families are struggling; the commissioners should be accessible to the public; these problems have been there for years and these huge improvement costs should be done by bonding.

Councilors opposing the resolutions noted that: the city's infrastructure needs to be fixed; many mains and sewers have not been replaced for 80-100 years; raising rates is a hard decision for the council; these rates have been structured in an educated way not to hurt those who use very little water; repairing watermain breaks is not an efficient way to address the real problem; the council always has complete control over the commission's decisions; it has been mandated by the state that the rate structure be based on a conservation structure; the plan is a slow, bare bones, thought out improvement approach; fixing the infrastructure was voted on as a priority earlier this year and this issue needs to be addressed now.

Resolution 12-0293 failed upon the following vote (Public Document No. 12-0625-23):

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

- - -

Resolution 12-0294 failed upon the following vote (Public Document No. 12-0625-24):

Yeas: Councilors Fosle, Krause and Stauber -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0625-21, with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

<u>Grant Organization</u>	<u>Program Name</u>	<u>Grant Amount</u>
Arrowhead Youth Soccer Assoc.	Grant Nettleton soccer program	\$5,000
Boys & Girls Club of Duluth	Bringing programming to Lincoln Park	\$4,800
Courage Center Duluth	Community adaptive sailing	\$3,000
Cyclists of Gitchee Gummee Shores (COGGS)	Hartley mountain bike trail system signage and sustainability upgrades	\$3,000
Duluth Heights Amateur Hockey Assoc.	Rink upgrade	\$5,000
East Hillside PATCH, Inc.	Summer parks sampler	\$2,000
Hartley Nature Center, Inc.	Hartley Pond dock installation	\$5,000
Piedmont Hockey Association	Piedmont rink restoration	\$5,000
Zenith City Flyers	Duluth disc golf park improvement	\$5,000
Duluth Cross-Country Ski Club	Ski trail grooming equipment	\$5,000

Resolution 12-0319 was unanimously adopted.

Approved June 25, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNCILORS GARDNER AND LARSON

12-030 - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

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

Councilor Krause moved to amend subsection 2-70(b) of the ordinance by deleting the second sentence of (b) and all of subparagraph (b)(1), which motion was seconded and discussed.

Councilor Boyle reviewed his amendment that was previously introduced.

Councilor Gardner moved to suspend the rules to hear speakers on the ordinance and amendments, which motion was seconded and unanimously carried.

John Beyer, Henry Banks, Ricky DeFoe, Tyler Rud, Jay Benson and Robert Powless urged support of this ordinance for the following reasons: the task force has worked with Police Chief Gordon Ramsay for five years exploring the best way to have a solid community partnership with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the police innovation surrounding community policing; this will benefit the city and police department; citizen involvement is a key component to the complaint process with trust, transparencies and accountability; this is the time for a citizen review board (CRB) in Duluth; this translates to crime prevention, crime reduction and cases solved; Duluth has been a role model for the nation for it diversity programs and Clayton Jackson McGhee Memorial; citizen involvement with the police department is to be a dialogue and trust; inclusion, diversity and equity of individuals of color are great tools of Duluth; investigation of police incidents by police personnel are not always conducted with sufficient thoroughness, fairness, competence and diligence; 19 meetings have been held with stakeholders on this issue; there has been overwhelming support from the public for this; this is supported by the police chief and there has been less than mature behavior and questionable sarcasm by some officers.

Tom Maida, president of the Duluth Police Union, stated that: the CRB is not needed in Duluth; there are already many levels of citizen involvement; officers already have a high level of trust in the community; not having officers on the board does not build trust; there is already of high level of oversight to hold officers accountable; it is a flawed ordinance and he requested the council to support the Duluth police officers by voting no.

Councilors Gardner and Krug commented on why they did not support Councilor Krause's amendment.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

Councilors discussed at length the merits of Councilors Boyle's amendment.

Councilor Boyle's amendment failed upon the following vote:

Yeas: Councilors Boyle, Fosle, Julsrud and Stauber -- 4

Nays: Councilors Gardner, Krause, Krug, Larson and President Hartman -- 5

Councilor Krause moved to reconsider the vote on Councilor Boyle's amendment, which motion was seconded and carried.

Councilor Boyle's amendment carried upon the following vote:

Yeas: Councilors Boyle, Fosle, Julsrud, Krause and Stauber -- 5

Nays: Councilors Gardner, Krug, Larson and President Hartman -- 4

To councilor's inquiry, City Attorney Gunnar Johnson responded that due to the recently passed amendment, the ordinance would have to be considered a first reading.

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The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-040 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO RESIDENTIAL-URBAN (R-2) AND MIXED -USE NEIGHBORHOOD (MU-N) AT THE PROPERTIES LOCATED BETWEEN ST. MARIE STREET, WOODLAND AVENUE AND THE UMD CAMPUS (CITY OF DULUTH).

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INTRODUCED BY COUNCILOR STAUBER

12-042 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES LOCATED ALONG CENTRAL

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH).

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INTRODUCED BY COUNCILOR STAUBER

12-044 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MUN), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

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INTRODUCED BY COUNCILOR STAUBER

12-045 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES, INC.).

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INTRODUCED BY COUNCILOR GARDNER

12-041 - AN ORDINANCE AUTHORIZING AN AGREEMENT AUTHORIZING SALE OF SKYWALK EASEMENTS IN THE HOLIDAY MALL TO JMM LIMITED PARTNERSHIP.

- - -

The following entitled ordinances were read of the second time:

BY COUNCILOR BOYLE

12-032 (10159) - AN ORDINANCE AMENDING CHAPTER 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

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

John Glendenning spoke of his support for the ordinance.

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

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

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

12-037 (10160) - AN ORDINANCE AMENDING SECTION 50-25.1 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO LANDSCAPING AND TREE PRESERVATION.

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

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The meeting was adjourned at 9:18 p.m.

JEFFREY J. COX, City Clerk

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10159

BY COUNCILOR BOYLE:

AN ORDINANCE AMENDING CHAPTER 29A-32 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

The city of Duluth does ordain:

Section 1. That Section 29A-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32. License conditions.

All rental units are subject to the following conditions:

(a) No license shall be transferred to another rental unit;
(b) At the principal exterior entrance to a rental unit an informational notice shall be posted that complies with the following requirements:

(1) The notice shall be displayed in a conspicuous place;

(2) The notice shall indicate the name, e-mail address and telephone number of the owner or managing agent;

(c) If there is a change in ownership of a rental unit, the new owner shall apply for a transfer of the license within 30 days of the change and pay the license transfer fee. If the rental unit is sold pursuant to a contract for deed, the purchaser shall be responsible for applying for the license transfer and providing a recorded copy of said contract for deed from the St. Louis County recorder's office. A new license shall be issued for the remainder of the license period;

(d) If there is a change in managing agent, the new managing agent shall notify the code official in writing within ten days of the change;

(e) If there is a change in type of license, an application for change of license type is required. The application shall be filed with the code official as required by Section 29A-29.

(f) Except as otherwise provided in this Section, all rental units licensed on March 13, 2011, and subsequently relicensed as a multi-tenant licensed one family or two family dwelling shall provide a minimum of two off-street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off-street parking space. Failure to comply with these requirements will result in an additional nonconformance fee per parking space. All one family or two family dwellings that were unlicensed on March 14, 2011, and subsequently converted to a multi-tenant licensed rental unit shall provide the off-street parking spaces required in this Section, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking;

(1) The city council shall establish a parking nonconformance variance application fee pursuant to Section 29A-30;

(g) All off-street parking spaces shall comply with the standards for off-street parking provided for in Chapter 50 of this Code. The number of required off-street parking spaces shall be determined by the code official at the time of licensure. Failure to comply with these requirements will result in an additional nonconformance fee per parking space. The owner shall ensure that all required off street parking spaces are cleared of snow to at least the required dimension of off-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

street parking spaces within 72 hours after the end of every snowfall;

(1) All one-family or two-family dwellings, licensed on September 1, 2007, may continue to be licensed even though the property does not conform to the off-street parking provisions of this Section. The rental unit shall be treated as a lawful nonconforming use; however, the nonconformance parking fees provided for in this Section shall apply. If the number of bedrooms, or number of rooms occupied as bedrooms, is increased, the off-street parking requirements of this Section shall apply to the entire licensed property. If the license for the nonconforming use is revoked or lapses for any period of time, all nonconforming use rights related to off-street parking requirements shall terminate;

(2) The off-street parking requirements shall not apply to a short-term single-tenant license;

(h) Except as provided in this Section 29A-32(h) The maximum number of bedrooms in a multi-tenant rental unit that can be occupied by any tenant under new rental licenses, short-term licenses, and rental license renewals shall be based on the number of bedrooms on record in the city assessor's office on the date of rental application;

(1) The number of tenants cannot exceed the number of bedrooms applied for and paid for in the license application;

(2) In no case shall a bedroom be allowed that does not comply with all applicable state and city building and housing codes;

(3) If the multi-tenant rental unit is a one-family or two-family dwelling, the maximum number of bedrooms that can be occupied by any tenant shall be based on the lesser of the number of bedrooms on record in the city assessor's office and verified or corrected by the life safety division on the date of the rental application or four bedrooms. The four bedroom limitation shall not apply to multi-tenant one-family or two-family dwellings licensed on July 26, 2012, or those properties that have a valid purchase agreement as of June 9, 2012; instead, the number of bedrooms that may be occupied shall be the greater of the number of bedrooms authorized by the license in effect on July 26, 2012, or four bedrooms, except those properties which are larger than 3,000 square feet as of June 9, 2012, may be allowed up to the maximum of six legal bedrooms.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 26, 2012)

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

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

Nays: Councilor Fosle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 25, 2012
Approved June 25, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10160

AN ORDINANCE AMENDING SECTION 50-25.1 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO LANDSCAPING AND TREE PRESERVATION.

The city of Duluth does ordain:

Section 1. That Section 50-25.1 of Chapter 50 be amended as follows:

Sec. 50-25.1. Applicability.

A. The landscaping provisions of Sections 50-25.2 through 25.4 and 25.7 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur:

1. A new primary structure is constructed;
2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25 percent;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 75 percent or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor;
5. A new parking lot containing 25 or more spaces is constructed or an existing parking lot containing 25 or more spaces is reconstructed;

B. In any form district, landscaping shall not be required on the portion of a lot occupied by a principle structure;

C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district;

D. The landscaping between differing land uses provisions of Section 50-25.5 apply to all development or redevelopment on lots and parcels when there is a change of use.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: July 26, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 25, 2012
Approved June 25, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 2, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0702-01 Minnesota state auditor: (a) Audit report of the Duluth airport authority for the years ended December 31, 2011, December 31, 2010; (b) Management and compliance report for the Western Lake Superior Sanitary District for the year ended December 31, 2011. -- Received

12-0702-19 Daniel H. Mundt communication regarding the proposed ordinance to establish a citizen review board (12-030-O). -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-0702-02 Assessor assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2011, to June 1, 2012, for which the licensed collector has not been reimbursed. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0702-03 Duluth airport authority minutes of May 15, 2012, meeting. -- Received

12-0702-04 Duluth transit authority: (a) Income statement of March 2012; (b) Minutes of April 25, 2012, meeting. -- Received

12-0702-05 Housing and redevelopment authority audit report for the year ended September 30, 2011. -- Received

12-0702-06 Library board minutes of April 24, 2012, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that the escrow accounts of the school board have been reduced from \$28 to \$16 million and the red plan eliminated all schools in the central part of the city.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

WHEREAS, the governmental accounting standards board has recently issued a new accounting standard Statement #54, Fund Balance Reporting and Governmental Fund Type Definitions; and

WHEREAS, one of the requirements under Statement #54 is that the governing body adopt a fund balance policy including fund balance classifications, minimum fund balance requirements,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

and restricted and committed funds; and

WHEREAS, a fund balance reporting and governmental fund type definitions policy, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-07, has been prepared that meets the disclosure requirements of Statement #54.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that the fund balance reporting and governmental fund type definitions policy is adopted.

Resolution 12-0317 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 12-0702-08, which is levied against property to collect delinquent property violation administrative penalty citations for the period of March 1, 2011, to March 1, 2012, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 12-0328 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

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

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 10-12, 2012, with the serving ceasing at 10:00 p.m. with Clark Coole, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 26-29, 2012, with Sue Seitz, manager.

Minnesota Craft Brewer's Guild (All Points North Summer Brew Fest 2012), Bayfront Park, for July 21, 2012, with Laura Mullen, fest coordinator.

Resolution 12-0283 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Johnson Wilson Constructors, Inc., for the completion of Duluth City Hall power upgrades and MIS server room modifications, data closet upgrades, air conditioning unit and humidification unit in accordance with specifications prepared by city consultant, Architectural Resources, Inc., and the contractor's combined low bid of \$603,800 (\$587,000 base bid (upgrades) and \$16,800 Alternate No. One (humidification unit)), payable as follows:

Amount	Fund	Department/ Agency	Fiscal Year - Object	Project No.
\$84,800	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2011-1112b

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Amount	Fund	Department/ Agency	Fiscal Year - Object	Project No.
\$40,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2011-1113b
\$200,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2012-1205b
\$110,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2012-1203b
\$169,000	Capital Equipment Fund 250	015 (administra- tive services)	2012 - 5580 (capital equip- ment)	CE 250-E1205

Resolution 12-0324 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that Resolution 12-0239 is hereby amended to read that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Lake Superior Brewing Company, LLC (Twin Ports Bridge Fest), Bayfront Park, for July 7 and 8, 2012, from noon until 10:00 p.m. with Dale Kleinschmidt, manager.

Resolution 12-0336 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of business developer, including a title change to senior business developer, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-09, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 142 to Pay Range 138. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0330 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant business developer, including a title change to business developer, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-10, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 135. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

consistent with this resolution.

Resolution 12-0331 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of bridge operator - electrical, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-11, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 28. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0335 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that, pursuant to the requirements of Section 3 of City Ordinance No. 8631, the Duluth City Council hereby consents to and authorizes the assignment of the concurrent use permit granted by said ordinance to Advance Acquisitions, LLC, subject to all terms and conditions thereof.

Resolution 12-0321 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

WHEREAS, the city is seeking grant funding through the state of Minnesota business development capital projects grant program for a large, private development project to be located in Downtown Duluth; and

WHEREAS, the city will be utilizing funding for the acquisition, demolition and construction of public infrastructure in support of this project; and

WHEREAS, the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its useful life; and

WHEREAS, all non-state funding is committed and available and meets or exceeds the requirement that the non-state match equal or exceed the state funding; and

WHEREAS, the city certifies it will comply with all applicable laws, regulations and rules of general obligation bond funds.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an application for a grant from the Minnesota department of employment and economic development as part of the business development capital projects grant program, in an amount up to \$10 million, for the above-referenced development project to be located in Downtown Duluth.

Resolution 12-0325 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

WHEREAS, the city is seeking grant funding through the state of Minnesota business development capital projects grant program for the Wade Stadium repairs and upgrades project; and

WHEREAS, this project is slated to renovate and upgrade Wade Stadium while maintaining

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

and restoring the historic character of the facility; and

WHEREAS, the renovation of Wade Stadium was highlighted as a legislative initiative for the 2012 legislative session (Council Resolution 12-0031); and

WHEREAS, the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its useful life; and

WHEREAS, all non-state funding is committed and available and meets or exceeds the requirement that the non-state match equal or exceed the state funding; and

WHEREAS, the city certifies it will comply with all applicable laws, regulations, and rules of general obligation bond funds.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an application for a grant from the Minnesota department of employment and economic development as part of the business development capital projects grant program, in an amount up to \$5.8 million.

Resolution 12-0326 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the proper city officials to enter into a cooperative agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0702-12, with the Duluth economic development authority pertaining to a DEED grant for certain expenses relating to construction of infrastructure at the Atlas Industrial Park site in the amount of \$500,000, said funds to be paid from Fund 255-020-5434 (economic development fund, planning, grants and awards).

Resolution 12-0334 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council approves settlement in the amount of \$60,000 of all claims or causes of actions asserted by the city of Duluth in that matter venued in the District Court of Minnesota, Sixth Judicial District, and identified as City of Duluth v Expedia, Inc., File No.69DU-CV-11-1217, and further authorizes the proper city officials to execute all documents necessary to conclude this matter on a full, final and complete basis, funds to be deposited in Fund 258-030-4060-4062 (tourism taxes fund, hotel-motel taxes).

Resolution 12-0322 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-13, with the Duluth Steam Cooperative Association for the transition of operations of Duluth Steam District No. 1 from the association to Ever-Green Energy Duluth, LLC.

Resolution 12-0341 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the council hereby adopts the 2011 edition of the city of Duluth public works/utilities department engineering division standard construction specifications booklet and 2012 addendum, a copy of which is on file in the office of the city clerk as Public Document No. 12-0702-14, to be used for the construction, reconstruction and repair of all city streets and utilities.

Resolution 12-0329 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-15, for city participation in the PowerGrant pilot program 2012 offered by Minnesota Power; that the revenues received from the PowerGrant program are committed for energy efficiency projects and shall be deposited in Fund 257-015-4270 (energy management fund, administrative services, other grants); and the following account is hereby established as the dedicated account for project expenses: Fund 257-015-5461 (energy management fund, administrative services, energy efficiency projects).

Resolution 12-0333 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0702-16, with the state of Minnesota through its commissioner of public safety, division of homeland security and emergency management, for providing services as a hazardous materials chemical assessment through September 30, 2012, in the amount of \$9,500, said sum to be payable to Fund 110-150-1505-4210-02 (general fund, fire, hazardous materials, pass through grant).

RESOLVED, that the proper city officials are authorized to apply to the state for a new agreement for chemical assessment team services through July 1, 2017.

Resolution 12-0340 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a four-year agreement with Spirit Mountain recreation area authority and Duluth Cross Country Ski Club for the use, operation and management of Spirit Mountain Nordic Center, substantially the same as that on file with the city clerk as Public Document No. 12-0702-17, at no cost to the city.

Resolution 12-0323 was unanimously adopted.
Approved July 2, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0339, authorizing city officials to allocate \$75,000 from the tourism tax fund balance for flood-related response tourism advertising and marketing, was introduced by Councilor Krug for discussion.

Councilor Krug moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Karen Pionk, general manager of Sheraton Duluth, and Tony Bronson, Grandma's Restaurants, commented that: the Twin Cities area is the biggest feeder market to Duluth tourism; there is a need to let tourists know that Duluth is open and functional; there is very critical need to do something quickly for our hospitality industry; summer is the time the city does its best; if the hospitality industry does well, so the does the city of Duluth sales tax revenues and the isolated pictures on the internet gave a false impression of the magnitude of the destruction.

Councilor Fosle expressed concerns that there should just be pictures on the internet showing that the major tourist areas have not been damaged.

Resolution 12-0339 was adopted as follows:

RESOLVED, that the appropriate city officials are hereby authorized to allocate \$75,000 from the undesignated fund balance in the tourism tax fund solely for city flood-related response tourism advertising and marketing.

Resolution 12-0339 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved July 2, 2012

DON NESS, Mayor

- - -

BY PRESIDENT HARTMAN AND COUNCILOR LARSON:

WHEREAS, Chapter 27 of the Duluth City Code provides for regulation and licensing for peddlers and solicitors within city limits; and

WHEREAS, several street vendors have raised concerns that the requirement of having to continually move from place to place is overly burdensome and negatively impacts their business.

THEREFORE, BE IT RESOLVED, that the city council hereby requests city administration review current street vendor regulations, review best practices from other communities and provide the council options for facilitating more vending opportunities on public property.

Resolution 12-0338 was unanimously adopted.

Approved July 2, 2012, pursuant to Section 12 of the Duluth City Charter.

- - -

BY COUNCILORS LARSON AND JULSRUD:

WHEREAS, the city of Duluth has sustained severe losses of major proportion, brought on by flood conditions which began on June 19, 2012; and

WHEREAS, the mayor declared a state of emergency on June 20, 2012; and

WHEREAS, the city of Duluth suffered significant damage to city roads, bridges and public infrastructure rendering many roads and bridges impassable and/or unsafe to travel; and

WHEREAS, many residents suffered significant personal property damage including the loss of homes and businesses; and

WHEREAS, the council feels it is important to recognize this state of emergency.

THEREFORE, BE IT RESOLVED, that the city council hereby expresses recognition of the current state of emergency and pledges to help facilitate repair of damaged city roads, bridges and public infrastructure necessary to facilitate recovery and emergency aid efforts, to facilitate effective and timely delivery of emergency services, to facilitate safe travel for public, government, and business purposes; and to provide aid for all citizens of Duluth.

FURTHER RESOLVED, that the city council, for and behalf of the citizens of Duluth, hereby request the governor of the state of Minnesota to petition the president of the United States to declare the city of Duluth and surrounding area, to be a major disaster area.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

FURTHER RESOLVED, that this request is for the public assistance (infrastructure support) program, as offered through P.L. 93-288 and 106.390; and the hazard mitigation program, as offered through P.L. 93-288 and 106.390.

Resolution 12-0337 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-038 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-040 (10161) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO RESIDENTIAL-URBAN (R-2) AND MIXED-USE NEIGHBORHOOD (MU-N), AT THE PROPERTIES LOCATED BETWEEN ST. MARIE STREET, WOODLAND AVENUE AND THE UMD CAMPUS (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-042 (10162) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES LOCATED ALONG CENTRAL ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-044 (10163) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6), FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-045 (10164) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES, INC.).

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

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INTRODUCED BY COUNCILOR GARDNER

12-041 (10165) - AN ORDINANCE AUTHORIZING AN AGREEMENT AUTHORIZING SALE OF SKYWALK EASEMENTS IN THE HOLIDAY MALL TO JMM LIMITED PARTNERSHIP.

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

- - -

BY COUNCILORS GARDNER AND LARSON

12-030 (10166) - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

Councilor Gardner moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Blair Moses, Ricky DeFoe, Dr. Bob Powless, Xavier Bell, Doug Bowen-Bailey and Jay Benson expressed support for the ordinance for reasons of: our community is unique and can adapt this to our specific needs; one or two board members are not going to be able to sway the board; there is a need to review and prevent police department mistakes from being made; the task force has worked on this because they love and care for the city; 32 percent of the police officers have reported that they want oversight of law enforcement; there has been police involvement on this from the beginning; the mayor will make good appointments; the police chief will provide positive training when this ordinance goes into effect; this dialogue has mistakenly boiled down to race and the experiences of one group versus another; there has been a lack of trust of those in power; this entity will be the forum to bring diverse voices together to be heard; this will be a positive entity for both the police and the community, and there have been some really good experiences with the police and some that could have been better.

Tom Maide, president of the Duluth Police Union expressed concerns of: this is an unnecessary use of city resources and it does not foster trust nor build a relationship between police officers and the community.

Councilors Fosle moved that the ordinance require a background check of board appointees for any felony convictions before they be appointed, which motion was seconded and discussed.

Councilor Gardner moved to suspend the rules to hear speakers on the amendment, which motion was seconded and carried.

Ricky DeFoe, Xavier Bell, Andrea Gelb, Tyler Nord, Jay Benson, Lyn Clarke Pege and Blair Moses opposed the amendment because they felt: it is unbelievable; that there is a disproportionate number of individuals of color with felonies on their record, which makes them second-class citizens, who really need a citizen review board to guard their liberties; this is a racist

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

amendment; white people are the highest percentage of individuals in poverty, with people of color there is a fear, so there needs to be an equity of representation on this board; this amendment is disturbing in how a “felony” is defined and how certain crimes are categorized; the mayor would take into consideration the qualities of the persons he nominates; it is unclear what constitutes a felony; this has just been introduced without any prior notice; someone who has been penalized with a prior felony may be a knowledgeable person to serve on this board and wants situations to be better with law enforcement; there should be a consistency of criteria across all boards and commissions; felons are not evil or demons; this targets a certain group of individuals and this does not foster unity.

Tom Maida supported the amendment because individuals appointed will receive training in police procedures, techniques, tactics and sensitive information.

Councilors opposing the amendment stated: that it demonstrates the need for the citizen review board; it assumes that individuals convicted of a felony are incapable of redemption; this is why the ordinance needs to be passed now and implemented; this ordinance is not about felons and the city council must confirm the appointments.

Councilor Fosle supported the amending because: at some time this board could be made stronger; there could be a different police chief and an arresting officer could be under this review and subject to a vendetta.

Councilor Fosle’s amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

Councilor Krause opposed the ordinance and stated that: a citizen review board should represent all citizens and this ordinance should be comparable to all the other boards and commissions; if this ordinance earmarks certain things, it is discriminatory and what is being reviewed should apply to all citizens.

Councilors supporting the ordinance stated the reasons of: because of the uniqueness of what this ordinance deals with, the language should be different from other boards; transparency is needed in this case; this is to address policy and procedures, not individual officers; this ordinance represents a great deal of compromise; the membership representation language is not mandatory, just suggested and this will build trust for the police department.

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilor Larson stated that she will be bringing a bee licensing ordinance before the council in a few weeks.

- - -

The meeting was adjourned at 8:39 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10161

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-URBAN (R-2) AND MIXED-USE NEIGHBORHOOD (MU-N) AT THE PROPERTIES LOCATED BETWEEN ST. MARIE STREET, WOODLAND AVENUE AND THE UMD CAMPUS (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 19.9 acres of the subject property located generally between St. Marie Street, Woodland Avenue and the UMD Campus, and as more particularly described as follows:

Rezone from R-1 to R-2:

That part of Motor Line Division, according to the recorded plat thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the north quarter corner of Section 14, Township 50 North, Range 14 West, being on the centerline of St. Marie Street as platted in said Motor Line Division;

Thence south along the west line of said Motor Line Division to the centerline of the alley between Blocks 14 and 15 of said Motor Line Division;

Thence east and northeasterly along said alley centerline to the northwesterly extension of the southwest line of Lot 9 of said Block 15;

Thence southeasterly along said southwest line of Lot 9 and its extension to the centerline of Elizabeth Street;

Thence east along said centerline of Elizabeth Street to the southwesterly extension of the centerline of the alley between Blocks 10 and 11, Motor Line Division;

Thence northeasterly along centerline of said alley between Blocks 10 and 11 and its extension and continuing northeasterly along the centerline of the alley between Blocks 5 and 6 and its extension, Motor Line Division, to the centerline of said St. Marie Street;

Thence west along the said center line of St. Marie Street to the point of beginning.

Rezone from R-1 to MU-N:

That part of Motor Line Division, according to the recorded plat thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of the centerline of Elizabeth Street and the southwesterly extension of the centerline of the alley between Blocks 10 and 11, Motor Line Division;

Thence northeasterly along centerline of said alley between Blocks 10 and 11 and its extension, to the northwesterly extension of the northeast line of Lot 5 of said Block 10;

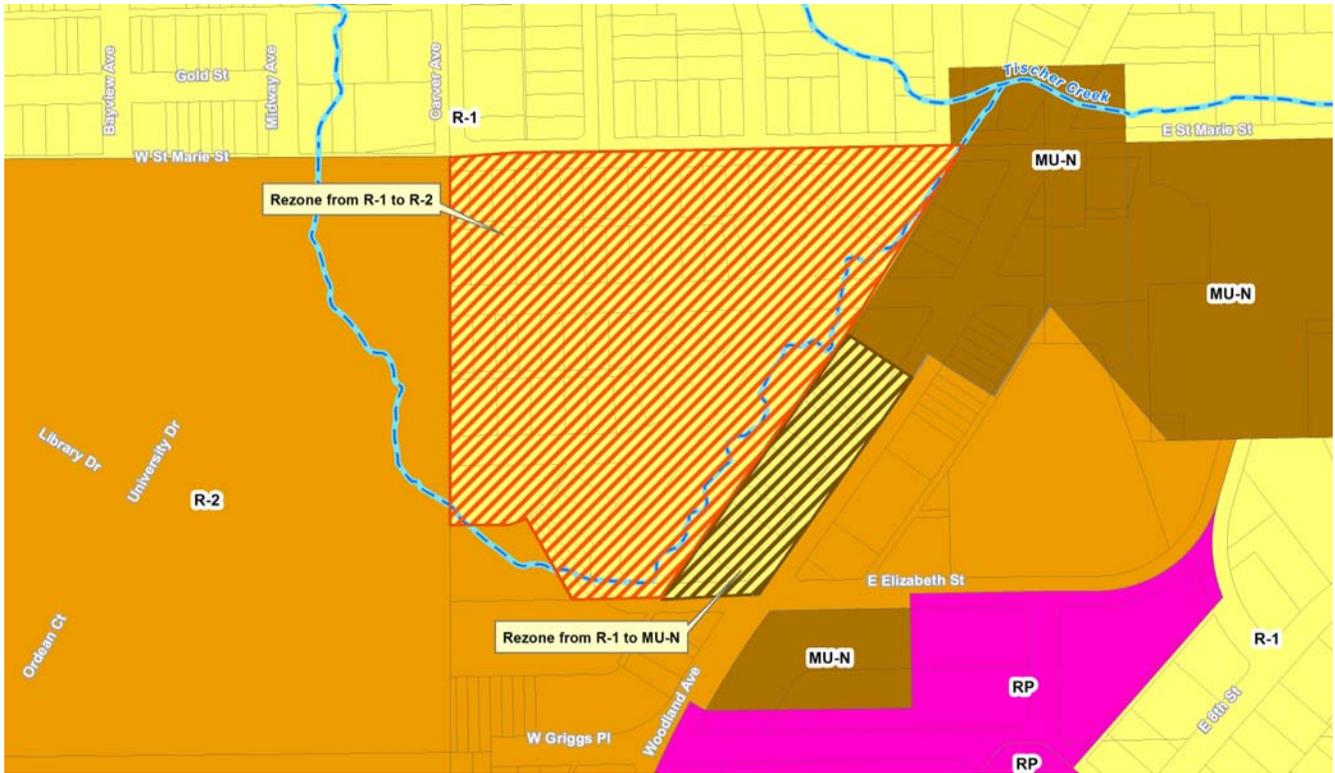
Thence southeast along said northeast line of Lot 5 and its extension to the centerline of Woodland Avenue;

Thence southwest along said centerline of Woodland Avenue to the intersection of the centerline of Elizabeth Street;

Thence west along the centerline of Elizabeth Street to the point of beginning;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

be reclassified from Residential-Traditional (R-1) to Residential-Urban (R-2) and Mixed Use-Neighborhood (MU-N) as noted above, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-084)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

ORDINANCE NO. 10162

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES LOCATED ALONG CENTRAL ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

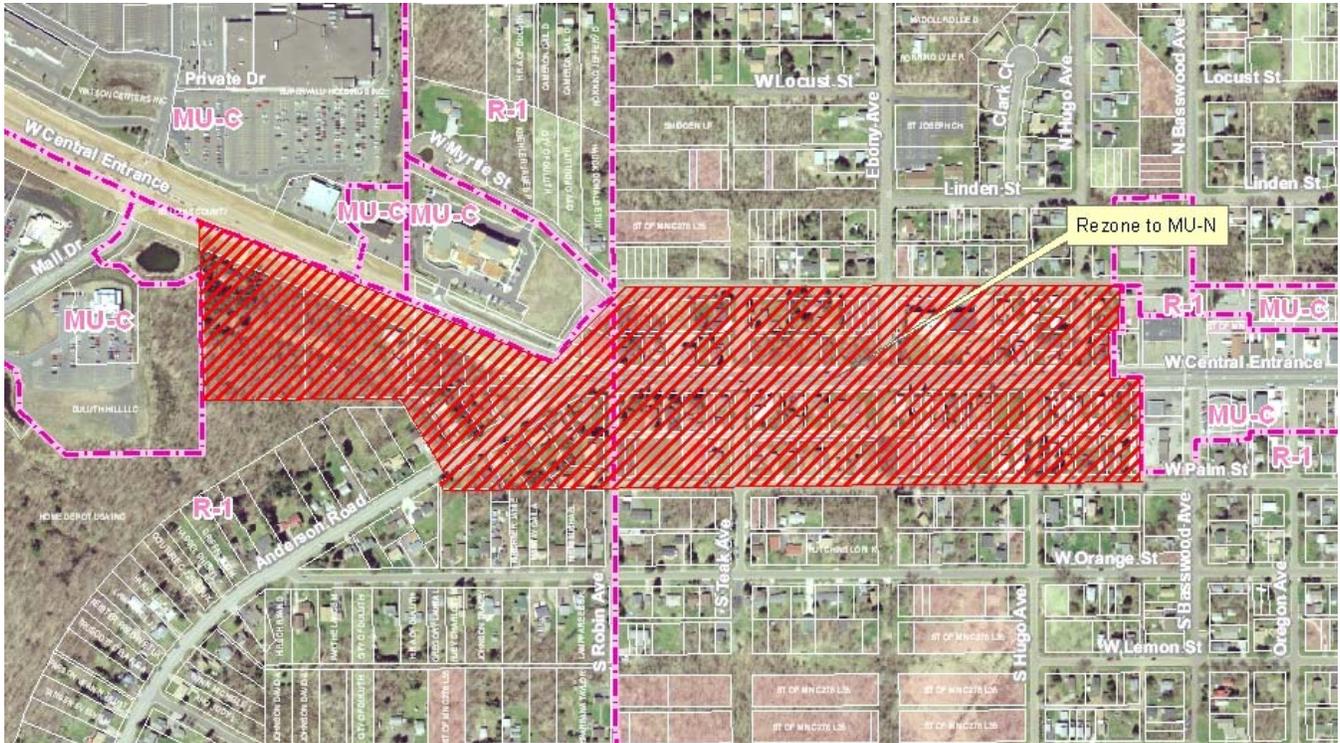
The city of Duluth does ordain:

Section 1. That the subject properties located along Central Entrance west of Basswood Avenue (north to Myrtle Street and south to Palm Street) to Anderson Road then west of Anderson Road (south side only) and as more particularly described as follows:

That part of Central Entrance Division, Duluth Fifth Division, Duluth Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of the centerline of Central Entrance (State Highway 194) and the northerly extension of the centerline of the north/south alley in Block 3, Duluth Fifth Division; thence south along centerline of said north/south alley of Block 3 its extension, to the centerline of West Palm Street; thence west along said center line of West Palm Street to the east line of Central Entrance Addition; thence south along said east line of Central Entrance Addition to the northeast corner of Lot 28, Central Entrance Addition; thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the centerline of the platted pedestrian path between Lots 20 and 35, Central Entrance Addition; thence north along said centerline of the platted pedestrian path the intersection of the centerline of Anderson Road; thence northeasterly along the centerline of Anderson Road to the southeasterly extension of the centerline of Apple Street, between Lots 4 and 5, Central Entrance Addition; thence northwesterly along said centerline of Apple Street to the south line of the Southwest Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West; thence west along said south line of the Southwest Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southwest Quarter of the Northwest Quarter of Section 20; thence north along the west line of said Southwest Quarter of the Northwest Quarter of Section 20 to the centerline of Central Entrance (State Highway 194); thence southeasterly along the centerline of Central Entrance to the intersection of the centerline of Myrtle Street; thence northeasterly and easterly along the centerline of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Sixth Division; thence south along said east line of Lot 3 and its extension to the centerline of the east/west alley of said Block 31; thence west along said centerline of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31; thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194); thence east along center line of Central Entrance to the point of beginning; be reclassified from Residential-Traditional (R-1), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



(Ref. File No. 12-088)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10163

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6), FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties, Fourth Street from Mesaba to Fourth Avenue East, from the Alley above and Alley below Fourth Street, and as more particularly described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Those parts of Duluth Proper First Division, Duluth Proper Third Division and Re-Arrangement Block 50 of Duluth Proper Third Division, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Third Street Alley centerline (alley between East Third Street and East Fourth Street);

Thence northwesterly along Third Avenue East centerline to the East Fourth Street centerline;

Thence northeasterly along said East Fourth Street centerline to the Fourth Avenue East centerline;

Thence northwesterly along said Fourth Avenue East centerline to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions and along West Fourth Street Alley centerline line and its extensions to the Mesaba Avenue centerline (State Route 194);

Thence southwesterly and southerly along said Mesaba Avenue centerline to the southwesterly extension of the West Third Street Alley centerline;

Thence northeasterly along West Third Street Alley centerline and its extensions and along East Third Street Alley centerline and its extensions to the point of beginning,

be reclassified from Mixed Use-Neighborhood (MU-N), to Form District Six, Mid-Rise Neighborhood Shopping (F-6), 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:



Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

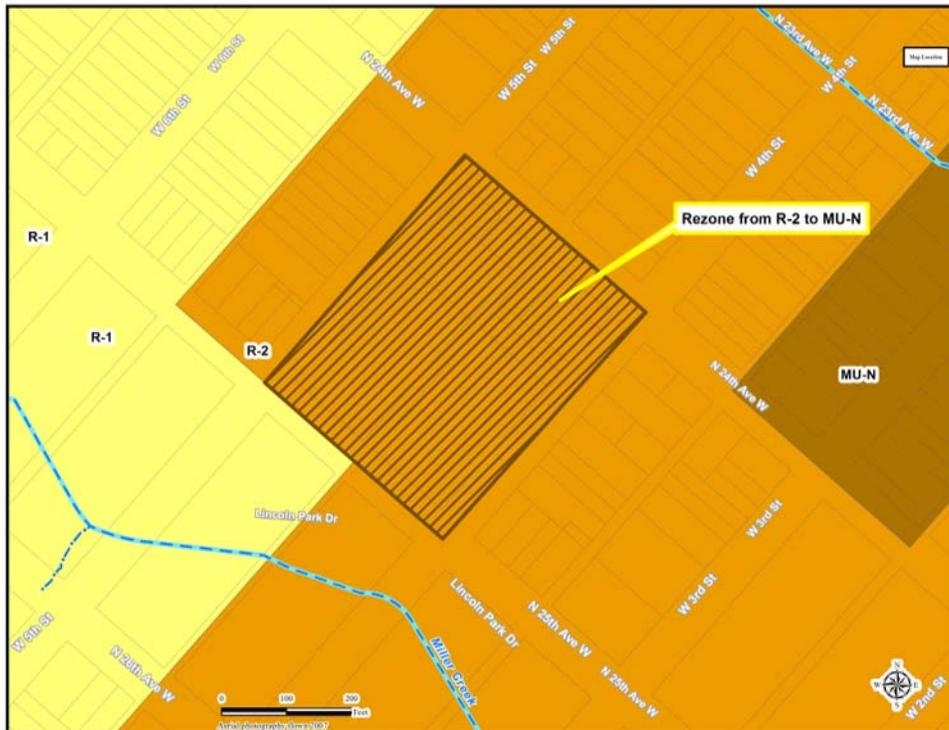
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ORDINANCE NO. 10164

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES, INC.).

The city of Duluth does ordain:

Section 1. That the 2.75 acres of the subject property located at 2424 West Fifth Street and as more particularly described as follows: Lots 385 through 400, inclusive, Block 121, Duluth Proper Second Division, St. Louis County, Minnesota, be reclassified from Urban-Residential (R-2), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-085)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

following vote:

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 2, 2012

Approved July 2, 2012

DON NESS, Mayor

- - -

ORDINANCE NO. 10165

BY COUNCILOR GARDNER:

AN ORDINANCE AUTHORIZING AN AGREEMENT AUTHORIZING SALE OF SKYWALK EASEMENTS IN THE HOLIDAY MALL TO JMM LIMITED PARTNERSHIP.

The city of Duluth does ordain:

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

(a) The planning division has determined that the proposed sale of the skywalk easements described in that agreement on file in the office of the city clerk as Public Document No. 12-0702-18 to JMM Limited Partnership conforms to the city's comprehensive plan; and

(b) The city assessor has provided an estimate of value for said property in the commercial real estate market indicating that, given the limitations of use contained in the agreement, the value of the easements in the market is negligible; and

(c) The city council finds that the sale of the property described in Public Document No. 12-0702-18 to JMM Limited Partnership will further the important city interest of preserving and promoting property values in the downtown area while providing for pedestrian needs in the property.

Section 2. That, pursuant to the provisions of Section 2-177.4 of the Duluth City Code, 1959, as amended, the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0702-18 authorizing the sale by quit claim deed of the property therein described to JMM Limited Partnership, subject to the terms and conditions therein contained.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 2, 2012

Approved July 2, 2012

DON NESS, Mayor

- - -

ORDINANCE NO. 10166

BY COUNCILORS GARDNER AND LARSON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended is hereby amended by the addition of a new Article XII of Chapter 2 which reads as follows:

Article XII. Duluth Citizen Review Board.

Sec. 2-69. Created; membership.

There is hereby created a citizen review board to be known as the Duluth citizen review board, consisting of seven duly qualified members. The citizen review board shall be an advisory body to the police department and city council, for the purpose of fostering relationships and strengthening trust and communication between the police department and citizens of Duluth in furtherance of the best interests of the city and all of its residents.

Sec. 2-70. Appointment of members; oath; qualifications; training.

(a) The members of the citizen review board shall be appointed by the mayor, subject to confirmation and approval of the city council. Each member shall make and file with the city clerk an oath of affirmation as provided by Section 28 of the City Charter;

(b) In selecting persons for appointment, the mayor and city council shall endeavor to achieve a membership that is representative of the racial, cultural and geographic diversity of the city. To the extent possible, the mayor and council shall seek to appoint at least three people of color, two women and one person with law enforcement background to the board. The following criteria should be considered, but do not represent the exclusive criteria for appointment:

(1) Nomination by community organizations, including, without limitation, the Duluth task force for improved community police accountability, connected to or representing sectors of the community where trust of law enforcement has historically been lower than in other parts of the community;

(2) A commitment to the principle of citizen involvement in the law enforcement process;

(3) An ability to be impartial and objective as demonstrated by the applicant's record of public leadership and community service;

(4) An ability to effectively communicate in verbal, written and electronic forms;

(c) The members of the board shall be residents of, or employed within, the city. Current employees of the city are ineligible to serve on the board;

(d) Training. In connection with the Duluth police department, the Duluth city attorney's office, and the Duluth task force for improved community police accountability, the city's human rights officer shall develop a training program for members of the board including, without limitation, the following subject areas: police use of force, police policies and procedures, the Minnesota Government Data Practices Act, the Peace Officers Discipline and Procedures Act, conflict of interest principles, and human rights. All new members, and any member reappointed for an additional term, shall complete the training program after appointment, but before being sworn in to assume their official duties.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Sec. 2-71. Term of office, vacancies.

Initial appointments to the citizen review board shall be as follows: two members for one year, two members for two years, and three members for three years. Should vacancies occur during any current term, such vacancies shall be filled by special appointment made by the mayor, subject to confirmation and approval by the city council. Such special appointees shall be appointed to serve only for the unexpired balance of the term for which they are appointed. Upon the expiration of any term for which a member is appointed, his or her successor shall be appointed for a period of three years. No member shall be appointed to more than two terms consecutively, and no person who has held the office for more than two years of a term to which another person was appointed may be appointed to serve more than one additional consecutive term.

Sec. 2-72. Removal.

Any member of the board may be removed as provided in Section 27 of the City Charter.

Sec. 2-73. Officers; quorum.

At the first meeting of all of its sworn members following completion of the training program required herein, the citizen review board shall elect a president and vice president. The secretary of the board shall be the city's human rights officer. The secretary shall have no voting power. A majority of the board membership then serving shall constitute a quorum for the transaction of business. Any meeting shall be adjourned in the absence of a quorum.

Sec. 2-74. Rules of conduct; meetings; records.

The citizen review board may make, alter and amend such rules and regulations for its government and the conduct of its business as is consistent with the City Charter, this Code, other ordinance of the city, and state law. The board shall meet at least two times per year in quarters provided by the city within City Hall, and meetings shall be open to the public as required by state law. The board shall keep an accurate record of all its proceedings.

Sec. 2-75. Powers and duties.

The board shall have the following powers and duties:

(a) In partnership with the police department, the board shall develop a process to independently receive complaints of misconduct by Duluth police offices alleging, without limitation, any of the following:

- (1) Excessive force;
- (2) Abusive language or attitude;
- (3) Harassment;
- (4) Discrimination in the provision of public services on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, or sexual orientation;

- (5) Theft where the alleged victim is a private citizen;
- (6) Failure to provide adequate or timely police protection;
- (7) Retaliation for filing a complaint with the board or other police review authority;

(b) After final disposition of a complaint filed with the chief of police, including final disposition of any disciplinary actions or proceedings arising out of the complaint, the chief of police shall prepare, and the board shall review, a report of the final disposition which shall include, without limitation the following:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (1) A description of the investigative process and procedures used to reach the final disposition;
- (2) Specific reasons supporting the final disposition;
- (3) Any other information supporting the final disposition that the chief of police, in his or her discretion, deems appropriate for disclosure to the board, excluding:
 - (A) The name(s) of the complainant(s), police officer(s), or other witness(es), involved in the complaint;
 - (B) Data prohibited from disclosure under the Minnesota Government Data Practices Act or other applicable law or regulation;
 - (C) Information which, if disclosed, could compromise confidential sources, undercover police operations, or other ongoing criminal investigation;
- (c) The board may review and make recommendations to the chief of police for improving:
 - (1) Police policies, procedures, and investigations of citizen complaints;
 - (2) Police/citizen interactions;
 - (3) Communication with sectors of the community where trust of law enforcement has historically been lower;
 - (d) The board shall have no authority to investigate complaints;
 - (e) The board shall have no authority to recommend or impose discipline;
 - (f) By the first day of February of each year, the board shall make and file a report of its transactions for the preceding year with the city council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: August 4, 2012)

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 12, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Julsrud, Krause, Krug, Larson and Vice President Boyle -- 7

Absent: Councilor Stauber and President Hartman -- 2

- - -

Vice President Boyle presided over the meeting in the absence of President Hartman.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR LARSON

12-046 - AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Chief Administrative Officer David Montgomery and Planning and Construction Services Department Director Keith Hamre reviewed the scope and intent of the ordinance and answered councilors' questions.

- - -

The meeting was adjourned at 5:23 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 16, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Absent: Councilor Krause -- 1

The minutes of council meetings held on March 12 and 26; April 5, 9 and 23; May 10 and 14, 2012, were approved upon a unanimous vote.

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0716-01 Minnesota state auditor management and compliance reports for the year ended December 31, 2011, of the: (a) City of Duluth; (b) Duluth economic development authority.

-- Received

REPORTS FROM OTHER OFFICERS

12-0716-02 Auditor comprehensive annual financial report for the city of Duluth for the fiscal year ended December 31, 2011. -- Received

12-0716-03 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Duluth East Athletic Association on May 6, 2013 (raffle); (b) St. Michael's Church on October 21, 2012 (bingo, raffle). -- Received

12-0716-04 Purchasing agent emergency order for flood-related repairs totaling \$1,556,538 as of June 28, 2012. -- Received

REPORTS OF BOARDS AND COMMISSIONS

12-0716-05 Commission on disabilities minutes of May 2, 2012, meeting. -- Received

12-0716-06 Housing and redevelopment authority minutes of April 24, 2012, meeting. -- Received

12-0716-07 Library board minutes of May 22, 2012, meeting. -- Received

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that: the Duluth public school administration claims that its schools have seen a reduction in attendance due to private schools, home schooling and those going to other school districts, while other school districts are increasing attendance.

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the city council has adopted and implemented the model performance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

measures for cities as developed by the Council on Local Results and Innovation pursuant to Laws of Minnesota 2010, Chapter 389, Article 2, sections 1 and 2, for city participation in the state of Minnesota performance measurement program.

Resolution 12-0362 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Law Enforcement Labor Services Local 363, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0716-08, covering the years 2012 through 2014.

Resolution 12-0365 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Crysteel Truck Equipment for the equipment and labor needed in the complete outfitting of two new International Harvester cab and chassis units, to include city-furnished front plow and hitch assemblies and used stainless V-box sanders, in accordance with Minnesota State Contract 39241, Release S-863(5), specifications and pricing in the amount of \$105,839.42 plus \$7,276.46 sales tax (6.875 percent), for a total combined amount of \$113,115.88, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-V1203.

Resolution 12-0346 was unanimously adopted.

Approved July 16, 2012

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 licenses, subject to departmental approvals:

Duluth Softball Players Association (Copasetic Classic), Wheeler Field, for July 21 and 22, 2012, with John Vaydich, manager.

Duluth Softball Players Association (Beerhunters Tournament), Wheeler Field, for August 4 and 5, 2012, with John Vaydich, manager.

Duluth Softball Players Association (North Shore Classic), Wheeler Field, for August 25 and 26, 2012, with John Vaydich, manager.

Resolution 12-0350 was unanimously adopted.

Approved July 16, 2012

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:

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

JMMP Enterprises, LLC (Kom on Inn), 332 North 57th Avenue West, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

Sir Benedicts III, Inc. (Sir Benedict's Tavern), 805 East Superior Street, for July 28, 2012, from 10:00 a.m. to 6:00 p.m.

Resolution 12-0351 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following 3.2 percent malt liquor license for the period ending April 30, 2013, and approves issuance of the following on sale wine license for the period beginning September 1, 2012, and ending August 31, 2013, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Up North Taps, LLC (7 West Tap House), 7 West Superior Street.

Resolution 12-0352 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a blanket increase of \$25,000 in year 2012, the third and final calendar year of city's Contract C21296 with Essentia Health Duluth Clinic, for additional occupational medical tests and services, payable from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1431 (benefits administration/citywide human resources), Object 5310 (contract services).

Resolution 12-0358 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to city Agreement No. 21423, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0716-09, with Architectural Resources, Inc., for design and project management services to complete the project that encompasses the MIS server room air conditioning unit replacement, switch closet relocations, re-cabling and necessary electrical work, increasing the amount payable by \$18,000 from the following accounts: Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project CP2011-1109b. Additional design services to include necessary electrical upgrades to the building service and construction administration during the course of the project.

Resolution 12-0359 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of assessor office data coordinator, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0716-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 132. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0363 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a non-disturbance and attornment agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0716-11, with AAR Aircraft Services, Inc., and the Duluth Airport Authority pertaining to leasing of the maintenance, repair and overhaul facility at the Duluth International Airport.

Resolution 12-0348 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

RESOLVED, that the 2012 fee schedule be amended by adding the following fee pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended:

Planning	
Fee, Fine or Penalty Name	2012 Fee
Variance - for flood repair to structures located in flood fringe areas with damage that exceeds 50 percent or more of pre-flood market value	\$300.00

Resolution 12-0368 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth act as the legal sponsor for the 425W redevelopment project as contained in the redevelopment grant program application to be submitted on August 1, 2012, and that the proper city officials are hereby authorized to apply to the department of employment and economic development (DEED) in an amount of up to \$1,500,000 for funding of this project.

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

FURTHER RESOLVED, that if approved by the state, the city hereby commits to provide 50 percent of the project costs, up to \$1,500,000, in a qualified match contribution, said match to be provided by tax increment financing.

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

FURTHER RESOLVED, that upon approval of its application by the state, the proper city officials may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Fund 255 (economic development fund), Department 020 (planning), Source 4220-01 (state of Minnesota), and that the city certifies that it will comply with all applicable laws and regulations.

Resolution 12-0369 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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. 12-0716-12, with Senior Service America, Inc., (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$65,924 for the period of July 1, 2012, through September 30, 2012. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

Resolution 12-0355 was unanimously adopted.

Approved July 16, 2012

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 August 14, 2012, state primary election and the November 6, 2012, state general election, as listed in Public Document No. 12-0716-13.

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 name 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 12-0332 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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The city council finds as follows:

(a) The municipality of Duluth implemented Municipal State Aid Project 118-163-002 in 2012; and

(b) Said municipality is proceeding with the construction of said project with MSAS construction funds and proposes to complete said project through the use of an advance from the state aid/municipal construction account; and

(c) The city of Duluth MSAS account balance as of June 11, 2012, is \$0; and

(d) The advance is based upon the estimated expenditure of \$2,280,681.95; and

(e) Repayment of the funds so advanced will be made in accordance with the provisions of Minnesota Statutes 162.08, subd. 7, and Minnesota Rules, Chapter 8820.1500, subp. 8; and

(f) The municipality acknowledges that advance funds are released on a first-come, first serve basis, and that this resolution does not guarantee the availability of funds.

RESOLVED, that the commissioner of transportation be and hereby is requested to approve this advance for financing approved municipal state aid projects of the municipality of Duluth in an amount up to \$2,280,681.95. The city of Duluth hereby authorizes payments from subsequent accruals. Repayment from entire future year allocation until fully repaid will be \$2,280,681.95, paid from year 2013.

Resolution 12-0292 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Veit and Company, Inc., for excavation and disposal of flocculated solids from the five settling lagoons located at the Lakewood water treatment plant in the amount of \$843,200, payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1066.

Resolution 12-0342 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meters during year 2012 for a total of \$42,390 plus \$2,914.32 sales tax, for a combined total of \$45,304.32, 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 5227 (utility system maintenance supplies).

Resolution 12-0344 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the city's distributor, for the purchase and delivery of 300 Itron gas ERT meters during year 2012 for a total of \$23,700 plus \$1,629.38 sales tax, for a combined total of \$25,329.38, terms net 30, FOB destination, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object 5227 (utility system maintenance supplies).

Resolution 12-0345 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., for design, preparation of plans and specifications, and construction engineering services for the reconstruction of Westgate Boulevard flood-damaged utilities and street in the amount of \$72,000, payable from Fund 225 (disaster recovery), Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1111, Flood Emergency Site No. 2.

Resolution 12-0354 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the 2012 citywide sidewalk repair/replacement project in the amount of \$46,875, payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0938TR. Of these costs, 100 percent will be assessed to benefitting properties.

Resolution 12-0356 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for engineering services required to design, prepare plans and specifications, and provide construction engineering services to stabilize flood-damaged slopes along Seven Bridges Road in the amount of \$60,724, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1113, Flood Emergency Site No. 24.

Resolution 12-0357 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, the proper city officials are hereby authorized to apply to and participate in the natural resources conservation service emergency watershed protection program for restoration of Lake Superior watershed streams located in the city of Duluth which were damaged due to recent flash flood events.

FURTHER RESOLVED, that the proper city officials are authorized to commit a required 25 percent local match for watershed treatment or approved structural repairs which local match may be cash or in-kind services, funds committed shall be payable from Disaster Recovery Fund 225.

Resolution 12-0360 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., for engineering services for stabilization of flood-damaged slopes on Chester Park Drive in the amount of \$29,440, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1114, Flood Emergency Site No. 56.

Resolution 12-0361 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth Superior Area Community Foundation in the amount of \$5,000 for the program entitled: Community-Wide Local Energy Action Plan Technical Assistance and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0716-14, grant funds to be deposited in Fund 257-015-4270 (energy management fund, administrative services, other grants).

Resolution 12-0364 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue from August 1-3, 2012, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of inclement weather, if requested in writing by the licensee and approved by the administration.
Resolution 12-0367 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license, and approves issuance of a 2:00 a.m. beverage license and off sale brewery malt liquor license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Canal Park Brewing Company, LLC (Canal Park Brewing Company), 300 Canal Park Drive, with Rockie Karajecz, 51 percent owner, Island Investments, Inc., 34 percent owner, and Kim Kaz, 15 percent owner.

Resolution 12-0353 was adopted upon the following vote:

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

Nays None -- 0

Abstention: Councilor Larson -- 1

Absent: Councilor Krause -- 1

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment of Gabriel Peltier by Mayor Ness to the American Indian commission for a term expiring on March 31, 2015, replacing Donna Blue Bird who resigned, is confirmed.

Resolution 12-0370 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-038 (10167) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

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

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCED BY COUNCILOR STAUBER

12-046 (10168) - AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Fosle noted that in regard to the comments made by the speaker earlier, that due to his job he has seen students coming to the Duluth school district and his reports show where they are coming from.

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The meeting was adjourned at 7:13 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10167

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received commitments from the Minnesota public facilities authority (the "authority") for a loan and grant for the CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24 (the "project"), as identified in the city's application to the authority.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility for the project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or notes, in one or more series, in the maximum aggregate amount of \$1,000,000 for the purpose of paying costs of the project.

1.03 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of \$626,000; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$265,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$2,370,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$690,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of \$1,687,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,675,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$641,979; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,206,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of \$574,726; general obligation sewer utility revenue note dated December 16, 2009, now outstanding in the amount of \$2,239,800; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,143; two general obligation sewer utility revenue notes dated September 14, 2010, in the aggregate original principal amount of \$12,840,444, the proceeds of which have not been fully advanced; general obligation utilities revenue bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$1,765,000; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$2,265,000; and three general obligation sewer utility revenue notes dated November 29, 2011, in the aggregate original principal amount of \$915,320, the proceeds of which have not been fully advanced. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3, 2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, and November 29, 2011.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds or notes, in one or more series, of the city of Duluth in the maximum amount of \$1,000,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certificate of proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: August 17, 2012)

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

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

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 16, 2012
Approved July 16, 2012
DON NESS, Mayor

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ORDINANCE NO. 10168

AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 10-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 10-2. Building permit fee schedule.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(a) Building permit fees. Collection of fees for building permits and building inspections, as authorized in Minnesota Statutes, Sec. 16B.62, subdivision 1, and Section 1300.0160, subparts 3 and 4, of the 2007 edition of the Minnesota State Building Code or its successor provision, shall be assessed for work in accordance with the fee schedule established in accordance with Section 31-6(a) of this Code;

(b) Plan inspection fees. When plan review fees are required pursuant to Section 1300.0160, subpart 6, of the 2007 edition of the Minnesota State Building Code or its successor provision, the plan inspection fee therefore shall be 65 percent of the amount of the building permit fee provided for in Subsection (a) above except as modified by subpart 5 of said Section 1300.0160 or its successor provision;

(c) Special permits and fees. Special permits shall be obtained and special fees paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

Fees for the following shall be set in accordance with Section 31-6(a) of this Code:

- (1) Moving over public property any building which has an area of 1,000 square feet or less on the first floor;
- (2) Moving over public property any building which has an area of over 1,000 square feet on the first floor;
- (3) Moving any building or structure not on public property;
- (4) Razing or demolishing any building or structure;
- (5) The installation of a mobile home;

(d) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same manner as for the construction of new buildings;

(e) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(f) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(g) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

easement.

Section 2. Nothing to the contrary in Section 1 of this ordinance to the contrary withstanding, in the event that the director of the department of planning and construction services determines in the exercise of his or her reasoned discretion that the work for which a building permit is being sought is necessary to repair or reconstruct damage to the property arising substantially out of the rainfall event of June 20 and 21, 2012, and resulting flooding, he or she shall be authorized to reduce the fee required pursuant to Subsection (a) of Section 1 above, by 50 percent. The authority granted by this Section 2 shall be deemed to be applicable to all such building permits granted after June 21, 2012, and shall further authorize said director to authorize the rebate of any permit fee in excess of such amount paid to city between June 21 and the effective date of this Section 2.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 17, 2012)

Section 4. As of December 31, 2012, Section 2 of this ordinance shall be repealed and shall be of no further force and effect and the authority granted thereunder shall end.

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

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

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 16, 2012
Approved July 16, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 13, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Absent: Councilor Krause -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0813-01 Park Point Properties, LLC, appeal of the planning commission decision regarding the denial of the shoreline variance of 3129 Minnesota Avenue (12-0414R and 12-0415R). -- Committee 2 (planning and economic development).

12-0813-02 The following communications regarding the appeal of the planning commission decision regarding the denial of the shoreline variance of Park Point Properties, LLC, at 3129 Minnesota Avenue (12-0414R and 12-0415R): (a) Bruce Anderson; (b) Rick Ball; (c) Dawn and Ted Buck; (d) Sigurd Haller; (e) Debra McLaughlin; (f) LeAne and Bruce Rutherford. -- Received

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REPORTS FROM OTHER OFFICERS

12-0813-03 Purchasing agent emergency repair notice awarded to Soil Nail Launcher, Inc., to stabilize slopes at Chester Bowl Drive at an estimated cost of \$750,000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0813-04 Charter commission minutes of January 11, 2012, meeting. -- Received

12-0813-05 Duluth airport authority minutes of: (a) June 19; (b) July 9, 2012, meetings. -- Received

12-0813-06 Duluth Seaway Port authority minutes of: (a) April 26; (b) May 31, 2012, meetings. -- Received

12-0813-07 Entertainment and convention center authority minutes of: (a) March 27; (b) April 24; (c) May 18, 2012, meetings. -- Received

12-0813-08 Housing and redevelopment authority minutes of: (a) May 29; (b) June 26, 2012, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jimmie Lemmon, Mike Macey, manager of the Seaway Hotel, Mary Edlund, Christine Anttila, pastor of Our Saviors Lutheran Church, and Deb Holm expressed concerns regarding the Seaway Hotel of: the need for more state assistance for flood victims and residents of the Seaway Hotel; the homeless are really in need of more housing; that only a few rooms are damaged and that the whole building should not be condemned; that most water problems can easily be repaired, but that the recent torrential rains will take a while to fix; the building should be saved; there is not any other affordable housing available since other locations have closed; that due to many of the individuals' past situations, they cannot get into housing and redevelopment authority units; many individuals have basic health and housing needs and that there needs to be a dialogue with the homeless as to their needs.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Loren Martell reviewed: the past couple of years of open enrollment in and out of the Duluth school district for the last couple years, noting that more were leaving than coming in; that these losses are critical in lost state aid; the claim that these losses are due to population is ludicrous, with citizens opposing these new large schools.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

President Hartman 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. 12-0813-09, which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2011, to December 31, 2011, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 12-0385 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is on file in the office of the city clerk as Public Document No. 12-0813-26, with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2012-2014 season in the amount of \$6,852.83; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Buildings and Grounds-1217-2150, Ski Trail Reimbursement-4225.

Resolution 12-0399 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city and Building N, Inc., entered into an agreement on or about June 4, 1999, (City Contract No. 18439) related to the use of first boat slip on the east side of the Minnesota slip north of the pedestrian bridge.

FURTHER RESOLVED, the parties desire to amend the agreement to update certain clauses of the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-10.

Resolution 12-0374 was unanimously adopted.

Approved August 13, 2012

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 3.2 percent malt liquor licenses, subject to departmental approvals

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

and any specific restrictions:

Nifty 50 Cruisers Car Club (Kia of Duluth Car Show and Time Trials), 350 Garfield Avenue, for September 8-9, 2012, with Ryan Kern, manager.

College of St. Scholastica (Homecoming Tailgate Party), 1200 Kenwood Avenue, for September 15, 2012, from 11:30 a.m. to 3:30 p.m., with Carrie Emslander, manager.

Resolution 12-0376 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

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

Nifty 50 Cruisers Car Club (Haunted Hanger on the Hill), Duluth International Airport Hanger #3, for October 27, 2012, with Ryan Kern, manager.

Bong P-38 Fund (Duluth Airshow), 4127 Grinden Avenue, for September 22-23, 2012, with Ryan Kern, Manager.

Duluth-Superior GLBT Pride, Inc. (Duluth-Superior GLBT Pride Festival), Bayfront Park, for September 1, 2012, from 11:00 a.m. to 7:00 p.m., with Carolyn Reisberg, manager.

Northland Country Club, 3901 East Superior Street, for August 22, 2012, with Joe O'Connor, manager.

Minnesota Citizens Federation Northeast (Lasagna Dinner), 2430 West Third Street, for September 12, 2012, with Buddy Robinson, manager.

Resolution 12-0377 was unanimously adopted.

Approved August 13, 2012

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 30, 2012, from 4:00 p.m. to 8:00 p.m.

The Duke Partners, LLC (Spurs on 1st), 109 West First Street for September 15, 2012 (rain date September 22, 2012), from 6:00 p.m. to midnight.

CW Chips Grill & Bar, Inc. (Twins Bar), 501 East Fourth Street, for August 25, 2012, with the music ceasing at 11:00 p.m. and serving ceasing at midnight.

Resolution 12-0383 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Lake Superior Zoological Society and Minnesota Teen Challenge and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 12-0384 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract for the purchase and delivery of a 3920 communications service monitor (digital radio test set) and related accessories from Aeroflex Wichita, Inc., the sole distributor of this product in the United States, as verified by Public Document No. 12-0813-11 on file in the office of the city clerk, for a total of \$41,331 plus \$2,841.51 sales tax for a combined total of \$44,172.51, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year), Object 5580 (capital equipment), Project CE250-E1211.

Resolution 12-0395 was unanimously adopted.

Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility maintenance worker, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-12, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 23. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0409 was unanimously adopted.

Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of utility operator apprentice, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-13, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 25A-28. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0410 was unanimously adopted.

Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility operator, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-14, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 28. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0411 was unanimously adopted.

Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

classification of senior safety and training specialist, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-15, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 136. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0412 was unanimously adopted.
 Approved August 13, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a contamination cleanup program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-16, with the state of Minnesota acting through the department of employment and economic development ("DEED") in the amount of \$145,350 payable into Fund 255 (economic development), Agency 020 (planning), Object 4220-02 (state of Minnesota operating), related to the Blumberg-1831, LLC project.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a sub-recipient funding agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-16, with Blumberg-1831, LLC ("Blumberg"), in the amount of \$145,350, payable from Fund 255 (economic development), Agency 020 (planning), Object 5458 (payment to developer).

Resolution 12-0390 was unanimously adopted.
 Approved August 13, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby amends the 2012 annual action plan to delete \$316,839 in HOME program funds awarded to NCLT for a HOME project, to create a new HOME program project awarding \$316,839 to the HRA, to decrease the HRA's CDBG award by \$200,000, and to add a new CDBG project and award \$200,000 to one roof community housing (formerly NCLT), and authorize contracts and contract amendments as set forth below:

2012 HOME Program

Fund 260 (Home Program), Agency 020 (business and community development)
 Object 5434 (projects), Project CD12HM (Home 2012)

Sub-Project	Activity	Project	Amount	New Grant	Difference
CH12	2271	Rehab/resale-NCLT	\$316,839	-0-	(\$316,839)
GN12	1738	Property/rehab-HRA	-0-	\$316,839	\$316,839

2012 Grant (CDBG) Program

Fund 262 (community development), Agency 020 (business and community development), Object 5434 (projects), Project CD12CD (CDBG 2012)

Sub-Project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Property rehab-HRA	\$750,659	\$550,659	(\$200,000)
HOUS	6915	Rehab/resale-1Roof	-0-	\$200,000	\$200,000

Resolution 12-0400 was unanimously adopted.
 Approved August 13, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

RESOLVED, that:

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

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, July 10, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the utility easement described below and as described and depicted on Public Document No. 12-0813-17:

That part of the east 10.00 feet of Lot 28, Block 1, Lepak's Second Addition, Saint Louis County, Minnesota, lying southerly of the north 10.00 feet;

(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. 12-0813-17 showing the utility easement to be vacated.

Resolution 12-0403 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to Contract No. 20956 with St. Louis County, substantially in the form of that on file with the office of the city clerk as Public Document No. 12-0813-18, extending the term of said agreement through September 30, 2012, for the provision of supported work services to Minnesota family investment program (MFIP) participants. Monies received under this agreement will be deposited in Fund No. 268-031-6228 (workforce development, grants division, miscellaneous workforce development grants).

Resolution 12-0391 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are authorized to accept \$16,000 in cooperative agreement funding from the U.S. department of housing and urban development under the authority of City Contract No. 20095 in award funds providing for enforcement of federal fair housing laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 12-0813-19, funds to be deposited in Fund 110-110-1104-4209-02 (general, legislative and executive, attorney and human rights).

Resolution 12-0401 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the following is the revised list of high priority bridges in the city of Duluth, and that the city intends to replace, rehabilitate or remove these bridges as soon as possible when

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

funds become available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Const Year
L8516	Fairmont Street	\$500,000	\$375,000		\$125,000	2012
N/A	Blackman Avenue	\$225,000	\$135,000		\$90,000	2012
L5931	Niagara Street	\$150,000	\$90,000		\$60,000	2012
L8491	38th Avenue West	\$500,000	\$375,000		\$125,000	2012
L8486	Greene Street	\$500,000	\$375,000		\$125,000	2012
88457	London Road	\$100,000			\$100,000	2012
L5833	Triggs Avenue	\$500,000	\$375,000		\$125,000	2012
L3140	63rd Avenue West	\$500,000	\$375,000		\$125,000	2012
L8485	Bristol Street	\$500,000	\$375,000		\$125,000	2012
69J73	Cody Street	\$150,000			\$150,000	2012
L6116	Lake Avenue	\$5,000,000	\$3,750,000		\$1,250,000	2013
L6129	Woodland Avenue	\$150,000	\$90,000		\$60,000	2015
L8515	Lewis Street	\$250,000	\$150,000		\$100,000	2016

Resolution 12-0349 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to award a contract to Insituform Technologies USA, Inc., for cured-in-place pipe (CIPP) rehabilitation of sanitary sewers in Sewer Basin No. 24 in the amount of \$2,857,975, with \$571,595 payable from Clean Water Fund 532, Department 500 (public works and utilities), Object 5532 (capital improvements - bond), City Project No. 0983SN. The remaining \$2,286,380 will be reimbursed with a WIF grant from the PFA.

Resolution 12-0373 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the construction of a sanitary sewer in Lakeside Court easement beginning at Lake Superior and extending 160 feet northerly, and hereby requests that the mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost should be paid by special assessment, the number of installments in which assessments may be paid, and the properties which should include the special assessment:

- | | | |
|------------------|------------------|------------------|
| 1 Lakeside Court | 2 Lakeside Court | 3 Lakeside Court |
| 4 Lakeside Court | 5 Lakeside Court | 6 Lakeside Court |
| 7 Lakeside Court | 8 Lakeside Court | |

Resolution 12-0387 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that six out of seven property owners signed a petition to pave Plum Street from Ninth Avenue East to Skywood Lane.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said contract as estimated by the city engineer is \$46,675, payable from Permanent Improvement Fund 411, Department 035 (capital projects), object 5530 (improvements other than buildings), City Project No. 1061, with 100 percent of the costs assessable to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll (Public Document No. 12-0813-20), and may be paid in ten annual installments at municipal bond index plus 1.50 percent interest.

Resolution 12-0388 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the sidewalk and crosswalk improvements at Congdon Park Elementary, Lester Park Elementary and Harriet Beecher Stowe Elementary schools in the amount of \$279,036, payable out of Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0657TR.

Resolution 12-0389 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for the reconstruction of 17th Avenue East from South Street to London Road in the amount of \$81,259.83, payable out of Water Utility Fund 510, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 1083.

Resolution 12-0393 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that plans for Project 69-691-026 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of Skyline Parkway from Haines Road to Highland Avenue of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

FURTHER RESOLVED, that approval of the project is conditional on the county requiring its contractor indemnify the city of Duluth and include the city of Duluth as an additional insured on its certificate of insurance on this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0397 was unanimously adopted.
Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter in an agreement, a substantially the same as that on file in the office of the city clerk as Public Document No. 12-0813-21, with Tenaska Marketing Ventures for professional services relating to asset management of the city's underutilized gas pipeline and gas storage capacity with receipts therefrom to be paid to the gas utility fund.

Resolution 12-0418 was unanimously adopted.
Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to the Communications Facility Use Agreement #98282, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-22, with the state of Minnesota, department of transportation (Mn/DOT), allowing the city of Duluth police department to lease space for four additional base stations on the communications tower located at 329 West Tenth Street, increasing the annual lease fee from \$300 to \$500, payable from Fund No. 110-160-1610-5401 (general, police, administration and investigation).

Resolution 12-0375 was unanimously adopted.
Approved August 13, 2012
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into a contract with Clarey's Safety Equipment, Inc., for the tax-exempt purchase and delivery of 52 Scott SCBA integrated firefighter self-rescue devices for the Duluth fire department to be funded 80 percent by a FEMA (federal emergency management agency) grant and 20 percent by a city match as authorized by the passage of Resolution 11-0132 accepting such grant and in accordance with city-approved specifications and the vendor's low bid of \$56,680.00, payable as follows:

- (a) \$45,144.00 - Special Projects Fund 210, Department/Agency 030 (finance), Division 3174 (FEMA grant SCBA), Object 5580 (capital equipment), Project No. CP2011-1116b);
- (b) \$11,536 - General Fund 110, Department/Agency 150 (fire), Division 1502 (operations), Object 5241 (small equipment office operating).

Resolution 12-0398 was unanimously adopted.
Approved August 13, 2012
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 30, 2012, 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 12-0404 was unanimously adopted.
Approved August 13, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

WHEREAS, on June 20 and 21, 2012, the city of Duluth experienced a catastrophic rainfall event, causing great damage to and destruction of public and private property, which event resulted in a public disaster declaration (DR-4069) by the president of the United States, hereinafter referred to as the "disaster declaration"; and

WHEREAS, by virtue of the disaster declaration, the city and other affected jurisdictions will receive assistance from the federal emergency management agency, hereinafter referred to as "FEMA", to fund the cost of restoration of the public infrastructure so damaged; and

WHEREAS, even though many private properties in the city were badly damaged by the event to the point of being uninhabitable, the owners of such properties will not be eligible for assistance from FEMA to assist in the rebuilding of their homes; and

WHEREAS, even while such properties are uninhabitable and will therefore not be using any water service, gas service or sanitary sewer service, standard city utility rates practice will require them to continue to pay monthly fixed charges for water, gas and sanitary sewer; and

WHEREAS, the city council deems it to be fair, right and equitable that the owners of such damaged properties not be required to pay fixed monthly fees for utility services they cannot enjoy due to flood damage, during the time that their properties are uninhabitable.

RESOLVED, that the city council of the city of Duluth hereby requests that, pursuant to the provisions of Section 2-186 (b) of the Duluth City Code, 1959, as amended, the Duluth public utility commission temporarily modify the rates charged to customers of the city's water, gas and sanitary sewer systems, abating fixed charges for water, gas and sanitary sewer service for properties damaged or destroyed by the rainfall event that gave rise to the disaster declaration, subject to the following conditions:

(a) The property served by the services were damaged or destroyed by the rainfall event which gave rise to the disaster declaration;

(b) Because of the damage or destruction referred to in paragraph (a) above, the property has been formally placarded with a red, orange or yellow placard by the city's division of construction services and inspections in accordance with the procedures and practices provided for in the *Minnesota Building Official Disaster Preparedness Manual-Fourth Edition-Revised 2011*;

(c) No water service, gas service or sanitary sewer service is used on the property during the abatement period;

(d) The customer requests that the city abate said fixed charges;

(e) The abatement granted pursuant to this resolution would cease to be effective as of the date of the resumption of use of water service, gas service or sewer service on the property or upon the authorization to remove the placard by the above division on the property being lifted.

Resolution 12-0422 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city and Hartley Nature Center Incorporated (Hartley) entered into an amended and restated lease agreement on or about July 22, 2002, (City Contract No. 19253) related to the maintenance and operation of a nature center in Hartley Park.

FURTHER RESOLVED, that the parties desire to amend the agreement to expand the leased area and extend the lease by a period of 30 years.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the city clerk as Public Document No. 12-0813-23.

Resolution 12-0407 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city act as legal sponsor for the project contained in the park legacy application to be submitted on or before September 28, 2012, and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and financial capability to meet the match requirement and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED that the city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-24 agreeing to the project with grant funds to be deposited in Fund 205-130-1219-4210-02 (parks fund, community resources, parks operating, pass-thru federal grants) and to provide the city's in-kind contribution of \$50,000 of the project cost payable from Fund 205-130-1219-4220 (parks fund, community resources, parks operating, state of Minnesota).

Resolution 12-0413 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that city act as legal sponsor for the project contained in the park legacy application to be submitted on or before September 28, 2012 and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED that city has the legal authority to apply for financial assistance, and financial capability to meet the match requirement and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED that city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-25 agreeing to the project with grant funds to be deposited in Funds 205-130-1219-4210-02 (parks fund, community resources, parks operating, pass-thru federal grants) and to provide the city's in-kind contribution of \$50,000 of the project cost payable from Fund 205-130-1219-4220 (parks fund, community resources, parks operating, state of Minnesota).

Resolution 12-0416 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0392, transferring monies to street improvement debt service fund from the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

community investment trust fund to cancel 2013 debt service tax levy, was introduced by Councilor Krug for discussion.

Councilor Stauber expressed concern regarding the depletion of the community investment trust fund until a complete plan is developed on how to fund the street improvement plan.

Chief Administrative Officer David Montgomery commented that while the fund is being reduced, the administration will work with the council to find alternative street funding options if the legal actions with the Fond Du Lac Band of Lake Superior Chippewa are not favorable to the city. He felt that when the court decisions come forward this fall, the administration will have a better idea of the financial status of the trust fund.

Councilors and Mr. Montgomery discussed at length specifics of the fund and debt service.

Councilor Fosle moved to table the resolution so that all councilors could be part of the discussion, which motion was seconded and carried upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julstrud, Krug, Larson and President Hartman -- 7

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

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Resolution 12-0386, confirming the appointment of Roshanda Smiley as director of public administration for the city of Duluth, was introduced by Councilor Boyle for discussion.

Councilors Gardner and Stauber felt that: Ms. Smiley is very well qualified but they had concerns about the reduction of city staff by 20 percent or more over the last 12 years and that there does not seem to be a reduced number of administrative supervisor positions; given this reduction of staffing, there could be a leaner number of supervisory positions; as a city, with the cutbacks in life safety and other areas; the city needs to look at priorities and with the chief informational officer position it was also argued that the city needed that position and now it is not filled.

Mr. Montgomery reviewed the history on this position with over 200 employees in this department and the need for an adequate administrative oversight structure.

Resolution 12-0386 was adopted as follows:

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of Roshanda Smiley to the position of director of public administration; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Roshanda Smiley to the position of director of public administration for the city of Duluth.

Resolution 12-0386 was adopted upon the following vote:

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

Nays: Councilors Gardner and Stauber -- 2

Absent: Councilor Krause -- 1

Approved August 13, 2012

DON NESS, Mayor

- - -

Resolution 12-0421, approving proposed amendments to the specifications for the civil service classification of executive assistant, was introduced by Councilor Boyle for discussion.

Councilors Gardner and Julsrud expressed concerns that this only amends the job description and to put more individuals into this position as executive assistants to directors, which should not be the priority at this time.

Councilor Julsrud moved to table the resolution so that there can more in depth discussion,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

which motion was seconded and carried upon the following vote:

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

Nays: Councilors Fosle and President Hartman -- 2

Absent: Councilor Krause -- 1

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Resolutions 12-0414 and 12-0415, affirming and reversing, respectively, the decision of the planning commission to deny the application for a variance by Park Point Properties from the shoreland setback of Section 50-18.1 of the Duluth City Code., were introduced by Councilor Stauber for discussion.

Councilor Stauber moved to suspend the rules to hear from speakers on the issue, which motion was seconded and unanimously carried.

Keith McLaughlin, Debra McLaughlin, LeAne Rutherford, Rick Ball, Ted Buck and Dawn Buck, president of the Park Point Community Club, supported Resolution 12-0414 for the reasons of: what is proposed here is out of character for the neighborhood; the hardship is that the developer is insistent that this be large, three story duplex, not a reasonably sized single home; the planning commission did a very thorough review of this request and its decision should be supported; what you have before you is exactly what the planning commission considered; while the footprint seems reasonable, it is for a large, three story structure; if this was approved, it would set a bad precedence for other property on the point; this is a unique and environmentally sensitive site; and the Park Point Community Club supports this resolution, the protection of the shoreline and a nice reasonably sized single family home.

Tom Reistad and Paul Kellner supported Resolution 12-0415 for reasons of: this footprint is reduced in size from the original permit for this site; this is a much smaller proposal than the permitted version and is a result of meeting with the neighbors; the location of the building on the property, on what is buildable, is the hardship issue; this is not a pristine site; the Minnesota department of resources has stated that issues can be mediated and without this variance there are safety issues associated with the placement of the garage close to the street and proximity to the neighboring property.

Councilors Gardner, Larson, Stauber and Boyle discussed the merits of supporting Resolution 12-0415 at length, noting: each variance approved is a separate decision and not a precedence for future developments; this is not uninterrupted, pristine shoreline and is just a vacant lot;; the developers are sensitive to the neighbors; this is not going to change the neighborhood; a duplex allows those who are not extremely rich to be able to afford to live on the point; by the nature of the process the council is in the role to listen to all comments and make a decision, not to demine the extensive work of volunteers on the planning commission or staff; this duplex could be built without a variance, further up on the property line; this should include the 44 foot setback to the shoreline and following the lead of the district city councilor is important.

Councilor Krug expressed her support for Resolution 12-0414, stating that the planning commission has had all the information and reviewed it thoroughly and the council should not micromanage this.

Resolution 12-0414, affirming the planning commission decision, failed upon the following vote (Public Document No. 12-0813-27):

Yeas: Councilor Krug -- 1

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

Absent: Councilor Krause -- 1

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Councilor Stauber moved to amend Resolution 12-0415, to add a new subparagraph as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

follows:

“The setbacks were reduced from 50 feet from the ordinary high water mark to - 44 feet from the rear or southwest side of the lot, 34 feet from the southeast side and 25 feet from the northwest side of the ordinary high water mark,”

which motion was seconded and carried as follows:

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

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Councilor Fosle moved to amend the resolution to add a new subparagraph as follows:

“The finding of a hardship due to the constrictions placed on the reasonable use of the lot by the 50 foot setbacks from the ordinary high water mark that is measured from three different locations due to the irregular shoreline,”

which motion was seconded and carried as follows:

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

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Resolution 12-0415, as amended, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) Park Point Properties agent Kellner’s property is located at 3129 Minnesota Avenue and the proposed structure is within the 50 foot shoreland setback from the ordinary high water level;

(b) On May 7, 2012, Park Point Properties applied for a variance that would allow them to construct a 1,400 square foot duplex to be set back 25 feet from the ordinary high water level (Planning File No. 12-083);

(c) A public hearing was held by the planning commission at its June 12, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting to allow for a neighborhood meeting. At this meeting the commission voted to deny the request. The basis for the commission’s decision was its conclusion that:

(1) Section 50-37.9.C(b) of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property and not caused by the landowner required by Section 50-18.1.D of the City Code;

(2) If the city granted the requested variance it would have the effect of authorizing a lesser degree of shoreland protection than is required by Section 50-18.1.D of the City Code;

(3) Such a variance is prohibited by Section 50-37.9.L of the City Code;

(d) Park Point Properties was provided written notice of the commission’s action on July 11, 2012;

(e) Park Point Properties filed an appeal of the commission’s decision to the city council on July 20, 2012, and pursuant to Section 50-37.1.O(4) of the City Code;

(f) The city council heard the appeal at its August 13, 2012, meeting of the planning and economic development committee and the matter was considered at the August 13, 2012, meeting.

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

(a) Park Point Properties’ property located at 3129 Minnesota Avenue is within the 50 foot shoreland setback;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) Park Point Properties seeks a variance that would authorize the construction of a duplex of 1,400 square feet to be located within the 50 foot shoreland setback at a distance of 25 feet from the ordinary high water level;

(c) The following sections of the City Code are applicable to construction within the shoreland setback and relevant to this matter:

(1) Section 50-37.9.L provides as follows: "Variances in the shoreland in Section 50-18.1 shall only be granted in compliance with the limitation in this subsection D";

(2) Section 50-37.9.I provides as follows: "No variance shall be authorized that results in adverse consequences to the environment by Section 50-18.1.D";

(d) In addition to the meeting the standards applicable to construction within the shoreland as identified in subparagraph (c) above, the City Code requires an applicant for a variance to demonstrate the requirement for a variance provided in Section 50-37.9.C of the City Code;

(e) Granting a variance that allows for the construction of an 1,400 square foot structure within the 50 foot setback from the shoreland, but no closer than 25 feet from the ordinary high water level;

(f) Park Point Properties has demonstrated the existence of a hardship and the standards necessary to support a variance as provided in Section 50-37.9.C of the City Code.

RESOLVED FURTHER, that, pursuant to the authority to grant variances as provided in Section 50-37.9.L, the application for a variance by the Park Point Properties is granted subject to the following conditions:

(a) The duplex is no larger than 1,400 square feet and no closer to the ordinary high water level than 25 feet;

(b) Prior to construction, a plan for the operation and maintenance of the pervious pavers and rain garden be approved by the city engineer;

(c) That the driveway apron be designed according to the city engineer's standards;

(d) The authority to issue a building permit for the construction of a duplex pursuant to this variance shall expire one year from the date of the approval of this resolution;

(e) The finding of a hardship due to the constrictions placed on the reasonable use of the lot by the 50 foot setbacks from the ordinary high water mark that is measured from three different locations due to the irregular shoreline;

(f) The setbacks were reduced from 50 feet from the ordinary high water mark to - 44 feet from the rear or southwest side of the lot, 34 feet from the southeast side and 25 feet from the northwest side of the ordinary high water mark.

Resolution 12-0415, as amended, was adopted upon the following vote:

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

- 7

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Approved August 13, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

12-048 - AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-047 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-049 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE - NEIGHBORHOOD (MU-N), TO INDUSTRIAL GENERAL (I-G), LOCATED AT 1 LAKE AVENUE (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-051 - AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS REGULATING SIGNS.

- - -

INTRODUCED BY COUNCILOR JULSRUD

12-031 - AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilors discussed at length the housing shortage for low income individuals.

- - -

The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 27, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0827-07 Sharon Mosiniak communication regarding the proposed rezoning of properties in the Miller Hill area (12-056-O). -- Received

--

REPORTS FROM THE ADMINISTRATION

12-0827-29 Mayor proposed 2013 levy and budget. -- Received

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REPORTS FROM OTHER OFFICERS

12-0827-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Essentia Health-Duluth on November 9, 2012; (b) Essentia Health-St. Mary's Medical Center on November 9, 2012. -- Received

12-0827-02 Purchasing agent emergency order hiring Adjusters International as a consultant in disaster management and recovery. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0827-03 Duluth economic development authority minutes of: (a) June 12, 2012; (b) June 27, 2012; (c) July 9, 2012, meetings. -- Received

12-0827-04 Duluth parking commission: (a) Minutes of June 11, 2012, meeting; (b) Resolutions: (1) Prohibiting daytime parking on the north side of St. Benedict Street across from the Walgreens parking lot entrance/exit (2012-14); (2) Creating a handicapped accessible space on the south side of West First Street in front of the entrance to the Minnesota WorkForce Center (2012-15); (3) Adding new parking meters and converting existing meters to 12 hour time limits in the St. Luke's Hospital vicinity (2012-16). -- Received

12-0827-05 Seaway Port authority of Duluth summary budget of March 2012. -- Received

12-0827-06 Spirit Mountain recreation area authority minutes of June 21, 2012, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that: the Duluth School District is in poor financial shape again as large class sizes are causing students to leave the district, which is hurting the investment in the new buildings; deep cuts are going to be needed, with teacher layoffs and reduced services; there are no reserve funds and with teacher layoffs, more students will leave the district.

--

Jerry Schlafer felt that: the federal government is spending 40 percent more than the money they are taking in; Congress is not fixing the problem as it causes financial pain, which has

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

political consequences; taking no action is worse, with breakdowns in our society; we need to start in Duluth when we take federal money and settle for less from the government; local government needs to set an example for the federal government to avoid more severe problems in the future.

- - -

Karen Lewis voiced concern that mosquito-borne illnesses are a public health issue and there is a need to take steps to restore screens to apartment building doors and windows to prevent serious diseases.

- - -

RESOLUTIONS TABLED

Councilor Krug moved to remove Resolution 12-0392, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2013 debt service tax levy, from the table, which motion was seconded and unanimously carried.

Councilors Stauber and Julsrud noted that: this fund has been reduced with difficulty in paying the street improvement bonds; this is moving close to the minimum line the city should be at and instead of dipping into the fund a plan needs to be adopted.

Chief Administrative Officer David Montgomery reviewed the financial consequences of not approving this resolution.

Councilors and Mr. Montgomery discussed at length the history of the community investment trust fund and alternatives on street funding in the future.

Resolution 12-0392, which needed a 7/9th vote to pass, failed upon the following vote (Public Document No. 12-0827-08):

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

Nays: Councilors Julsrud, Krause and Stauber -- 3

[Editor's Note: The resolution was reconsidered and approved at the September 10, 2012, council meeting.]

- - -

Councilor Boyle moved to remove Resolution 12-0421, approving proposed amendments to the specifications for the civil service classification of executive assistant, from the table, which motion was seconded and unanimously carried.

Resolution 12-0421 was adopted as follows:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of executive assistant, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0827-09, are approved. This classification shall remain subject to the city's collective bargaining agreement with its confidential unit employees and compensated at Pay Range 9.

Resolution 12-0421 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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, 2012, and ending August 31, 2013, 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. 12-0827-10.

Resolution 12-0378 was unanimously adopted.
Approved August 27, 2012
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, 2012, and ending August 31, 2013, 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. 12-0827-11.

Resolution 12-0379 was unanimously adopted.
Approved August 27, 2012
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, 2012, and ending August 31, 2013, 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. 12-0827-12.

Resolution 12-0380 was unanimously adopted.
Approved August 27, 2012
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, 2012, and ending August 31, 2013, 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. 12-0827-13.

Resolution 12-0381 was unanimously adopted.
Approved August 27, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of three brewery malt liquor off sale intoxicating liquor licenses for the period beginning September 1, 2012, and ending August 31, 2013, 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. 12-0827-14.

Resolution 12-0382 was unanimously adopted.
Approved August 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Visual Computer Solutions, Inc., substantially in the form of that on file in the office of the city clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

as Public Document No. 12-0827-15, for the purchase and installation of a time and attendance system that will meet the needs of city departments and track and report various types of labor for a total of \$228,067 plus \$13,273.36 sales tax, a combined total of \$241,340.36, payable from the following accounts:

- \$189,632.52 from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object (capital equipment), Project CE250-E1209;
- \$13,201.57 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$17,298.60 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$9,104.53 from Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$5,917.94 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$6,185.20 Duluth Airport Authority Fund 590, Department/Agency 590 (airport operations), Object 5201 (computer supplies/software).

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the annual software and maintenance fee of \$24,000 per year for years two through five for a total amount of \$96,000.

Resolution 12-0417 was unanimously adopted.
Approved August 27, 2012
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into the second year of a three-year contract with GovConnection, Inc., for the purchase and delivery of computer laptop replacements and accessories as needed in year 2012 for an amount not to exceed the budget allocation of \$99,459.65, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Cost Center 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-E1204.

Resolution 12-0424 was unanimously adopted.
Approved August 27, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Adjusters International, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-16, for professional disaster management consulting services in the preparation of among other things, FEMA (federal emergency management agency) documentation for an amount not to exceed \$200,000, payable from Fund 225 (disaster recovery fund), Department/Agency 125 (finance), Division 1800 (force labor), Object 5310 (contract services), Project No. Flood - 990.

Resolution 12-0431 was unanimously adopted.
Approved August 27, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-17, for professional engineering and architectural design services, including construction administration during demolition and construction of the project, for a new communications tower and radio telemetry building on the city of Duluth Park Point tower site near Fire Hall No. 5, for an amount not to exceed \$49,500, payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2008-OT-0810.

Resolution 12-0432 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Tony Cuneo to the housing and redevelopment authority of Duluth for a term expiring on January 2, 2017, replacing Mary Rennie who resigned, is confirmed.

Resolution 12-0408 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of instrument technician, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0827-18, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 30. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0419 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of property and evidence technician, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0827-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 22.

Resolution 12-0420 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

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

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-20:

Niagara Street from the eastern line of Junction Avenue to the eastern line of Superior View Addition, First and Second Divisions;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-20:

A 20 foot portion along the easterly line of Junction Avenue, a 20 foot portion along the northerly edge of Lot 1, Block 10, Superior View Addition First Division extended, and a 20 foot portion along the southerly edge of Lot 47, Block 11, Superior View Addition Second Division extended to the eastern line of Superior View Addition;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-20 showing the platted street to be vacated.

Resolution 12-0430 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division, which is implementing the comprehensive land use plan by developing new zoning regulations, looked at how zoning could encourage areas for manufacturing, processing and other activities that may have off-site impacts and are generally isolated from other uses or buffered from them with access to major regional transportation facilities and other infrastructure; and

(c) Based on public comments received and the review of the area completed by the city planning division, recommended to the city planning commission that the future land use map be amended for the area 1,200 feet by 1,200 feet south of West Gary Street to approximately Sargent Creek and 350 feet west of the entrance to the Veit solid waste disposal and processing facility, from low-density neighborhood to general industrial; and

(d) The city planning commission has reviewed this future land use amendment, conducted a public hearing on August 14, 2012, at their regular planning commission meeting and recommends adoption of the proposed future land use map amendment; and

(e) The city council action shall be by resolution, with the affirmative votes of at least two-thirds of those members constituting a quorum required to take action.

IS IT FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map, is amended as identified in Public Document No. 12-0827-21.

Resolution 12-0435 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council grants Village Center Development, LLC, an interim use permit to operate a university or college use and parking structure located at 201 Clover Street and as described by the following:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

010-0590-01280
010-0590-00730
010-0590-00570

010-0590-01210
010-0590-00451

010-0590-00840
010-0590-00430

(b) Pursuant to Section 50-20.4.D 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. The commission gave due notice of public hearing and considered the application during a public hearing occurring on August 14, 2012;

(c) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that authorizes a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use;

(d) The city planning commission, at their regular meeting on August 14, 2012, considered the application's consistency with the comprehensive land use plan and voted to recommend approval of an interim use permit for an college or university use and parking structure use;

(e) 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 location.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit for university or college use will be valid a maximum of 35 years (December 2047) and parking structure use will be valid a maximum of 50 years (December 2062);

(b) The university or college use is limited to within the existing structure of the Woodland Middle School. The parking structure use is limited to the area adjacent to the school and East Eighth Street;

(c) The university or college use and parking structure must comply with the requirements of the approved regulating plan and other UDC design standards, as appropriate. Resolution 12-0436 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

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

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-22:

Clover Street from the easterly line of Lot 2, Block 17, Clover Hill Division extended to the west line of Woodland Avenue, Clover Hill Division;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-22:

A 20 foot portion along the southerly line of Lots 8 and 9, Block 7, Clover Hill Division, a 33 foot portion along the westerly line of Woodland Avenue between Lot 4, Block 17, and Lot 8, Block 7, Clover Hill Division and a ten foot portion extended westerly from a line from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the northwest corner of Lot 4, Block 17 to the southwest corner of Lot 8, Block 7, Clover Hill Division;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-22 showing the platted street to be vacated.

Resolution 12-0443 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

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

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-23:

Bayview Avenue from the northern line of Halsey Street to the northern line of Worth Street, Oakland Park Addition;
and

Halsey Street from the eastern line of Oakland Avenue to the western line of Bayview Avenue, Oakland Park Addition;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-23:

A 20 foot portion beginning six feet west the southwest corner of Lot 12, Block 10, Oakland Park Addition, to the southern line of Block 18, Oakland Park Addition, extended and a 20 foot portion beginning at the southeast corner of Lot 1, Block 19, Oakland Park Addition, extending north 100 feet;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-23 showing the platted street to be vacated.

Resolution 12-0444 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that city council Resolution No. 12-0264 authorizing advanced home energy audits under the advance home energy audit program is hereby amended by increasing the number of audits authorized under the program from 600 to 800 and by increasing the authorized cost thereof from \$120,000 to \$160,000, the increased amount to be payable from Fund No. 555-500-5441 (home energy conservation, public works and utilities).

Resolution 12-0423 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that the proper city officials are hereby authorized to accept a FY2012 justice assistance grant program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$42,370, to be used for state and local initiatives including the first witness program; Southern St. Louis County drug, mental health and DWI court; camera equipment; and to help fund technical assistance, training, personnel, equipment, supplies, contractual support and criminal justice information systems; and further are authorized to execute any documents required to be executed to accept said grant, funds to be deposited in Fund No. 215-200-2299-4209-02 (Duluth police grant programs, police, 2012 JAG Grant, direct federal grants operating), camera expenses to be paid from Fund No. 215-200-2299-5580 (Duluth police grant programs, police, 2012 JAG grant, capital equipment), and other expenses to be paid from Fund No. 215-200-2299-5447 (Duluth police grant programs, police, 2012 JAG grant, payment to other government agencies).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0827-24, with the St. Louis County sheriff's office, who is a partner of the city under this grant, all reimbursement payments to St. Louis County pursuant to this agreement shall be paid from Fund No. 215-200-2299-5447 (Duluth police grant programs, police, 2012 JAG grant, payment to other government agencies).

Resolution 12-0396 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

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

In front of 919 East Ninth Street;

In front of 2223 West Second Street.

Resolution 12-0425 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2011-FH-00967 from the U.S. department of homeland security, federal emergency management agency, staffing for adequate fire and emergency response (SAFER) grant program, a copy of which is on file in the office of the city clerk as Public Document No. 12-0827-25, in the amount of \$420,582, said funds to be deposited in Fund No. 110-015-1505-4209-02 (general fund, fire, administration, federal grants), for the purpose of funding wages and benefits for three additional firefighter positions for two years.

Resolution 12-0441 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-26 with the St. James Home of Duluth, Inc., d/b/a Woodland Hills, for the lease of space in the Washington Recreation Center with monthly rent of \$600 payable to Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

facilities, rent of buildings).

Resolution 12-0426 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0433, authorizing the issuance and sale of a \$600,175 general obligation sewer utility revenue note, Series 2012A, and providing for its payment, was introduced by Councilor Krug for discussion.

Councilor Stauber felt that the city should be paying as it goes instead of bonding.

Resolution 12-0433 was adopted as follows:

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

Section 1. Note Purpose and Authorization.

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

1.02 The city council has, by Ordinance No. 10167 adopted July 16, 2012 (the "Ordinance"), ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the maximum amount of \$1,000,000 of the City for the following project: CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24 (the "Project") as identified in the City's application to the PFA, and for the payment of part of the interest cost of the bond or note.

1.03 The City has applied for and received a grant from the State of Minnesota's Wastewater Infrastructure Fund in the amount of \$2,400,699 to pay a portion of the costs of the Project. The general obligation sewer utility revenue note to be issued under the Ordinance for the Project shall be issued in the principal amount of \$600,175 (the "Note") to pay the portion of the costs of the Project, not paid by such grant funds.

1.04 The council hereby determines that the Project is a project for the purpose of designing, constructing, repairing or replacing structures or facilities, including sanitary sewage overflow storage and for the purpose of attaining compliance with federal or state inflow and infiltration standards, within the meaning of City Code Section 43-11.1(7), and thus the costs of the Project and debt service of the Note which paid costs of the Project are eligible costs to be paid from the Clean Water Fund created under City Code Section 43-11.1 (the "Clean Water Fund").

1.05 The City hereby authorizes the issuance and sale of the Note, in substantially the form on file in the office of the clerk as Public Document No. 12-0827-27(a), for the Project to the PFA pursuant to a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated August 10, 2012, between the PFA and the City, in substantially the form presented to the Council and on file in the office of the clerk (the "Loan Agreement"), as Public Document No. 12-0827-27(b) which is hereby authorized, ratified and approved.

Section 2. Execution and Delivery of Note and Loan Agreement.

2.01 The Note to be issued hereunder shall be dated as of the date of delivery to PFA,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

shall be issued in the principal amount of \$600,175, in fully registered form and lettered and numbered R-1. Interest on the Note shall be at the rate of 1.00% per annum. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the Note, subject to adjustment as provided in the Loan Agreement. If the principal and interest payments are paid by check and mailed to the registered holder of the Note, such payment shall be mailed by the City at least five business days prior to the payment date.

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

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

2.04. Delivery of the Note shall be made at a place mutually satisfactory to the City and the PFA. The Note shall be furnished by the City without cost to the PFA. The Note, when prepared in accordance with this Resolution and executed, shall be delivered to the PFA by and under the direction of the Treasurer. Disbursement of the proceeds of the Note shall be made pursuant to the Loan Agreement.

2.05. In the event of an inconsistency between a provision of this Resolution and a provision of the Loan Agreement, the provision of the Loan Agreement shall govern.

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the PFA and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Note and on all other bonds and notes heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the proper City official shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds or notes when due.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

3.02 The City hereby creates a separate construction account (the "2012A Construction Account") within the Public Utility Sewer Fund to which there shall be credited the proceeds of the Note as received, together with investment income thereon, all grant funds for the Project and any additional funds which may be available and are appropriated for improvements to the Project. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the Project and costs of the issuance of the Note.

3.03 Until the Note issued hereunder is fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the sewer utility. The council further authorizes the use of monies on deposit in the Clean Water Fund to pay the principal of and interest on the Note. All investment income on funds in the Sewer Debt Service Fund are pledged to payment of the Note and other bonds and notes payable from the Sewer Debt Service Fund. The treasurer shall transfer from the Sewer Utility Operating Account and the Clean Water Fund to the Sewer Debt Service Fund amounts of the net revenues and monies from the Clean Water Fund sufficient for the payment of all interest and principal then due on the Note. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

3.04 Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds or notes constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

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

B. The full faith and credit and taxing powers of the City are irrevocably pledged for the prompt and full payment of the principal of and interest on the Note, as such principal and interest respectively become due. However, the net revenues of the sewer utility appropriated to the Sewer Debt Service Fund are estimated to be not less than five percent in excess of the principal of and interest on the Note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

3.06 Monies on deposit in the 2012A Construction Account and the Sewer Debt Service Fund may, at the discretion of the City, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the Project costs and/or the principal and interest on the Note and bonds or notes payable from the Sewer Debt Service Fund when due, as applicable.

Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Note that the City will (i) take all action on its part necessary to cause the interest on the Note to be exempt from federal

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income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Note and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Note and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note and any sums from time to time held in the Sewer Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Note and money in the Sewer Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Note, or to cause or permit them to be used, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 If the City determines that the Note does not qualify for exemption from the federal arbitrage rebate requirements under Section 148(f) of the Code, the City agrees to cause the calculations and payments to the United States to be made pursuant to Section 148 of the Code and Treasury Regulations relating thereto.

Section 5. Certificate of Proceedings.

5.01 The clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Note herein authorized has been duly entered on his register.

5.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Note as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

Resolution 12-0433 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved August 27, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

Resolution 12-0371, by Councilor Boyle, appointing _____ to the civil service board, replacing Robert Zallar, was introduced for discussion.

Councilor Boyle moved to amend the resolution to insert the name "Richard E. Edwards" into the resolution, which motion was seconded and unanimously carried.

Resolution 12-0371, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the Duluth City Council hereby appoints Richard E. Edwards to the civil service board for a term expiring on March 31, 2017, replacing Robert Zallar who resigned.

Resolution 12-0371, as amended, was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

Resolution 12-0372, by Councilor Boyle, appointing _____ to the Duluth public utilities commission, replacing John Bruggeman, was introduced for discussion.

Councilor Boyle moved to amend the resolution to insert the name of "Jason Thorsell" into the resolution, which motion was seconded and unanimously carried.

Resolution 12-0372, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby appoints Jason Thorsell (at large) to the Duluth public utilities commission for a term expiring on March 31, 2014, replacing John Bruggeman who resigned.

Resolution 12-0372, as amended, was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

Resolution 12-0405, amending Resolution 09-0007, as amended, retaining Maki and Overom, Chartered, increasing the amount by \$250,000 for a new total amount not to exceed \$1,310,000, was introduced for discussion.

Upon Councilor Julsrud's request, City Attorney Gunnar Johnson reviewed in detail the history on this issue.

Councilor Stauber expressed concerns of: the amounts of money that are being spent on legal and other fees; that the tribe has been successful on the decisions so far and that the city should work with the band and try to negotiate a settlement instead of using the court system.

Resolution 12-0405 was adopted as follows:

RESOLVED, that the city council hereby amends Resolution 09-0007, as amended, retaining Maki and Overom, Chartered, to provide legal services to the city related to a gaming matter, increasing the amount by \$250,000 for a new total amount not to exceed \$1,310,000, payable from Fund 256-030-5304 (community investment trust fund, finance, legal services), and authorizes the proper city officials to execute a sixth amendment to professional services agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-0827-28.

Resolution 12-0405 was adopted upon the following vote:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: Councilor Stauber -- 1
Abstention: Councilor Boyle -- 1
Approved August 27, 2012
DON NESS, Mayor

- - -

Resolution 12-0438, by councilors Julsrud and Larson, of support for the Lake Superior Good Food Charter, was introduced for discussion.

Councilor Larson moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Jamie Harvey, executive director for the Institute For Sustainable Future, expressed support for the resolution for reasons of: in Duluth over a half billion dollars are spent on health care costs annually; fresh, healthy food should be available to all, in homes and schools and both local restaurants and institutions have made changes to healthy foods.

Resolution 12-0438 was adopted as follows:

BY COUNCILORS JULSRUD AND LARSON:

RESOLVED, that the city council hereby expresses its support for the Lake Superior Good Food Charter and the development of a vibrant, dynamic and sustainable local food system.

Resolution 12-0438 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILORS BOYLE AND STAUBER

12-054 - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND ON LAKEWALK AND REVISING OTHER SMOKING RESTRICTIONS, ADDING NEW SECTION 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 28-70 AND REPEALING SECTION 34-40 THEREOF.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-053 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO RR-2, R-2, AND MU-N, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-055 - AN ORDINANCE AUTHORIZING THE SALE OF 2,379.7 SQUARE FEET OF PARKLAND IN CONGDON PARK TO JAMES AND MARY ANN MONGE FOR \$11,898.50.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-056 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-2 TO TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

George Kovich, Sharon Mosiniak and Larry Kraemer opposed the ordinance for reasons of:

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over the years this issue has been reviewed and reviewed; and now under this proposal commercial development is going to be allowed; Miller Hill Manor is terrible to look at with its six stories and now with the antennas it is even worse - like a eight story building; a petition (Public Document No. 12-0827-07) of 265 signatures was submitted opposing the rezoning; with this change there will be more noise, traffic and commercial business in the neighborhood; it will devastate property values; this is turning out to be more rental properties; this property was initially intended to be a buffer between the neighborhood and commercial businesses; the neighbors' concerns were ignored at the planning commission and one resident should not profit and the expense of over 200 residents.

Earl Richards supported the ordinance because he owns close to 15 acres along one side of Maple Grove Road and has paid taxes and made improvements for 20 years and this would allow for commercial development here.

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BY PRESIDENT HARTMAN AND COUNCILOR GARDNER

12-057 - AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

12-048 (10169) - AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-047 (10170) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-049 (10171) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE - NEIGHBORHOOD (MU-N), TO INDUSTRIAL GENERAL (I-G), THE PROPERTY LOCATED AT 1 LAKE AVENUE (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-051 (10172) - AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

REGULATING SIGNS.

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

- - -

INTRODUCED BY COUNCILOR JULSRUD

12-031 (10173) - AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

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

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

Nays: Councilor Krause -- 1

- - -

The meeting was adjourned at 8:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10169

AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

The city of Duluth does ordain:

Section 1. That Section 10A-5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 10A-5. Sale of pull-tabs.

(a) No organization or person shall sell or purchase pull-tabs except in compliance with Minnesota statutes and regulations;

(b) In licensed liquor establishments, sales of pull-tabs must cease at least 15 minutes before sales of alcoholic beverages are required by law to cease;

(c) Pull-tab sales are also subject to the restrictions contained in Section 8-24 of this Code;

(d) Pull-tabs shall be sold only in business establishments that are licensed to sell on sale intoxicating liquor, or on sale 3.2 malt liquor.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: September 30, 2012)

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

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

Nays: None -- 0

Passed August 27, 2012

Approved August 27, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10170

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties located on the southwest corner of East Michigan Street and East Superior Street and as more particularly described as follows:

That part of Portland Division according to the recorded plat thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the north corner of Lot 17, Block 5, Portland Division; thence northwesterly along the northwesterly extension of the northeast line of said Lot 17 to the centerline of Superior Street; thence southwest along the centerline of Superior Street to the northwesterly extension of the southwest line of Lot 20 of said Block 5; thence southeasterly along said southwest line of Lot 20 and its extensions to a line parallel and 170.00 feet distant from said centerline of Superior Street; thence northeasterly along said line parallel with Superior Street centerline to the southeasterly extension of the northeast line of said Lot 17; thence northwesterly along the northeast line of said Lot 17 and its extension to the point of beginning; be reclassified from Mixed Use-Commercial (MU-C), to Form District 8 Downtown Mix (F-8), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-105)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 30, 2012)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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

Nays: None -- 0

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10171

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N), TO INDUSTRIAL GENERAL (I-G), THE PROPERTY LOCATED AT 1 LAKE AVENUE (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject property located at city located at 1 Lake Place Drive (Duluth steam utility site) from Mixed Use-Neighborhood (MU-N) to Industrial-General (I-G). The Duluth steam utility site located between Interstate 35, Lake Avenue and Railroad Street and as more particularly described as follows:

Those parts of Transfer Division of Duluth and Industrial Division of Duluth, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the east corner of Lot 12, Block 2 of said Industrial Park; thence northwesterly along the northeast lines of Lots 12, 14, 16, 18 and 20 of said Block 2 to the southeast right-of-way of Interstate 35;

Thence southwesterly along said southeast right-of-way of Interstate 35 to the northeast line of the former 24.00 foot wide railroad easement within Lot 18 of Transfer Division of Duluth; thence southeasterly along said northeast line of railroad easement, through Lots 18, 17 and 16 of Transfer Division of Duluth, to the southeast line of the northwest half of said Lot 16; thence northeast along said southeast line of the northwest half of Lot 16 and its extension to the centerline of Lake Avenue South; thence northwesterly along said centerline of Lake Avenue South to the southwesterly extension of the southeast line of said Lot 12 of Industrial Division of Duluth; thence northeasterly along said southeast line of Lot 12 and its extension to the point of beginning;

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



(Ref. File No. 12-104)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 30, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ORDINANCE NO. 10172

AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS REGULATING SIGNS.

The city of Duluth does ordain:

Section 1. Statement of legislative intent.

The council of the city of Duluth finds that it is necessary to preserve the status quo regarding the city's regulation of signs codified in Chapter 50 of the Legislative Code.

The council finds that the current regulations provided for in Chapter 50 require amendment.

The council finds that in order to properly implement the comprehensive plan and to protect

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the public health, welfare and safety, the official controls regulating signs must be studied and amended.

Accordingly, it is the intent of the council of the city of Duluth to establish under this interim ordinance, a moratorium protecting the general health, welfare and safety of the public, and preserving the status quo with respect to signs pending the conclusion of a zoning study and the enactment of amendments to Chapter 50, by immediately prohibiting the issuance of any approval necessary to erect or alter pole signs and monument signs.

Section 2. Moratorium imposed.

The city of Duluth hereby imposes on any parcel of land, lot, or part thereof within the boundaries of the city a prohibition on the issuance of any approval necessary to erect or alter a pole sign or monument sign pending the completion of the study and enactment of ordinances noted in Section 1. This moratorium shall be effective until the expiration of 12 months following enactment or until such earlier time as the city council has taken action on the amended ordinances noted in Section 1.

Section 3. Extension of moratorium.

The council may, by resolution, and pursuant to the requirements of Minnesota Statutes Section 466.355, Subd. 4, extend the moratorium before the expiration of the 12 month period for an additional period of time, but in no event may the moratorium extend beyond 18 months from the date this ordinance becomes effective.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: September 30, 2012)

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

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

Nays: None -- 0

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10173

AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

The city of Duluth does ordain:

Section 1. That Section 43-6 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-6. Joint liability for payments.

The owner of premises which are connected to the city's wastewater facilities, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the city only upon the condition that the owner of the premises, occupant and user of the services are jointly and severally liable to the city therefor. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner, occupant or user if a civil action in any court of competent jurisdiction or in the discretion of the director may be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

certified to the county auditor to be collected with taxes against such premises so served. The certification of such charges shall be performed in accordance with the provisions of subsections b. through f. of Section 48-15.5 of this Code. Money paid to the county auditor on such account shall belong to the city and shall be remitted to the city treasurer by the county auditor in the manner provided by law for the payment of other money belonging to the city. In addition to, and not in lieu of, the foregoing method of enforcing payment of such charges, the director may, according to such rules and regulations as he may have established and the council shall have by resolution approved, cause the city water supply for and to any premises to be shut off until all arrears, with interest and penalties on such delinquent charges, shall be paid, together with the cost of shutting off and turning on such water.

Section 2. That Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 48-15.5 thereto which reads as follows:

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

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

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

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

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

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

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

(b) List of delinquent accounts. On or before June 1 of each year, the department may transmit to the city assessor a list of properties described in Subsection (a) above and any other properties having unpaid sewer charges certified by the director for assessment against the property pursuant to Section 43-6 of the Code, together with the amount due with respect to each such property. For each account transmitted, a collection fee in the amount set by city council resolution pursuant to Section 31-8 of the City Code shall be added to reimburse the department for its administrative costs;

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

(d) Notice. On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall give 20 days notice by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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

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

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: September 30, 2012)

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

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

Nays: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 10, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0910-10 Craig Schield information regarding Deaf and Hard of Hearing Services - Northeast (12-0440R). -- Received

12-0910-01 The following communications regarding the proposed ordinance to prohibit smoking in various locations (12-054-O): (a) Andrea Crouse; (b) Sara Curwin; (c) John M. Glendenning, Jr.; (d) Patti Hocking; (e) Charlene Shimmin; (f) Jodi Tervo; (g) Ladona Tornabene. - Received

12-0910-08 The following communications regarding proposed rezoning in the Miller Hill area (12-056-O): (a) Larry Kraemer; (b) Mike Kruger (2); (c) Sharon Mosiniak, et al. (2). -- Received

- - -

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported, regarding the proposed Seaway Hotel closure, that the city has coordinated a settlement of the issue and lining up a plan of action between all the agencies that is both long range and enforceable.

- - -

REPORTS FROM OTHER OFFICERS

12-0910-02 Building official:

(a) Appeal of the building appeal board decision to uphold the notice and order of condemnation for human habitation regarding the Seaway Hotel. -- Committee 2 (planning and economic development)

(b) Notice, by the planning and construction services department director, of the rescinding of the order of condemnation for human habitation regarding the Seaway Hotel and a memorandum of understanding with the Greater Minnesota Housing Fund for the repair of the building and property management requirements. -- Received

12-0910-03 Purchasing agent emergency order regarding Skyline Parkway culvert improvements awarded to Utility Services for \$104,726. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0910-04 Duluth airport authority minutes of: (a) July 17; (b) August 14, 2012, meetings. -- Received

12-0910-05 Duluth economic development authority minutes of July 25, 2012, meeting. -- Received

12-0910-06 Duluth public utilities commission resolution abating fixed water, gas and sanitary sewer charges on flood damaged homes during the period of non-habitability (12PUC-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

009). -- Received

12-0910-07 Duluth transit authority: (a) Minutes of May 30, 2012, meeting; (b) Income statement of April 2012. -- Received

- - -

REPORTS OF COUNCIL COMMITTEES

12-0910-09 City council civil service reform working group recommendations of July 19, 2012, meeting, pursuant to Resolution 12-0130. -- Received

- - -

RESOLUTION RECONSIDERED

Councilor Julsrud moved to reconsider Resolution 12-0392, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2013 debt service tax levy, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Krause and Stauber -- 2

Councilor Julsrud said her original concerns were for the 2014 budget but she has faith that the council can work with the administration for the 2014 budget.

Councilor Stauber noted that: in 1995 there was a huge problem with the city streets and the council created the community investment trust (CIT) fund for future generations and for it to earn interest for infrastructure improvements; that some councilors voiced concern that future councils would use the money for other projects that the administration wanted to spend it on and that the city has spent down the CIT from \$78 million to \$23 million without a new street improvement plan.

Councilor Krause stated there are still many months to develop a plan for the street improvement program and that the council does not need to act on this now to ensure there is a plan in place.

Mr. Montgomery reviewed that: all the drawdowns to the CIT fund have been legally approved by the council; close to 70 miles of street improvements have been done; the administration will present a 2014 street improvement plan, but this funding is for the 2013 improvement plan and that this is a debt obligation that has to be paid.

Resolution 12-0392 was adopted as follows:

WHEREAS, the city of Duluth, Minnesota (the "city"), has issued several series of general obligation street improvement bonds (the "bonds") to finance the city's street improvement program, with a portion of the principal of and interest on the bonds being payable from special assessments on benefitted property and a portion being payable from a debt service tax levy; and

WHEREAS, the city administration has proposed to cancel a portion of the 2013 debt service tax levy with a transfer of monies from the community investment trust fund (Fund 256) (the "CIT fund").

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city, as follows:

The council hereby transfers \$2,913,182 from the CIT fund to the bond accounts within the street improvement debt service fund (the "debt service fund") for payment of a portion of the principal of and interest on the bonds due on August 1, 2013, and February 1, 2014. The monies hereby appropriated shall be transferred to the debt service fund within 30 days of passage and approval of this resolution.

Resolution 12-0392 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson and President Hartman -- 7
Nays: Councilors Krause and Stauber -- 2
Approved September 10, 2012
DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2013 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$778,800 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$778,800.

Resolution 12-0452 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2013 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,391,900.

Resolution 12-0453 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Northland Consulting Engineers, LLP, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0910-11, for professional design and construction engineering services in the repair, restoration and/or replacement of the sea wall and boardwalk at Chambers Grove Park located near the far western Duluth neighborhood of Fond-Du-Lac along the St. Louis River, for an amount not to exceed \$67,026, payable from the Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1804 (water control facilities), Object 5310 (contract services), Project No. Flood - 299.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0434 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Scalzo Architects, Ltd., substantially the same as Public Document No. 12-0910-12 on file in the office of the city clerk, for performance of a condition survey and feasibility study of existing maintenance buildings in various locations, for an amount not to exceed \$38,000, payable from the Capital Improvements Fund 450, Department/Agency (finance) 030, Object 5520 (buildings and structures), Project No. CP2012-1202b.

Resolution 12-0445 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with SHI International Corporation for the purchase and delivery of computer PC (personal computer) replacements and accessories as needed in year 2012 for all city departments in accordance with Minnesota State Contract 48196, Release C-1046(5), specifications and pricing, not to exceed the budget allocation of \$150,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 12-0450 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to increase the original purchase order to MacQueen Equipment, Inc., for OEM (original equipment manufacturer) replacement parts for Elgin and Vactar equipment by \$20,000, for a new total contract amount of \$68,000, terms net 30, Minnesota state discount of ten percent on current pricing list, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair supplies).

Resolution 12-0458 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 12-0910-13 with Architectural Advantage, LLP, for architectural services related to the design and installation of replacement windows on City Hall, increasing the amount payable thereunder by \$53,350, \$33,500 of which shall be payable from Fund No. 450-030-5520-CP2011-1104B (capital improvement, finance) and \$19,850 of which shall be payable from Fund No. 450-030-5520-CP2012-1204 (capital improvement, finance).

Resolution 12-0460 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Women's Care Center and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 12-0463 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Patrick Kevin Mullen to the Duluth airport authority for a term expiring on July 1, 2015, replacing Conrad Firling, is confirmed.

Resolution 12-0447 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Carrie Heffernan and Jay Seiler to the entertainment and convention center authority for terms expiring on June 30, 2015, replacing John Arnold III and Mark Emmel, are confirmed.

Resolution 12-0448 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Gregory A. Benson and Sean M. Flaherty to the Spirit Mountain recreation area authority for terms expiring on June 30, 2015, replacing Willard Munger, Jr., and Nancy Nelson, are confirmed.

Resolution 12-0449 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

WHEREAS, to comply with the records management statute, Minnesota Statutes Section 138.17, it is necessary to adopt a plan for managing governmental records including the proper retention and disposal of municipal records; and

WHEREAS, Minnesota Statutes Section 138.17 establishes the records disposition panel and requires all government entities to follow an orderly process in disposing information; and

WHEREAS, the state of Minnesota has approved for use by all Minnesota cities the Minnesota General Records Retention Schedule for Cities which authorizes cities adopting said schedule an orderly method of disposing of municipal records; and

WHEREAS, the Minnesota General Records Retention Schedule for Cities is regularly updated.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby adopts the Minnesota General Records Retention Schedule, providing for the retention and destruction of records as set forth in said schedule and subsequent revisions.

FURTHER RESOLVED, that the city clerk shall notify the Minnesota historical society/state archives department of such adoption pursuant to Minnesota Statutes Section 138.17.

Resolution 12-0437 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC, for repair of flood damaged utilities and street in Westgate Boulevard, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1111, Flood Site No. 2.

Resolution 12-0459 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding, substantially the same as that on file with the office of the city clerk as Public Document No. 12-0910-14, with the U.S. immigration and customs enforcement (ICE) for the reimbursement of overtime salaries and related expenses incurred by the Duluth police department in a joint law enforcement operation with ICE, said reimbursement monies to be deposited in Fund No. 110-160-1610-4209-02 (general fund, police department, administration and investigation, direct federal grants operating).

Resolution 12-0394 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept an additional grant from the state of Minnesota, department of commerce, in the amount of \$54,194, such funds to be applied to the salary, fringe benefits and training of an auto theft investigator within the Duluth police department, and to execute Amendment No. 1 for Grant Agreement No. 37322 (City Contract No. 21502), substantially the same as that on file in the office of the city clerk as Public Document No. 12-0910-15, funds to be deposited in Fund No. 215-200-2266-4220-02 (Duluth police grant programs, police, Minnesota auto theft grant, state of Minnesota operating).

Resolution 12-0427 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Invitation Health Institute in an amount not to exceed \$4,000, and to execute a grant agreement substantially in the same form as that on file in the office of the city clerk as Public Document No. 12-0910-16 or a form deemed by the city attorney's office to provide greater legal security to the city, for overtime backfill salary/fringe benefits for police officers in order to support the enhanced college enforcement initiative, funds to be deposited in Fund No. 110-160-1610-4210-02 (general, police, administration and investigating, pass through federal grants, operating).

Resolution 12-0429 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Duluth Area Family YMCA to provide after school and summer youth programming at various city or school district locations, substantially the same as that on file with the city clerk as Public Document No. 12-0910-17, and providing for the annual payment of \$150,000, for a total contract amount of \$450,000, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0439 was unanimously adopted.
Approved September 10, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0454, proposing the sum to be raised by taxation for general purposes for the year 2013, was introduced by Councilor Krug for discussion.

Councilor Julsrud moved to amend the resolution as follows:

- (a) In Section 1, replace the sum "\$19,211,000" with "\$19,441,000";
- (b) In Section 2, replace the sum "\$11,842,000" with "\$12,072,000,"

which motion was seconded and discussed as follows:

Councilors Stauber, Gardner, Krause and Fosle opposed the amendment because: it does not look to find ways to cut expenses to fund this additional economic development staffing; it just puts the burden on the taxpayers; public safety is the first concern for citizens, especially with the closing of a fire hall this year; pursuing getting more revenue from the state should be the priority; local governments are struggling; just adding more business development staff does not bring more businesses to the city, especially with other entities like Apex already bringing new employers to the city and given the deadline is coming up for setting the maximum levy, there is very little time to discuss this in greater detail.

Councilors Julsrud, Krug, Boyle and President Hartman expressed support for the amendment for reasons of: there are not enough jobs for students who want to stay here; the Northwest Airbase could have likely had a new tenant and added to the tax base a lot sooner if there were more business developers; with Georgia Pacific closing, the natural gas customers will adversely be affected; this is an investment in economic development; this is not final until the budget is adopted in December; there are only two city staff members who do economic development, where St. Cloud and Rochester have many more; small businesses that want to come here do not get the assistance they need and if funding for these positions can be found without this levy increase, that can be looked at before the final vote in December.

Councilor Julsrud's amendment carried as follows:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Resolution 12-0454, as amended, was adopted as follows:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2013 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$12,072,000.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$7,161,500.

Section 4. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$207,500.

Resolution 12-0454, as amended, was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5
Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4
Approved September 10, 2012
DON NESS, Mayor

- - -

Resolution 12-0455, setting a proposed budget for the fiscal year 2013, was introduced by Councilor Krug for discussion.

Councilor Julsrud moved to amend the resolution as follows:

- (a) Under "Total planning and construction services," replace the sum "\$2,136,200" with "2,226,200";
- (b) Under "Total business and community development," replace the sum "\$583,200" with "\$723,200";
- (c) Under "General fund total" replace the sum "\$73,743,000" with "\$73,973,000,"

which amendment was seconded and carried as follows:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5
Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4
Resolution 12-0455, as amended, was adopted as follows:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2013.

GENERAL		
010	Total legislative and executive	2,350,400
121	Total public administration	21,619,900
125	Total finance	3,484,000
132	Total planning and construction services	2,226,200
135	Total business and community development	723,200
150	Total fire	13,621,300
160	Total police	18,280,700
500	Total public works	1,689,900
700	Total transfers	9,977,400
110	General fund total	73,973,000

Resolution 12-0455, as amended, was adopted upon the following vote:
Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5
Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4
Approved September 10, 2012
DON NESS, Mayor

- - -

Resolutions 12-0456 and 12-0457, by Councilor Stauber, affirming and reversing, respectively, the decision of the building appeal board to uphold an order of condemnation for human habitation at 2001 West Superior Street (The Seaway Hotel) and deny a request for an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

extension of the deadline for tenants to vacate the building by 180 days, were introduced.

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

- - -

RESOLVED, that the city of Duluth hereby accepts a gift in the amount of \$13,000 from Amsoil, Inc., and that the council, on behalf of the city, extends its sincere gratitude for this generous gift.

FURTHER RESOLVED, that the proper city officials are authorized, in accordance with the conditions of the donor, to use the gifted funds to purchase a new police canine, funds to be deposited in Fund No. 210-030-3123-4660 (special projects, finance, K-9 account, gifts and donations).

Resolution 12-0446 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

Resolution 12-0440, by councilors Larson and Krug, regarding sign language interpreters and closed caption broadcasting for council meetings, was introduced for discussion.

Councilor Larson moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Craig Schield spoke through an interpreter requesting close captioning and how it would help many.

Resolution 12-0440 was adopted as follows:

BY COUNCILORS LARSON AND KRUG:

WHEREAS, it is important for council meetings to be open and accessible to all including constituents who are deaf or hard of hearing; and

WHEREAS, there is no current process for constituents to request a sign language interpreter for council meetings; and

WHEREAS, council meetings broadcast with closed captioning would also be beneficial for constituents who are deaf or hard of hearing or who may benefit from the voice associated with the captioning.

THEREFORE, BY IT RESOLVED, that the council hereby requests city administration establish a policy for constituents to request a sign language interpreter for council meetings including the following: Requests for sign language interpreter services should be made to the city clerk's office and at least two business days prior to a scheduled meeting; interpreter services are for on-site meeting participation only and are not generally broadcast by PACT TV.

FURTHER RESOLVED, that the council requests PACT TV review the feasibility of broadcasting city council meetings with closed captioning.

Resolution 12-0440 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the second time:

BY COUNCILORS BOYLE AND STAUBER

12-054 (10174) - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND ON LAKEWALK AND REVISING OTHER SMOKING RESTRICTIONS, ADDING NEW SECTION 28-63 AND 28-64

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 28-70 AND REPEALING SECTION 34-40 THEREOF.

Councilor Gardner moved to amend the ordinance to delete subsection 28-64(a)(6) and add the following subsection 28-64(b):

“(b) No person shall ingest by smoking or chewing any substance labeled as not safe for or intended for human consumption at or in any of the following locations:

(1) On the Lakewalk, on Lake Place or in Leif Ericson Park;”

which motion was seconded and discussed.

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Andrea Crouse, Patrick Schoff, Jim Carlson and Elizabeth Santana, representing the East Hillside Patch/Summer Youth Program, expressed support for the ordinance for the reasons of: statistics are kept after the beach sweeps each year and tobacco-related products make up over 50 percent of the litter that is picked up; cigarette filters are very toxic and can affect small organisms and with eliminating this source of toxic filters it will reduce the toxicity to the water environment next to the Lakewalk; this ordinance should also include other public places where children play; youth programs promote healthy, active lifestyles and there is no need for smoking on the Lakewalk; there are no health benefits to cigarettes and cigarettes are only allowed because of the tax dollars and money in politicians’ hands.

Councilors Boyle and Julsrud opposed the amendment for the reasons of: the problem with tobacco smoking in the Lake Place Park, Leif Ericson Park during movies at the park and behind the new East High School; the increased cost of healthcare directly caused by smoking and smoking is the highest killer and teenagers are the highest smoking age category.

Councilor Gardner reviewed how she felt that this goes too far to restrict tobacco smoking outside with government making decisions for them, while smoking synthetic marijuana and bath salts is the problem; there are already underage smoking laws that are not being enforced and the city council can educate, but cannot always legislate, for the common good.

Councilor Gardner’s amendment failed upon the following vote:

Yeas: Councilor Gardner -- 1

Nays: Councilors Boyle, Fosle, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 8

Councilors Krause, Gardner and Fosle opposed the ordinance for reasons of: nonsmokers have contacted councilors opposing the ordinance; this will not stop those high school smoking issues; smokers will not be able to enjoy the Lakewalk as they smoke; this is getting too deep into what is regulated in the open air and enforcement will not take place, as shown in other situations, where police are present.

Councilors Larson, Krug and Stauber supported the ordinance for the reasons of: government should regulate this like it does with alcohol in public places; the Lakewalk is one of those distinctive features that other cities do not have; we all are paying more for healthcare because of smoking; Duluth has been rated as one of the top ten locations for outdoor recreation and public health is a nonpartisan issue and is for the good of all.

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

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

Nays: Councilors Fosle, Gardner and Krause -- 3

- - -

INTRODUCED BY COUNCILOR STAUBER

12-053 (10175) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO RR-2, R-2, AND MU-N, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-055 (10176) - AN ORDINANCE AUTHORIZING THE SALE OF 2,379.7 SQUARE FEET OF PARKLAND IN CONGDON PARK TO JAMES AND MARY ANN MONGE FOR \$11,898.50.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-056 (10177) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-2 TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

Councilor Krause moved to amend the ordinance to exclude all of that property lying to the east of Joshua Avenue, between Joshua and Eklund avenues, which motion was seconded and discussed.

Councilor Krause reviewed how this amendment alters only one of the parcels for rezoning classification, as a compromise. He further noted that there was misinformation on these classifications with the comprehensive plan and this will act as a buffer.

Councilor Stauber moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

George Kovich, Larry Kraemer, Sharon Mosiniak, Horace Kahlbaugh and Debra James opposed the ordinance for the reasons of: property taxes have increased with past zoning changes; one person should not be allowed to rezone this area; no land owners in this area were asked to be on the comprehensive planning committee; the amendment should be passed because it will act as a buffer between the two zones; of the 360 homeowners in the area, 94 percent are in favor of the amendment; the residents should have a voice in this decision; a petition of 365 signatures is opposed to the rezoning (Public Document No. 12-0910-08(c)); the rezoning falls short of consideration of homeowners rights, as much as vegetation and animals are protected; home values will be decreased; there are unresolved traffic problems and more buildings in this area likely will contribute to flooding.

Gloria Richards supported the ordinance for reasons of: change is not liked, but changing times require communities to grow and thrive; the parcel of land has had many changes over the years with a church, a large scale living facility, paint store, Walgreens and Stoneridge Shopping Center; this piece of land is trapped with commerce all around it and should be afforded the same opportunities; only eight houses are directly affected by the rezoning and the city would require sufficient buffers of any developer to make it look beautiful.

Councilors Fosle, Krause and Stauber opposed the ordinance for the following reasons: all the effort of the neighborhood petition means a lot; the recommendation of the district councilor should be considered, because of their knowledge of what the wishes of the neighborhoods are; to the west of this parcel is the route planned for development up to Kohl's, but that was not the intent for this parcel; to get good information the city really needs to go door-to-door, not just from those who attend meetings and there should have been a residential plan for this area.

Councilors Krug, Julsrud, Larson and Gardner supported the ordinance without the amendment for the reasons of: without development, the city cannot move forward; if this land

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

was in the middle of the neighborhood, this would not be supported by the planning division and planning commission; if the city does not allow for this type of economic development, this development will go to another city; if the comprehensive plan and small area plan were not in agreement, the council would look at this differently, and staff and the planning commission both recommend this approval.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

At this time, Councilor Krause left the meeting.

- - -

**BY PRESIDENT HARTMAN AND COUNCILOR GARDNER
12-057 (10178) - AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.**

President Hartman moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 9:54 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10174

BY COUNCILORS BOYLE AND STAUBER:

AN ORDINANCE PROHIBITING SMOKING OF ANY KIND ON LAKEWALK AND REVISING OTHER SMOKING RESTRICTIONS, ADDING NEW SECTION 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 28-70 AND REPEALING SECTION 34-40 THEREOF.

The city of Duluth does ordain:

Section 1. That Chapter 28 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 28-63 which reads as follows:

Sec. 28-63. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning hereinafter ascribed to them:

(a) Kitchi Gammi Park, for the purposes of this Article only, shall mean that park located on land located between Congdon Boulevard and Lake Superior and between the Lester River and 69th Avenue East;

(b) Lake Place shall mean that structure elevated over the right-of-way of Interstate Highway 35 between Lake Avenue and Fourth Avenue East containing park-like amenities;

(c) Lakewalk shall mean the constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Duluth Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Duluth, Missabe and Iron Range Railroad to east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park;

(d) Leif Ericson Park shall mean that property used for park purposes located between the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad and the shoreline of Lake Superior and between Eighth Avenue East and 13th Avenue East;

(e) Medical facility shall mean any medical hospital, medical or dental clinic;

(f) Prohibited substances shall mean any tobacco related product and any other substance labeled as not safe for or intended for human consumption;

(g) Public place shall mean any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(h) Smoke shall mean the gases, particles or vapors released into the atmosphere as a result of combustion, electrical ignition or vaporization of or by any prohibited substance;

(i) Smoking shall mean inhaling or exhaling smoke from any instrumentality, including but not limited to any cigar, cigarette, pipe, hookah pipe or an operating electronic cigarette, or having in possession any such instrumentality producing smoke or engaging in any act that generates smoke;

(j) Tobacco related products shall mean any product containing, made or derived from tobacco that is intended for human consumption, or any component, part, or accessory of a tobacco product, including but not limited to tobacco found in cigars and cigarettes, tobacco intended to be used in pipes or cigarettes, chewing tobacco, moist or dry snuff, dissolvable tobacco products and electronic cigarettes and any other product containing, made or derived from tobacco that is intended or expected to be consumed with or without being combusted but does not include any tobacco product that has been approved by the United States food and drug administration for sale as a tobacco cessation product, tobacco dependent product or for other medical purposes and is marketed and sold only for those purposes.

Section 2. That Chapter 28 of the Duluth City Code, 1959, as amended is hereby amended by adding a new Section 28-64 which reads as follows:

Sec. 28-64. Ingesting a prohibited substance--prohibited in certain places.

(a) No person shall ingest by smoking or chewing any prohibited substance at or in any of the following locations:

(1) Anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act;

(2) Inside any Duluth Transit Authority transit shelter;

(3) Within 15 feet from the nearest point of any Duluth Transit Authority transit shelter which displays at least two signs visible from the exterior of the shelter providing notice of this prohibition, said 15 feet measured in a straight line of constant elevation;

(4) Anywhere in Wade Stadium that is open to the public except in areas designated for such consumption;

(5) Within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation; provided that this prohibition does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (6) On the Lakewalk, on Lake Place or in Leif Ericson Park;
- (c) Any person violating this Section is guilty of a petty misdemeanor or may be penalized under Chapter 12 of the Duluth City Code, 1959, as amended;
- (d) Signage to enforce the provisions of this ordinance shall be approved by the city of Duluth.

Section 3. That Section 28-70 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 28-70. Private right of action.

In addition to the penalties provided in Section 28-64(c), any person injured by a repeated or continuing violation of the Article may bring a civil action against the proprietor or other person in charge of a public place to enjoin further violations.

Section 4. That Section 34-40 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 5. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 12, 2012)

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

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

Nays: Councilors Fosle, Gardner and Krause -- 3

Passed September 10, 2012
Approved September 10, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10175

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO RR-2, R-2, AND MU-N, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD.

The city of Duluth does ordain:

Section 1. That the 143 acres of the subject property located south of McFarlane Road, between Howard Gnesen Road and Blackman Avenue, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of McFarlane Road, Howard Gnesen Road, and Blackman Avenue, where these parcels abut roadways:

- | | | |
|----------------|----------------|----------------|
| 010-2710-02715 | 010-1500-00310 | 010-1500-00520 |
| 010-2710-02720 | 010-1500-00320 | 010-1500-00510 |
| 010-2710-02725 | 010-1500-00340 | 010-1500-00500 |
| 010-2710-02726 | 010-1500-00380 | 010-1500-00490 |
| 010-2710-02727 | 010-1500-00390 | 010-1500-00480 |
| 010-2710-02730 | 010-1500-00420 | 010-3500-00200 |
| 010-2710-02740 | 010-1500-00440 | 010-3500-00230 |
| 010-2710-02750 | 010-1500-00630 | 010-3500-00235 |
| 010-2710-02755 | 010-1500-00620 | 010-3500-00190 |
| 010-2710-02756 | 010-1500-00610 | 010-3500-00202 |
| 010-2710-02760 | 010-1500-00580 | 010-3500-00240 |

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010-2710-02770	010-1500-00570	010-3500-00245
010-2710-02780	010-1500-00560	010-3500-00250
010-2710-02786	010-1500-00550	010-1500-00640
010-2710-02790	010-1500-00540	
010-2710-02800	010-1500-00530	

be reclassified from R-1 to RR-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

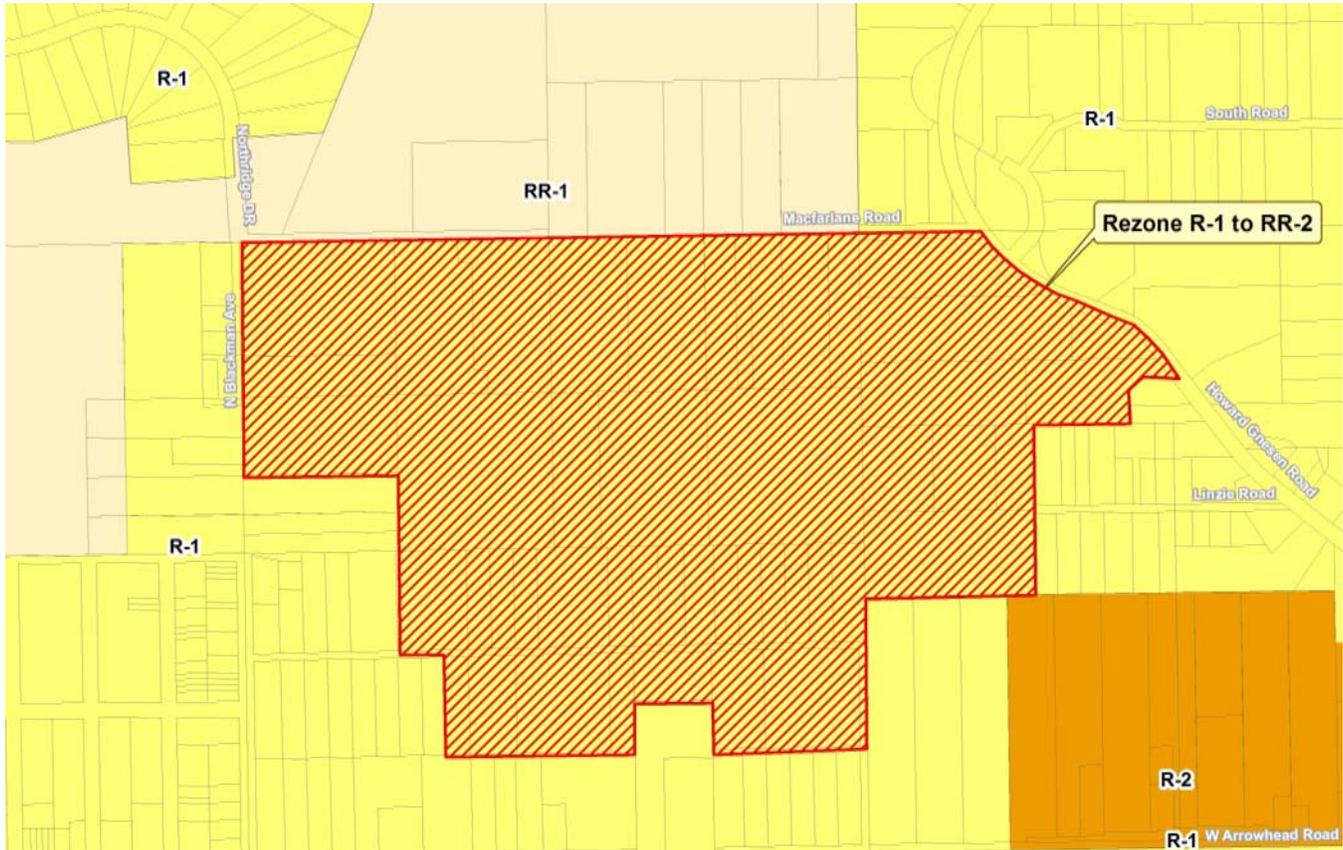


Exhibit A
(Ref. File No. 12-108)

Section 2. That the 1.28 acres of the subject property located at 1320 Kenwood Avenue and as more particularly described in Exhibit B and by the following:

Parcel 010-2640-00110, extended north to the centerline of East Buffalo Street, west to the centerline of Kenwood Avenue, and south to the centerline of East Toledo Street be reclassified from R-1 to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

010-3570-03500

be reclassified from R-1 to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

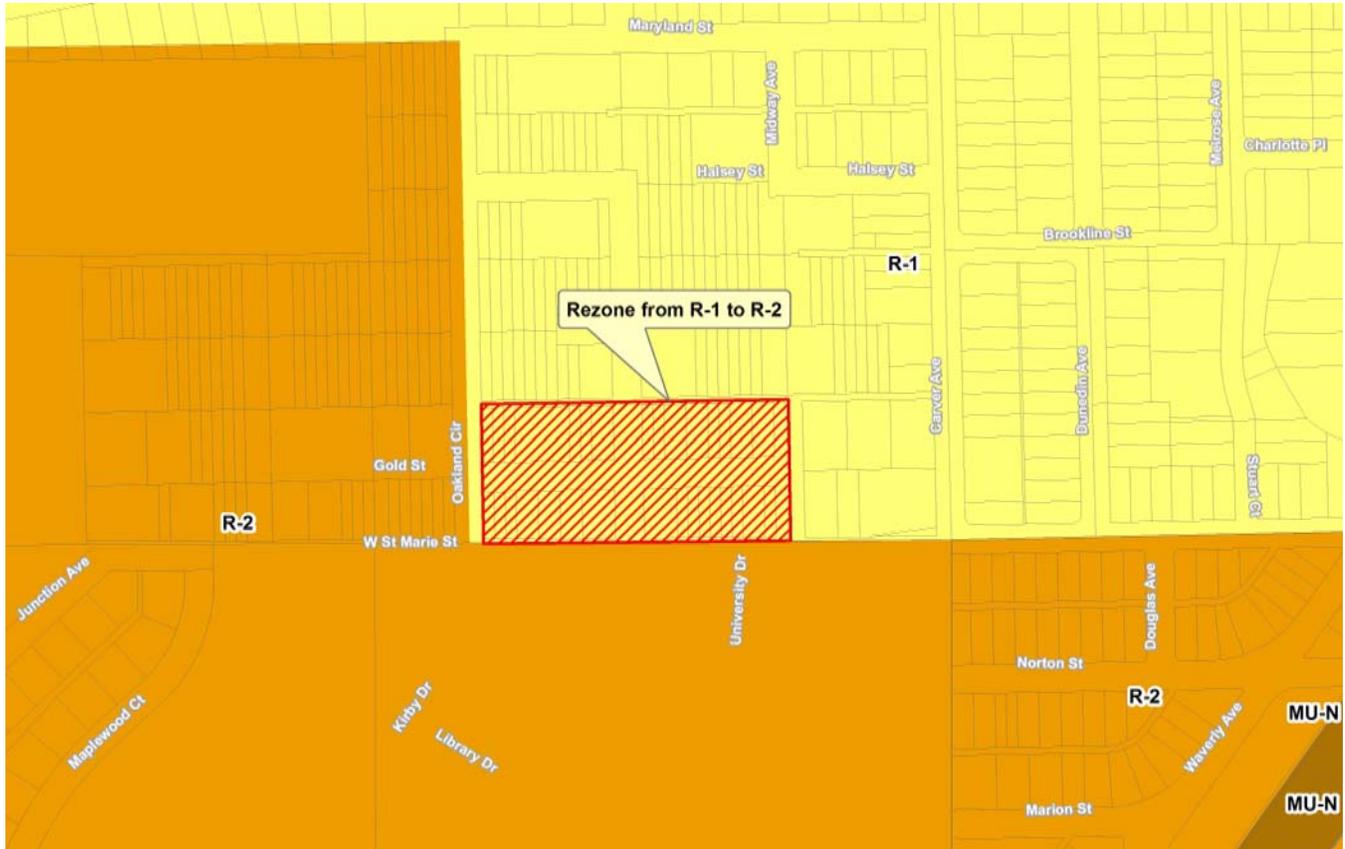


Exhibit C
(Ref. File No. 12-108)

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 12, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 10, 2012
Approved September 10, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10176

AN ORDINANCE AUTHORIZING THE SALE OF 2,379.7 SQUARE FEET OF PARKLAND IN CONGDON PARK TO JAMES AND MARY ANN MONGE FOR \$11,898.50.

The city of Duluth does ordain:

Section 1. That the Duluth city planning commission recommended at its August 14, 2012, regular meeting, the sale of the park described in Section 3 below by an affirmative vote by the seven commissioners present out of nine commissioners seated on the commission, meeting the 3/4 vote required by the state statute.

Section 2. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, and as described and depicted on Public Document No. 12-0910-18, by quit claim deed to James and Mary Ann Monge for \$11,898.50, the proceeds to be deposited in general fund, and to execute all documents necessary with regard to said conveyance:

That part of the Northeast Quarter of Southeast Quarter of Northwest Quarter, Section, 13, Township 50 North, Range 14 West, which lies adjacent to Lot 32A, Block 8, FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the most northerly corner of said Lot 32A; thence on an assumed bearing of south 65 degrees 39 minutes 18 seconds east along the northeasterly line of said Lot 32A a distance of 63.93 feet to the point of beginning of the property to be described; thence north 50 degrees 42 minutes 17 seconds east a distance of 36.77 feet; thence south 87 degrees 58 minutes 30 seconds east a distance of 21.47 feet; thence south 57 degrees 08 minutes 17 seconds east a distance of 24.69 feet; thence south 32 degrees 24 minutes 49 seconds east a distance of 22.71 feet; thence south 53 degrees 52 minutes 22 seconds west a distance of 28.73 feet to the northeasterly line of said Lot 32A; thence north 65 degrees 39 minutes 18 seconds west along the northeasterly line of said Lot 32A a distance of 65.44 feet to the point of beginning.

Section 4. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 12, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 10, 2012
Approved September 10, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10177

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-2 TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 6.6 acres of the subject property located south of Page Street, and east and west of Sundby Road, and as more particularly described in Exhibit A and by the following:

The below parcels and area, along Page Street and Sundby Road, where these parcels and site abut roadways:

010-2710-04653

010-2710-04654

an area beginning at the centerline of Sundby Road to the northwest corner of Parcel 010-3257-00050, then northwest 200 feet, then south 315 feet, then southeast 270 feet, then south southeast 200 feet, then south 150 feet, then east 190 feet to centerline of Sundby Road, then north to point of beginning following centerline of Sundby Road;

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

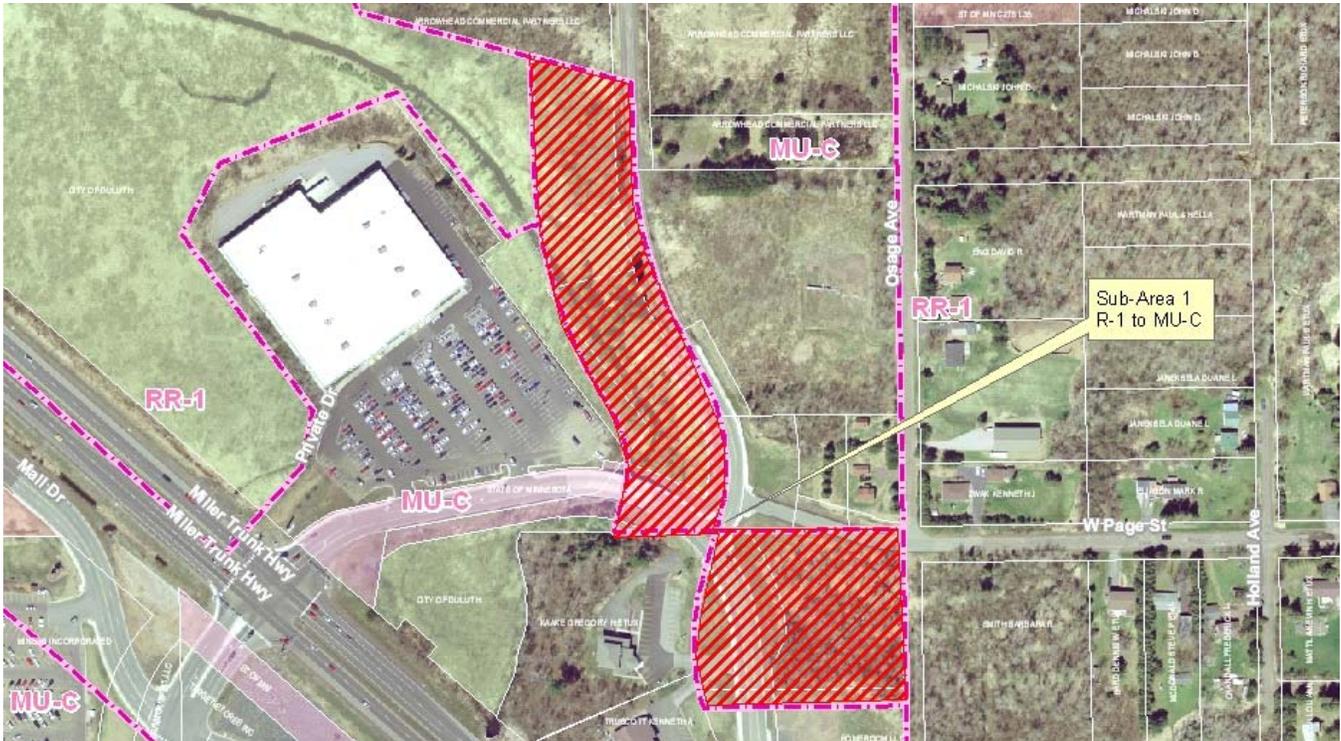


Exhibit A
(Ref. File No. 12-102)

Section 2. That the 12 acres of the subject properties located north of Maple Grove Road, east of Joshua Avenue and east of Yosemite Avenue and as more particularly described in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Exhibit B and by the following:

010-2230-05680	010-2230-06690	010-2236-06250
010-2230-06310	010-2230-07230	010-2230-06240
010-2230-06750	010-2230-07255	010-2230-06230
010-2230-06850	010-2230-07280	010-2230-06220
010-2230-06740	010-2230-07130	010-2230-06210
010-2230-06950	010-2230-07300	010-2230-06200
010-2230-06730	010-2230-05610	010-2230-06190
010-2230-06960	010-2230-05780	010-2230-06180
010-2230-06720	010-2230-06260	010-2230-06170
010-2230-06710	010-2230-06270	010-2230-06160
010-2230-06970	010-2230-06280	010-2230-06410
010-2230-06700	010-2230-06290	

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

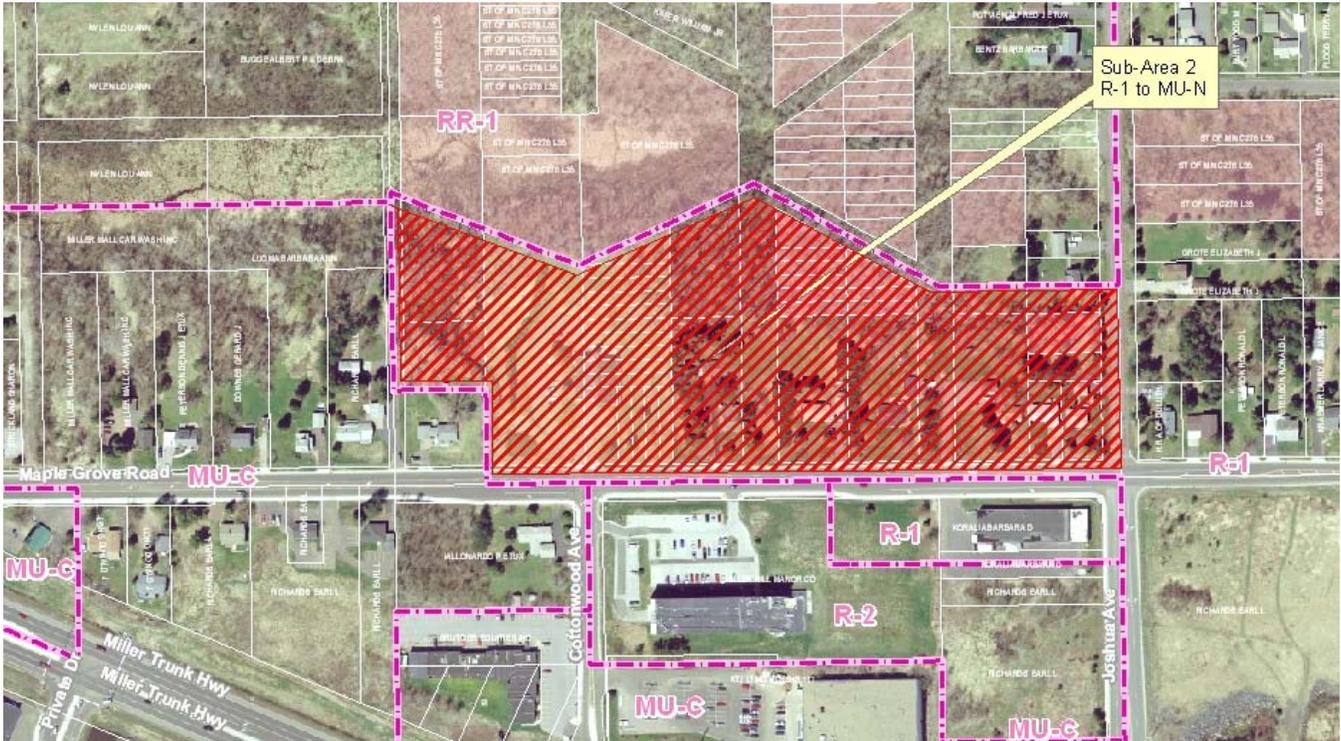


Exhibit B
(Ref. File No. 12-102)

Section 3. That the 29 acres of the subject properties located south of Maple Grove Road, between Cotton Wood Avenue and Eklund Avenue, and as more particularly described in Exhibit C and by the following:

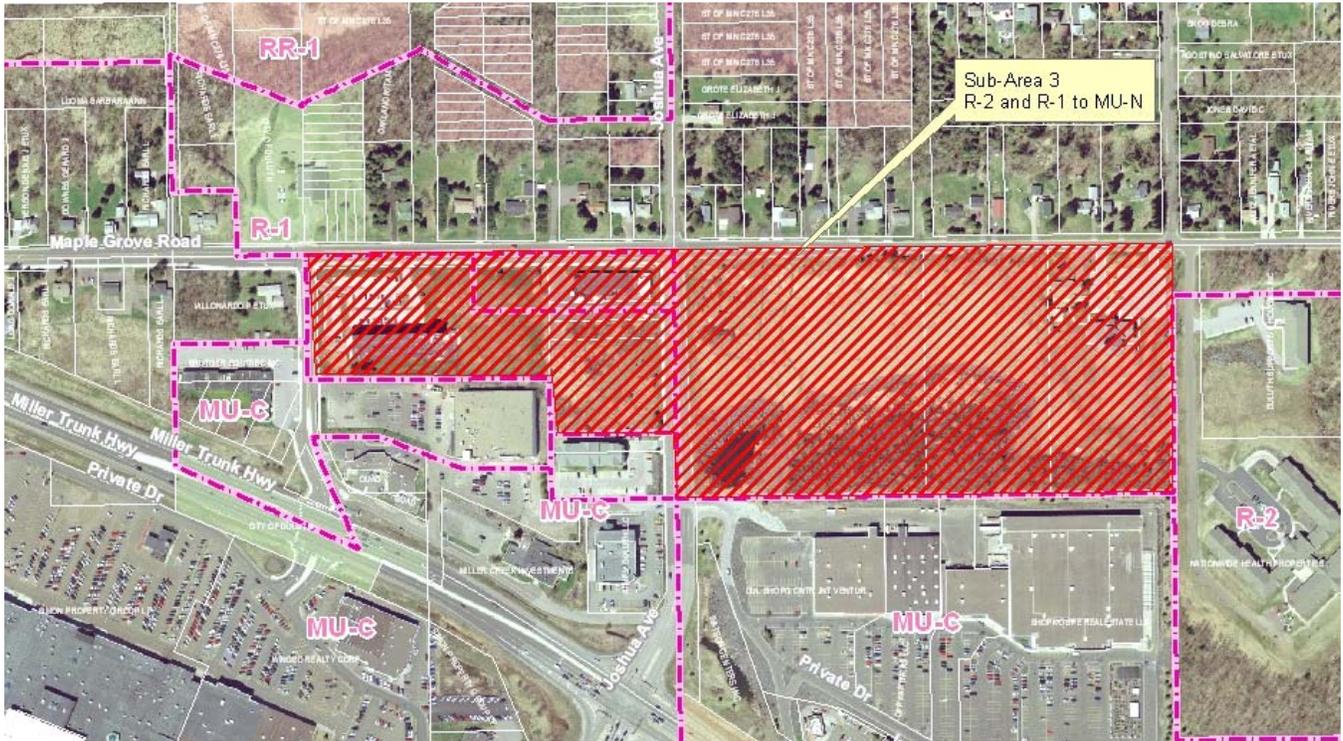
The below parcels, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

010-2040-00100	010-2710-05852
010-2040-00140	010-2710-05850
010-2040-00155	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

010-2040-00150
010-2040-00160
010-2710-05853

be reclassified from R-1 and R-2, to MU-N and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-102)

Section 4. That the 24 acres of the subject properties located south of Mall Drive, and the east and west sides of Decker Road, and as more particularly described in Exhibit D and by the following:

The below parcels and area, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

- 010-2710-05178; south 1/2 of parcel
- 010-2710-05172
- 010-2710-05130
- 010-2710-05124

an area beginning at the centerline of Decker Road, then east to the northeast corner of Parcel 010-2710-04760, then south 700 feet along Miller Creek, then west 450 feet to the centerline of Decker Road, then north along the centerline of Decker Road at a distance of 663 feet to the point of beginning;

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

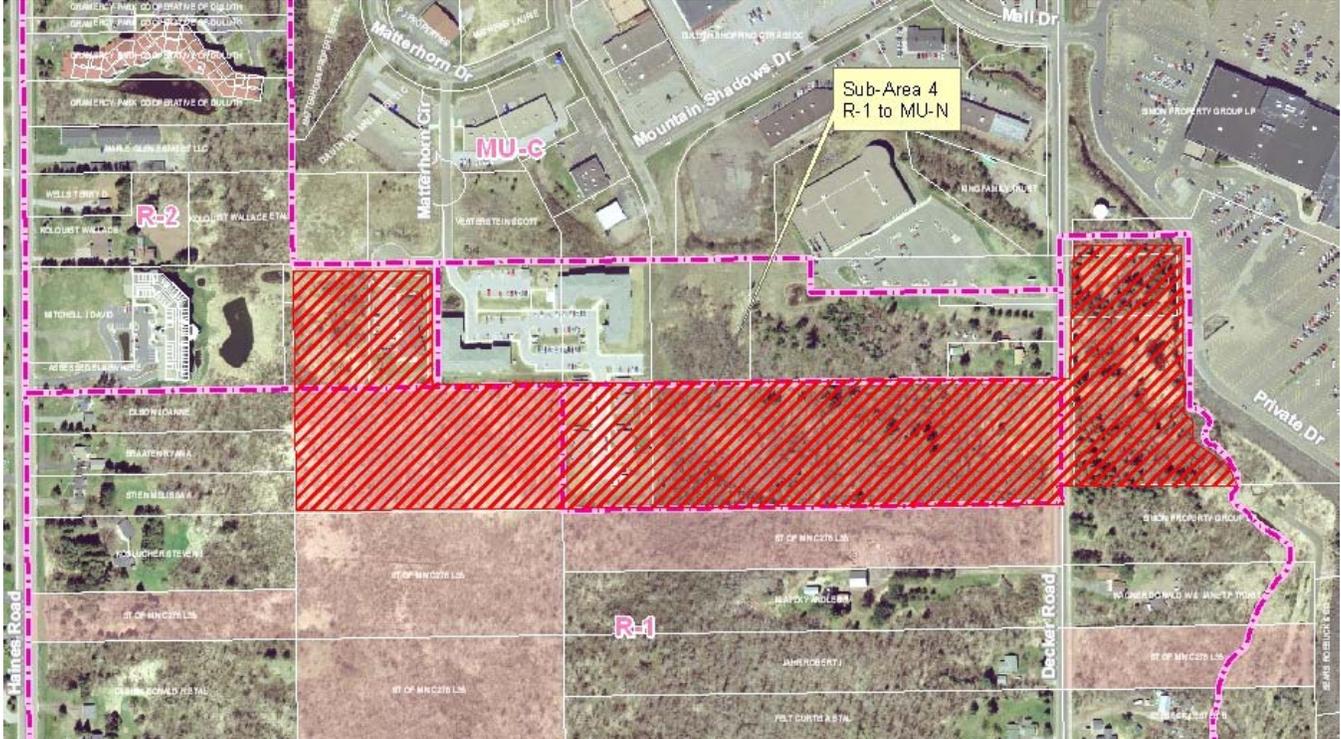


Exhibit D
(Ref. File No. 12-102)

Section 5. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: October 12, 2012)

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

Yeas: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6
Nays: Councilors Fosle, Krause and Stauber -- 3

Passed September 10, 2012
Approved September 10, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 10178

BY PRESIDENT HARTMAN AND COUNCILOR GARDNER:

AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.

The city of Duluth does ordain:

Section 1. That Section 6-79 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-79. Obtaining a license to keep chickens.

(a) Any person who keeps chickens in the city of Duluth other than areas zoned Rural-Conservation (R-C) or Residential-Rural 1 (RR-1) under sections 50-14.2 and 50-14.3 of this Code, shall obtain an annual license prior to acquiring the chickens. Only one license shall be allowed per one-family dwelling or two-family

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

dwelling as defined in Section 50-41 of this Code. A license granted to a two-family dwelling shall require written permission from the occupants of both dwelling units. The license year commences on January 1 and ends on the following December 31. Applications shall be made to the city clerk. The city clerk shall collect the license fee;

(b) Fees to be charged for the issuance of a license to keep chickens shall be set in accordance with Section 31-6(a) of this Code;

(c) All licenses shall be conditioned upon passing a mandatory inspection by the animal control authority;

(d) The animal control authority may refuse to grant or may revoke a license if the chickens become a nuisance, as evidenced by a third admitted or judicially-determined violation of the Duluth City Code within 12 months of the first of the three admitted or judicially-determined violations;

(e) The animal control authority may refuse to grant or may revoke a license to a person convicted of cruelty to animals under a code, ordinance or statute from this state, or a code, ordinance or statute from another state;

Section 2. That Section 6-79.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-79.1. Keeping of chickens.

(a) Each person holding a license to keep chickens within the city of Duluth shall comply with the following:

(1) The principle use of the property where the chickens are to be kept is a one-family dwelling or two-family dwelling as defined in Section 50-41 of this Code;

(2) No person shall keep more than five chickens;

(3) No person shall keep a rooster;

(4) No person shall keep any chickens inside a dwelling unit;

(5) No person shall slaughter any chickens within the city of Duluth;

(6) Chickens shall be provided a secure and well ventilated roofed structure in compliance with the current zoning and building codes;

(7) The roofed structure shall be fully enclosed, wind proof, have one square foot of window to 15 square feet of floor space and have a heat source to maintain an adequate indoor temperature during extreme cold conditions;

(8) The floors and walls of the roofed structure shall be kept in a clean, sanitary and healthy condition with all dropping and body excretions collected on a daily basis and placed in a fire-proof covered container until applied as fertilizer, composted or transported off the premises;

(9) Chickens shall be kept in the roofed structure or any attached fenced yard enclosure at all times;

(10) The fence around the yard enclosure shall be securely constructed with a mesh type material and shall have protective overhead netting to keep the chickens separated from other animals;

(11) The fenced yard enclosure shall be well drained so there is no accumulation of moisture;

(12) A floor area or combination of the floor and fenced yard area for keeping chickens shall not be less than ten square feet of floor space per chicken;

(13) No roofed structure or fenced yard enclosure shall be located closer than 25 feet to any residential dwelling on the adjacent lots.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 3. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: October 12, 2012)

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

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

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 10, 2012
Approved September 10, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 24, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meeting held on May 29, 2012, were approved upon a unanimous vote.

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0924-01 Duluth parking commission: (a) Minutes of: (1) July 24; (b) August 17, 2012, meetings; (b) Resolution 2012-17, retaining a two hour limit for eight parking meters at 925 and 1026 East Superior Street, pursuant to Section 33-78 of the Duluth City Code. -- Received

12-0924-02 Duluth public arts commission minutes of: (a) March 30; (b) April 16; (c) May 21; (d) June 18; (e) July 16; (f) August 20, 2012, meetings. -- Received

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the assessment roll levied to defray the assessable portion of the low pressure sanitary sewer located in Columbia Street (#5444 - Sewer Fund 530; assessable amount - \$30,000) is hereby confirmed.

Resolution 12-0464 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied for reassessment of a canceled garbage assessment (#2007310, 2008310, 2010420 and 2011420 - Fund GARBAGE) at the following location as set forth below is hereby confirmed:

Plat 3430 Parcel 19270 (332 95th Avenue West) – total assessable garbage: \$1,406.61.

Resolution 12-0467 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

WHEREAS, the use and management agreement between the city of Duluth, Minnesota (the "city"), and Spirit Mountain recreation area authority (the "authority"), dated as of March 28, 2003, provides that the authority shall not enter into any lease purchase agreement without the written approval of the city council; and

WHEREAS, the authority proposes to enter into a lease purchase agreement for the purchase of a groomer tractor.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the city council hereby approves the authority entering into a tax-exempt lease purchase agreement with Beacon Bank in the amount of \$271,000 for the purpose of purchasing a groomer tractor.

Resolution 12-0469 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council (the "city council") of the city of Duluth, St. Louis County, Minnesota (the "city"), as follows:

Section 1. Purpose, findings and authorization.

1.01 Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, as amended by Laws of Minnesota 1991, Chapter 291, Article 8, Section 22, Laws of Minnesota 1998, Chapter 389, Article 8, Section 25, and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 11, authorized the city to impose an additional one-half of one percent tax on certain sales of food and beverages, and Laws of Minnesota 1980, Chapter 511, Section 2, as amended by Laws of Minnesota 1998, Chapter 389, Article 8, Section 26 and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 12, authorized the city to impose an additional tax of one-half of one percent on certain sales of lodging (collectively, the "additional 1/2 percent tourism taxes") to pay the debt service on (i) bonds in the principal amount of \$8,000,000 for improvements to the Duluth Entertainment Convention Center, and (ii) bonds in the amount of \$4,970,000 to finance capital improvements to the Great Lakes Aquarium (collectively, the "original bonds"). Such statutes further provided that when the city council determines that the additional 1/2 percent tourism taxes have produced sufficient revenues to pay the principal of and interest on the original bonds, or bonds refunding of the original bonds, that the additional 1/2 percent tourism taxes shall be cancelled and the tourism taxes authorized by such statutes shall be reduced to one percent.

1.02 The city issued the original bonds and have refunded the original bonds with a series of bonds, a portion of which remain outstanding, which include: (i) the city's \$1,765,000 general obligation refunding bonds, Series 2005K, dated December 19, 2005 (the "2005 bonds"), and (ii) the city's \$3,760,000 general obligation DECC improvement refunding bonds, Series 2007E, dated December 13, 2007 (the "2007 bonds," and together with the 2005 bonds, the "bonds").

1.03 The city council hereby determines that with the collection of the additional 1/2 percent tourism taxes through October 31, 2012, the city will have sufficient revenues from such taxes to defease the bonds. Therefore, the city council hereby directs that no further additional 1/2 percent tourism taxes be collected commencing on November 1, 2012, and the sales taxes imposed by the city pursuant to Laws of 1980, Chapter 511, Section 1, Subdivision 2 and Section 2, as amended, and sections 42A-2(b) and 42A-49 of the Duluth City Code on certain sales of food and beverages and lodging within the city commencing on November 1, 2012, shall be one percent.

1.04 The city council hereby determines that it is necessary, expedient and in the best interest of the city's residents that the city defease the outstanding 2005 bonds maturing on and after February 1, 2013, of which \$905,000 in principal amount is outstanding (the "2005 refunded bonds"), and to defease the outstanding 2007 bonds maturing on and after February 1, 2013, of which \$1,370,000 in principal amount is outstanding (the "2007 refunded bonds"). The 2005 refunded bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014. (February 1, 2014, is herein referred to as the "redemption date.") The 2007 bonds are not subject to prepayment and redemption but has a final maturity payable on February 1, 2014.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. Escrow agreement; escrow agent.

2.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the state of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "escrow agent") with respect to the bonds.

2.02 The mayor and the clerk are hereby authorized and directed to execute on behalf of the city an escrow agreement (the "escrow agreement") with the escrow agent in substantially the form now on file with the clerk as Public Document No. 12-0924-03. The execution and delivery of the escrow agreement by the mayor and the clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the escrow agreement, including payment by the city of reasonable charges for the services of the escrow agent, are hereby approved and adopted and made a part of this resolution, and the city covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the escrow agent.

Section 3. Escrow account.

(a) To the escrow account under the escrow agreement, there is hereby pledged and irrevocably appropriated and there shall be credited: (a) receipts from the additional 1/2 percent tourism taxes or other funds of the city in an estimated amount of \$2,445,000 (the "funds"); and (b) investment earnings on such monies referenced in clause (a), for the payment of (i) principal and interest due on the 2005 refunded bonds through February 1, 2014; (ii) the principal on the 2005 refunded bonds called for prepayment and redemption on the redemption date; (iii) the principal of and interest due on the 2007 bonds through February 1, 2014; and (iv) for the payment of the costs for defeasance of the bonds;

(b) (i) The escrow account shall be maintained with the escrow agent pursuant to the escrow agreement and this resolution. The escrow account shall be invested in accordance with Minnesota Statutes, Section 475 (the "act"), the escrow agreement and this section, in securities specified in Section 475.67, Subdivision 8(a) of the act, which investments will provide sufficient funds together with any cash or other funds retained in the escrow account for the payment of principal and interest due on the 2005 refunded bonds through February 1, 2014, and the principal of the 2005 refunded bonds called for redemption and prepayment on the redemption date, and for the payment of principal and interest on the 2007 refunded bonds due through February 1, 2014;

(ii) From the escrow account there shall be paid: (a) principal and interest due on the 2005 refunded bonds through February 1, 2014; (b) principal of the 2005 refunded bonds called for redemption and prepayment on the redemption date; and (c) principal and interest on the 2007 refunded bonds due through February 1, 2014;

(iii) The escrow account for the 2005 refunded bonds and the 2007 refunded bonds as set forth above is irrevocably appropriated to the payment of the principal of and interest due on the 2005 refunded bonds and the 2007 refunded bonds as set forth in clause (ii) above. The monies in the escrow account for the bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the escrow account may be remitted to the city all in accordance with the escrow agreement;

(iv) Securities purchased for the escrow account shall be purchased simultaneously with the delivery of the funds to the escrow agent. The mayor and clerk or their designee are authorized and directed to purchase such securities.

Section 4. Findings; redemption of refunded bonds.

4.01 It is hereby found and determined that the funds available and appropriated to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

escrow account for the 2005 refunded bonds and the 2007 refunded bonds as set forth in Section 3 will be sufficient (i) to pay the principal and interest due on the 2005 refunded bonds through February 1, 2014, and to prepay and redeem the 2005 refunded bonds maturing on and after February 1, 2015, by reason of redemption on the redemption date; and (ii) to pay the principal and interest due on the 2007 refunded bonds through February 1, 2014, the final maturity date of the 2007 bonds.

4.02 The 2005 refunded bonds maturing on and after February 1, 2015, shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption attached to the escrow agreement, which terms and conditions are hereby approved and incorporated herein by reference. The escrow agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the 2005 refunded bonds in accordance with their terms and the escrow agreement.

4.03 The proper city officials are authorized and directed to cause to be provided a material event notice regarding the defeasance of the 2005 refunded bonds and the 2007 bonds in accordance with the continuing disclosure certificates of the city dated December 19, 2005, and delivered in connection with the 2005 bonds, and dated December 13, 2007, and delivered in connection with the 2007 bonds.

Resolution 12-0470 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the city of Duluth Supervisory Association, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-04, covering the years 2012 through 2014.

Resolution 12-0487 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the Confidential Unit of the city of Duluth, represented by Chicago and Midwest Regional Joint Board, affiliated with Workers United/ SEIU, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-05, covering the years 2012 through 2014.

Resolution 12-0488 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

- (a) On July 10, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of TRM, Inc., d/b/a Sammy's Pizza & Restaurant, 403 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-0924-06;
- (b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on September 24, 2012, the city council considered the records and evidence submitted;
- (c) The finding of facts as set forth in Public Document No. 12-0924-06 regarding any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

suspension, revocation and/or civil penalty relating to the on sale wine and 3.2 percent malt liquor licenses of TRM, Inc., d/b/a Sammy's Pizza & Restaurant, 403 North Central Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstances adopted in the finding of facts, the city council imposes a \$300 civil penalty payable within 30 days of final council action.

Resolution 12-0461 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July 10, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of JNC Liquors, Inc., d/b/a Wild West Liquor, 318 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-0924-07;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on September 24, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-0924-07 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of JNC Liquors, Inc., d/b/a Wild West Liquor, 318 North Central Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstances adopted in the finding of facts, the city council imposes a \$300 civil penalty payable within 30 days of final council action.

Resolution 12-0462 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

WHEREAS, the purchasing division issued Purchase Order 12-0478 in the amount of \$20,000 to Duluth Ready Mix on July 25, 2012, for Class 5 and related supplies for flood-related projects.

NOW, THEREFORE, BE RESOLVED, that the proper city officials are authorized to increase the purchase order issued to Duluth Ready Mix, Inc., by \$126,122.97 (\$118,009.80 plus \$8,113.17 sales tax) for the purchase and delivery of additional Class 5 gravel to be used by public works and street maintenance crews in flood projects, for a new flood-related contract amount of \$146,122.97, payable as follows:

(a) \$20,000 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5224 (gravel and other maintenance materials), Project Flood-990;

(b) \$126,122.97 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5224 (gravel and other maintenance materials), Project Flood-482.

Resolution 12-0465 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

WHEREAS, the Duluth City Council previously approved Resolution 12-0251 on May 29, 2012, authorizing an annual contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fines for street improvement projects in year 2012; thereafter, the purchasing division issued Purchase Order 12-0309 in the amount of \$521,500 to Northland Constructors; and

WHEREAS, the city street maintenance division requires additional hot mix fines in the amount of \$176,050.91 to cover expenses for flood-related projects from the June storm disaster.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to increase the original purchase order issued to Northland Constructors of Duluth, LLC, by \$176,050.91 (\$164,726 plus \$11,324.91 sales tax) for a new annual contract total of \$697,550.91, payable as follows:

(a) \$521,500.00 - General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop);

(b) \$176,050.91 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-990.

Resolution 12-0466 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Landscape Structures, Inc., for the purchase and delivery of playground equipment in accordance with Minnesota State Contract 25294, Release P949(5), specifications and pricing for Portland Square Park (Design 2006 Toddler Town) for \$13,140 plus sales tax and Lester Park (Design 3324 Playbooster) for \$95,007.10 plus sales tax, for a combined total of \$115,582.22 (\$108,147.10 plus \$7,435.12 sales tax) payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5520, Project CM205-Playgr.

Resolution 12-0473 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale wine license for the period ending August 31, 2013, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Minnesota Wine Exchange, LLC (Minnesota Wine Exchange), 3 West Superior Street, premises main floor and loft, with Debra Fellman, owner.

Resolution 12-0486 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

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BY COUNCILOR KRAUSE:

RESOLVED, that the city council hereby requests that the planning commission review mixed use zone districts as set forth in Chapter 50 of the Duluth City Code, 1959, as amended, particularly the district classification of mixed use - neighborhood (MU-N), and evaluate whether the district definitions and permitted uses are overly broad and whether there is a need for additional districts to be created.

Resolution 12-0492 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a brownfield revolving loan fund (RLF) grant from the U.S. environmental protection agency (EPA), Region 5, in the amount of \$650,000, payable into Fund 231 (brownfield revolving loan fund), and to execute Assistance Agreement No. BF-00E01083 substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0924-08, in connection therewith.

Resolution 12-0468 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacations described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easements are useless for all purposes; and

(c) The city planning commission, at its Tuesday, September 11, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the easements described below and as described and depicted on Public Document No. 12-0924-09:

All that part of the dedicated ten foot wide utility easement lying within Lot 2, LONDON ADDITION TO DULUTH & EAST DULUTH REARRANGEMENT, filed in Plat Book No. 16, Page 30, St. Louis County, Minnesota, that lies northeasterly of the southwesterly 10.00 feet of said Lot 2;

and

All of the dedicated ten foot wide electrical utility easement lying within Lot 3, LONDON ADDITION TO DULUTH & EAST DULUTH REARRANGEMENT, filed in Plat Book No. 16, Page 30, St. Louis County, Minnesota;

(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. 12-0924-09 showing the utility easement to be vacated.

Resolution 12-0471 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that plans for projects No. 069-691-020, 069-691-025 and 069-691-028 showing promised alignment, profiles, grades and cross sections, and box culvert for the construction, reconstruction or improvement of CSAH No. 91 (40th Avenue West and Haines Road) from 190 feet north of Ninth Street to Morris Thomas Road within the corporate limits of the city of Duluth have been prepared and presented to the city.

FURTHER RESOLVED, that the plans and specifications prepared by St. Louis County are hereby approved.

Resolution 12-0156 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for the repair and reconstruction of Vermilion Road in the amount of \$107,150.02, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1117.

Resolution 12-0477 was unanimously adopted.

Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that by Resolution of Intent Number 12-0387 the council did request the administration to prepare plans and specifications for the construction of approximately 165 feet of sanitary sewer in Lakeside Court easement beginning at Lake Superior and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said improvement as estimated by the city engineer is \$37,827.04, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), City Project No. 1150; and of these costs, \$37,827.04 will be assessed to benefitting properties.

FURTHER RESOLVED, that the assessment shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the municipal bond fund index 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 12-0478 was unanimously adopted.

Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Billman Construction, Inc., for Gogebic Street and Lanigan Boulevard ditch and culvert improvements in the amount of \$59,990, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1142.

Resolution 12-0479 was unanimously adopted.

Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for flood damage repair and reconstruction on Seventh Avenue East in the amount of \$82,102.71, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1166.

Resolution 12-0480 was unanimously adopted.

Approved September 24, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the repair and reconstruction of West Tenth Street at Coffee Creek in the amount of \$78,910.38, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1136.

Resolution 12-0481 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that Contract C-21627 with Hanco Utilities, Inc., for construction of high pressure gas mains and services at various city locations be amended for additional service installations, due to a large increase in requests for natural gas service, in the amount of \$570,000 for a new total of \$1,196,621, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1075.

Resolution 12-0482 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

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THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Lowell to Lakewalk Trail in 2014;

(b) The estimated cost for design and construction of the Lowell to Lakewalk Trail is \$2,800,000. The Minnesota department of natural resources (DNR) has grant monies available through its parks and trails legacy grant program that are intended to accelerate the acquisition and development of recreational trails;

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

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Lowell to Lakewalk Trail as described in the application.

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

FURTHER RESOLVED, that the city of Duluth estimates the grand amount to be \$2,800,000 and is available on a 100 percent/0 percent local matching basis, and has matching funds available.

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

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor
City of Duluth
411 West First Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Duluth, Minnesota 55802
Resolution 12-0484 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Bayfront to Cross-City Trail in 2014;

(b) The estimated cost for design and construction of the Bayfront to Cross-City Trail is \$1,000,000. The Minnesota department of natural resources (DNR) has grant monies available through its parks and trails legacy grant program that are intended to accelerate the acquisition and development of recreational trails;

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

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Bayfront to Cross-City Trail as described in the application.

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

FURTHER RESOLVED, that the city of Duluth estimates the grand amount to be \$1,000,000 and is available on a 100 percent/0 percent local matching basis, and has matching funds available.

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

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor
City of Duluth
411 West First Street
Duluth, Minnesota 55802

Resolution 12-0485 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$203,776 such funds to be used to reimburse the Duluth police department and other Lake Superior traffic enforcement team participants for overtime salary/fringe benefits reimbursement for traffic enforcement of speed, distracted and impaired driving and passenger safety, St. Louis County 9-1-1 dispatch support, and grant management and administration, and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-10, funds to be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

deposited in Fund No. 215-200-2206-4210-02 (Duluth police grant programs, police, 2013 TZD grant, pass thru federal grants operating).

Resolution 12-0472 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-11, with the city of Superior, Wisconsin, to facilitate cooperation and assistance between the police departments in emergency situations and for the purpose of generating and executing search warrants relating to the enforcement of drug control laws.

Resolution 12-0474 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with M&T Fire Safety, Inc., as recommended by the Duluth fire department in its memorandum to the purchasing division, dated September 12, 2012, and on file with the city clerk as Public Document No. 12-0924-12, for the tax exempt purchase and delivery of 16 Drager UCF9000 thermal imaging cameras to be funded 80 percent by a FEMA (federal emergency management agency) grant and 20 percent by a city match as authorized by passage of Resolution 12-0029 accepting such grant and in accordance with city-approved specifications and the vendor's bid as of \$162,400 (\$10,150 per unit), terms net 60, FOB destination, payable as follows:

- (a) \$126,720 - Special Projects Fund 210, Department/Agency 030 (finance), Division 3174 (FEMA grant SCBA), Object 5580 (capital equipment); and
 - (b) \$35,680 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-E1213.
- Resolution 12-0476 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking space is established: in front of 1512 East Fourth Street.

Resolution 12-0483 was unanimously adopted.
Approved September 24, 2012
DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER
12-059 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM I-W TO MU-W THE PROPERTIES LOCATED AT 1119, 1123 AND 1127 MINNESOTA AVENUE (RAY ROBBINS).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, October 4, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gardner, Julsrud, Krug, Larson, Stauber and Vice President Boyle -- 6

Absent: Councilors Fosle, Krause and President Hartman -- 3

- - -

Vice President Boyle presided over the meeting in the absence of President Hartman.

- - -

MOTIONS AND RESOLUTIONS

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

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

Resolution 12-0513 was unanimously adopted.

Approved October 4, 2012

DON NESS, Mayor

- - -

The meeting was adjourned at 5:19 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 8, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

The minutes of the council meeting held on June 11, 2012, were approved upon a unanimous vote.

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1008-01 Hooshang Mehralian petition for North 11th Avenue West watermain extension. -- Assessor

12-1008-07 The following communications regarding the proposed license to keep honeybees (12-064-O): (a) Karen B. Holden; (b) Sharon Szymkowiak (supported by 156 signatures). -- Received

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed in detail the status of FEMA involvement with funding for the flood damages.

REPORTS OF BOARDS AND COMMISSIONS

12-1008-02 Commission on disabilities minutes of August 1, 2012, meeting. -- Received

12-1008-03 Duluth airport authority minutes of: (a) August 28; (b) September 4, 2012, meetings. -- Received

12-1008-04 Duluth economic development authority minutes of August 22, 2012, meeting. -- Received

12-1008-05 Duluth transit authority: (a) Minutes of June 27, 2012, meeting; (b) May 2012 income statement. -- Received

12-1008-06 Library board minutes of June 26, 2012, meeting. -- Received

At this time, 7:02 p.m., the public hearing on the Minnesota investment fund flood recovery program grant fund application was opened.

At this time, 7:03 p.m., the public hearing was closed.

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The city council of the city has chosen, by policy, to take steps to help ensure that all tax-exempt obligations and tax-advantaged obligations will be in compliance with all applicable federal regulations. This policy may be amended, as necessary in the future.

Section 1. Background. The internal revenue service (IRS) is responsible for enforcing compliance with the Internal Revenue Code and most other regulations governing certain obligations (as example: tax-exempt obligations, build America bonds, recovery zone development bonds and various "tax credit" bonds). The IRS expects issuers and beneficiaries of these obligations to adopt and implement a post-issuance debt compliance policy to safeguard against post-issuance violations.

Section 2. Post-issuance debt compliance objectives. The city desires to monitor these obligations to ensure compliance with the IRS code and all other regulations governing such obligations. To help ensure compliance, the city has developed procedures which apply to these obligations including bonds, notes, lease purchase contracts or any other form of debt that is subject to compliance.

Section 3. Post-issuance debt compliance.

3.01. The city auditor is designated as the city's compliance officer who shall be responsible for post-issuance compliance of these obligations.

3.02. The city auditor shall assemble all relevant documentation, records and activities required to ensure post-issuance debt compliance as further detailed in the "post-issuance debt compliance policy" filed as Public Document No. 12-1008-08. At a minimum, the post-issuance debt compliance policy for each qualifying obligation will address the following:

- (a) General post-issuance compliance;
- (b) Proper and timely use of bond proceeds and bond-financed property;
- (c) Arbitrage yield restriction and rebate;
- (d) Timely filings and other general requirements;
- (e) Additional undertakings or activities that support points (a) through (d) above;
- (f) Other requirements that become necessary in the future.

The city auditor shall apply the post-issuance debt compliance policy to each qualifying obligation and maintain a record of the results. Further, the city auditor will ensure that the post-issuance debt compliance policy is updated on a regular and as needed basis.

3.03. The city auditor, or any other individuals responsible for assisting the city auditor in maintaining records needed to ensure post-issuance compliance, are authorized to expend funds as needed to attend training or secure use of other educational resources for ensuring compliance such as consulting, publications and compliance assistance.

Resolution 12-0505 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its approximately \$6,945,000 general obligation street improvement refunding bonds, Series 2012D (the "bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "act"), and Section 475.67, subdivisions 1 through 12 of the act, for the purpose of (i) refunding, on a current refunding basis, the 2013 through 2019 maturities of the city's general obligation street improvement bonds, Series 2003D, dated September 1, 2003; (ii) refunding, on a current refunding basis, the 2014 through 2020 maturities of the city's general obligation street improvement bonds, Series 2004B, dated September 1, 2004; and (iii) refunding, on an advance refunding basis, the 2015 through 2021

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

maturities of the city's general obligation street improvement bonds, Series 2005D, dated October 6, 2005;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-1008-09. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0506 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its approximately \$10,315,000 taxable general obligation tax increment refunding bonds, Series 2012F (the "bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "act"), and Section 475.67, subdivisions 1 through 12, of the act for the purpose of refunding the 2015 through 2026 maturities of the city's taxable general obligation tax increment bonds, Series 2005G, dated December 16, 2005;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-1008-10. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0508 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its approximately \$5,500,000 taxable general obligation steam utility revenue refunding bonds, Series 2012G (the "bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "act"), and Section 475.67, subdivisions 1 through 12, of the act for the purpose of refunding the outstanding maturities of (i)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the city's general obligation steam utility revenue bonds, Series 2003E, dated September 1, 2003; (ii) the city's general obligation steam utility revenue bonds, Series 2005B, dated June 1, 2005; and (iii) the city's general obligation steam utility revenue bonds, Series 2006E, dated December 19, 2006;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-1008-11. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0509 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds. It is hereby found, determined and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its approximately \$1,925,000 general obligation sewer utility revenue refunding bonds, Series 2012E (the "bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "act"), and Section 475.67, Subdivisions 1 through 12, of the act, and the Home Rule Charter of the city for the purpose of refunding the 2015 through 2021 maturities of the city's general obligation sewer utility revenue bonds, Series 2005F, dated December 19, 2005;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-1008-12. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 12-0526 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Architectural Resources, Inc., substantially the same as Public Document No. 12-1008-13 on file in the office of the city clerk, for professional landscape architectural and engineering design services for the new dock structure and seawall located along the baywalk in Duluth, Minnesota,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

for a total amount not to exceed \$39,000, payable from the Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1804 (water control facilities), Object 5310 (contract services), Project No. Flood-300.

Resolution 12-0451 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to contract with H&L Mesabi Company for the purchase and delivery of various grader blade and wing edges as requested during the 2012/2013 winter season in accordance with city-approved specifications and the recommendation from the fleet services division as outlined in a memo, dated September 14, 2012, and bid tabulation on file with the city clerk as Public Document No. 12-1008-14, and the vendor's low bid of \$52,525 plus \$3,611.09 sales tax for a combined total of \$56,136.09, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair services).

Resolution 12-0497 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to contract with H&L Mesabi Company for the purchase and delivery of various flat plow blades as requested during the 2012/2013 winter season in accordance with city-approved specifications and the recommendation from the fleet services division as outlined in a memo, dated September 18, 2012, and bid tabulation on file with the city clerk as Public Document No. 12-1008-15, and the vendor's low bid of \$53,985 plus \$3,711.47 sales tax for a combined total of \$57,696.47, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair services).

Resolution 12-0498 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to contract with Duluth Ready Mix, Inc., the second year of a three-year contract, for the purchase and delivery of 6,000 tons of washed sand during year 2012, to 1123 Mesaba Avenue for use by the street maintenance division in accordance with in the vendor's original bid of \$10 per ton for a total of \$60,000 plus \$4,125 sales tax, for a total amount of \$64,125, 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 5224 (gravel and other maintenance materials).

Resolution 12-0510 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a construction contract with Hunt Electric Corporation for electrical service upgrades at Enger Park tower, gazebo and pavilion in accordance with plans and specifications prepared by Gausman & Moore Associates, Inc., the city's project engineer, and the vendor's revised bid of \$124,101 (down from original low bid of \$167,414), payable from Parks Fund 205, Department/Agency 130 (community resources),

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Division 1220 (parks capital), Object 5520 (buildings and structures), Project No. CM205-Eng tr.
Resolution 12-0511 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

- - -

RESOLVED, that city officials are authorized to contract with North American Salt Company for the purchase and delivery of 11,400 tons of road salt for the 2012-2013 winter season in accordance with Minnesota State Contract 46763, Release S-803(5), specifications and pricing at \$59.16 per ton for a total of \$674,424 plus \$46,366.65 sales tax for a combined total of \$720,790.65, payable as follows:

(a) For year 2012 (October-December): \$220,030.83 from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-01 (salt and sand salt;

(b) For year 2013 (January-April): \$500,759.82 from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-01 (salt and sand salt).

Resolution 12-0512 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

Licensee	Gambling site
American Indian Community Housing Organization	Hanabi Japanese Cuisine, 110 North First Avenue South

Resolution 12-0514 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption (bingo) to Holy Family Catholic Church and an excluded bingo license to Kenwood Lutheran Church and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 12-0524 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

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BY COUNCILOR BOYLE:

RESOLVED, that the Duluth City Council hereby reappoints Rick Revoir to the Seaway Port authority of Duluth for a term expiring on October 10, 2018.

Resolution 12-0491 was unanimously adopted.
Approved October 8, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of heating, ventilation, air conditioning and refrigeration inspector, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31.

Resolution 12-0516 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of storekeeper, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-17, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 27.

Resolution 12-0517 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator A, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-18, are approved.

This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31.

Resolution 12-0519 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator B, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-19, are approved.

This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 28.

Resolution 12-0520 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator C, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-20, are approved.

This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 26.

Resolution 12-0521 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water plant operator D, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-21, are approved.

This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 24.

Resolution 12-0522 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water quality specialist, which were approved by the civil service board on October 2, 2012, and which are filed with the city clerk as Public Document No. 12-1008-22, are approved.

This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31.

Resolution 12-0523 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby expresses its intent to use the Northwest Passage for appropriate program purposes as described in the federal grant therefore in substantial conformance with the continuing use document on file in the office of the city clerk as Public Document No. 12-1008-23 for the useful life of the improvements in the event that the city and the Duluth Transit Authority accept a grant of federal funds from the U.S. department of transportation for the reconstruction of said facility.

Resolution 12-0489 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city of Duluth act as the legal sponsor for project(s) contained in the Minnesota investment fund disaster recovery application to be submitted on or about October 9, 2012, and that the mayor of the city of Duluth is hereby authorized to apply to the department of employment and economic development for funding of this project on behalf of the city of Duluth.

BE IT FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate administration of the project(s).

BE IT FURTHER RESOLVED, that the city of Duluth has not violated any Federal, State, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

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

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project(s) on behalf of the applicant.

Resolution 12-0494 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement, substantially in the form of that on file with the city clerk as Public Document No. 12-1008-24, with the Northspan Group, Inc., to administer a Minnesota department of employment and economic development ("DEED") Minnesota investment fund ("MIF") disaster recovery program grant in an amount not to exceed three percent of the total business loan disbursement as approved by DEED or \$60,000, whichever is less, payable from Fund 235 (Duluth recovery loan program), Agency 020 (planning), Object 5319 (other professional services).

Resolution 12-0499 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth hereby adopts the guidelines for administering business recovery funds awarded through the Minnesota investment fund ("MIF") in the form of those on file in the office of the city clerk as Public Document No. 12-1008-25.

Resolution 12-0501 was unanimously adopted.

Approved October 8, 2012

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. 12-1008-26, with Senior Service America, Inc., (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$179,455 for the period of October 1, 2012, through June 30, 2013; monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

Resolution 12-0502 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-1008-27, with PLB, LLC, a/k/a PLB, a Minnesota limited liability company, accepting the grant of an underground utility easement for gas line purposes at no cost to the city over certain property in the vicinity of Woodland Avenue and St. Marie Street as more particularly described therein.

Resolution 12-0490 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that Resolution 11-0332 authorizing Bridge Bond Grant Agreement No. 98420 for the rehabilitation of Bridge No. 93402 on Second Street at Chester Creek be amended to increase the amount by \$115,000 for a new total of \$674,945.50, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), City Project No. 0068TR, S.A.P. 118-130-005.

Resolution 12-0500 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Northland Constructors of Duluth, LLC, for the rehabilitation of Bridge No. L6007 in the amount of \$897,579, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. S.P. 118-060-010.

Resolution 12-0503 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-1008-29, with the state of Minnesota through its commissioner of public safety, division of homeland security and emergency management, for providing services as a hazardous materials chemical assessment through September 30, 2014, in the amount of \$90,000 plus certain reimbursable costs as set forth therein, said sum to be payable to Fund No. 110-150-1505-4210-02 (general fund, fire, hazardous materials, pass through grant).

Resolution 12-0495 was unanimously adopted.
Approved October 8, 2012
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 spaces are hereby established:

- In front of 2310 Butte Avenue;
- In front of 4613 West Sixth Street.

Resolution 12-0496 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-1008-30, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2012-2013 season in the amount of \$13,925; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Building and Grounds-1217-2150, Snowmobile Trail Grants-4226.

Resolution 12-0518 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a master services agreement with the International Mountain Bicycling Association, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1008-31, for professional consulting services for trail design, building, repair and maintenance in an amount not to exceed \$50,000, payable from either Fund 225-125-1807 (disaster recovery, finance, parks, recreation and other) for flood related projects or Fund 205-130-1220-5530 (parks, community resources, parks capital, improvements other than buildings) for general trail work.

Resolution 12-0527 was unanimously adopted.
Approved October 8, 2012
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The following resolutions were also considered:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of notes. The city council adopted Resolution No. 11-0640 on December 5, 2011, declaring its intent to issue general obligation capital equipment notes in 2012 in an amount up to \$4,750,000 plus costs of issuance and discount. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation capital equipment notes, Series 2012C, in the approximate amount of \$3,300,000 (the "notes"), pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing approximately \$3,468,000 to purchase capital equipment, as permitted by the act, having an expected useful life at least as long as the term of the notes. The city's financial advisor is anticipating receipt of bids with original issue premium;

(b) Issuance and sale of notes. The terms and conditions of the notes and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 12-1008-32. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the notes and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the notes. Due to changes in the municipal bond market, the city administrator, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the notes;

(c) Competitive sale of notes. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the notes in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolutions. The form, specifications and provisions for repayment of the notes shall be set forth in a subsequent resolution of this city council.

Resolution 12-0525 was adopted upon the following vote:

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

7

Nays: Councilors Fosle and Stauber -- 2

Approved October 8, 2012

DON NESS, Mayor

- - -

Resolution 12-0515, confirming and approving members to the Duluth citizen review board, was introduced by Councilor Boyle for discussion.

Councilors Krause, Fosle and Stauber expressed concerns of a need to meet with the applicants because: some of them did not present very much information about themselves; issues that they will be dealing with will likely be controversial; there were about 30 applicants and we should have a better understanding why these individuals would be a good selection.

Councilors Larson and Krug opposed any tabling of the resolution for reasons of: the mayor has reviewed in detail these applications and is comfortable with these individuals and our past interviewing procedure of using preset questions is not conducive to meet and to get to know the appointees in this case.

Councilor Boyle moved to table the resolution to meet with the applicants, which motion was seconded and carried upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Stauber and President Hartman -- 7

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: Councilors Krug and Larson -- 2

- - -

RESOLVED, that city officials are hereby authorized to contract with Nelson Dodge GMC (Nelson Auto Center) for the tax-exempt purchase and delivery of nine 2013 Ford police interceptor utility V6 AWD vehicles for use by the Duluth police department as marked patrol squad units in accordance with Minnesota State Contract 37669, Release A-174(5), specifications and pricing for a total of \$247,090.38 plus \$450 in vehicle license, title and registration fees for a combined total of \$247,540.38, payable as follows:

(a) \$206,040.39 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1202; and

(b) \$41,499.99 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year), Object 5580 (capital equipment), Project No. CD250-V1102.

Resolution 12-0475 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-1008-28 between the city of Duluth and Bentleyville Tour of Lights, Inc., a Minnesota nonprofit corporation, providing for the production, promotion and management of the 2012 Bentleyville Tour of Lights, fees to be deposited into the city's Fund No. 237-015-4623 (Bayfront Festival Park, administrative services).

Resolution 12-0493 was unanimously adopted.

Approved October 8, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-058 - AN ORDINANCE EXEMPTING GO AIRPORT IMPROVEMENT BONDS FROM THE PROVISIONS OF SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE COMMUNITY ARTS SET-ASIDE.

- - -

INTRODUCED BY COUNCILOR KRUG

12-062 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS IN THE MAXIMUM AMOUNT OF \$700,000 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.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-060 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MU-N TO F-1 AND F-2, OF PROPERTIES LOCATED ON THE NORTH SIDE OF EAST SUPERIOR STREET IN THE LAKESIDE AND LESTER PARK NEIGHBORHOODS (CITY OF DULUTH).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

INTRODUCED BY COUNCILOR STAUBER

12-061 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM R-1 TO MU-N, OF THE PROPERTIES LOCATED AT 4131, 4201 AND 4219 GRAND AVENUE (KHAI KING, MURPHY OIL USA, INC., AND CHRIST THE KING LUTHERAN CHURCH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-063 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$50,000.

- - -

BY COUNCILOR LARSON

12-064 - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING NEW SECTIONS 6-80 AND 6-80.1, REGARDING THE KEEPING OF HONEYBEES.

Councilor Larson moved to suspend the rules to hear speakers on the ordinance which motion was seconded and unanimously carried.

Catherine Winter, Shannon Szymkowiak, Jonathan Otis and Ray Lopel expressed support for the ordinance for the reasons of: honeybees are essential to the food supply because they pollenate 1/3 of all nutritional food that we eat; honeybees in urban areas have far less pesticides on them; 30-40 percent of honeybees are lost each year; approximately 156 residents and businesses signed a petition supporting this ordinance (Public Document No. 12-1008-07(b)); neighbors who taste this honey take pride in it being produced in their neighborhood; by legalizing this 4-H students can become involved with this and there are only five types of bees that are kept by beekeepers, with one version being named after Minnesota.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-059 (10179) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM I-W TO MU-W, OF THE PROPERTIES LOCATED AT 1119, 1123 AND 1127 MINNESOTA AVENUE (RAY ROBBINS).

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

- - -

The meeting was adjourned at 7:45 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10179

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM I-W, TO MU-W, THE PROPERTIES LOCATED AT 1119, 1123 AND 1127 MINNESOTA AVENUE (RAY ROBBINS).

The city of Duluth does ordain:

Section 1. That the .46 acres of the subject properties located at 1119, 1123 and 1127 Minnesota Avenue and as more particularly described as follows:

Upper Duluth; Lots 145, 146, 148, 150 and 152;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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



(Ref. File No. 12-119)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 9, 2012)

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

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 8, 2012
Approved October 8, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 22, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1022-08 The following communications regarding the proposed design request for a permanent street in and around Joshua Avenue (12-0546R): (a) Linda Booker; (b) Andy Brunette; (c) Marla Halvorson; (d) Pat Huston; (e) Frank and Kristy Stokes. -- Received

--

REPORTS FROM OTHER OFFICERS

12-1022-01 Assessor letter of insufficiency regarding petition for North 11th Avenue West watermain extension. -- Received

12-1022-02 Clerk application for exempt permit (raffle) to the Minnesota gambling control board from Western Lake Superior Habitat for Humanity on January 26, 2013. -- Received

12-1022-03 Purchasing agent emergency purchase reports, pursuant to Section 41-27 of the Duluth City Code, for: (a) Permanent repairs to flood-damaged Hutchinson Road awarded to Northland Constructors of Duluth, LLC, for \$121,809; (b) Temporary and permanent repairs to five flood-damaged streets awarded to Veit Companies. -- Received

--

REPORTS OF BOARDS AND COMMISSIONS

12-1022-04 American Indian commission minutes of June 18, 2012, meeting. -- Received

12-1022-05 Commission on disabilities minutes of September 5, 2012, meeting. -- Received

12-1022-06 Community development committee minutes of June 26, 2012, meeting. -- Received

12-1022-07 Parks and recreation commission minutes of September 12, 2012, meeting. -- Received

--

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martel commented that the Duluth School District: has been misrepresenting facts in the local paper, stating that the lack of state funding and inflation are the cause of its fiscal problems; the district has wasted nearly all of its \$30 million nest egg in the reserve fund and the big elephant in the room is how bad the red plan debt obligation is hurting them.

--

Gerry Schlafer felt that: voter identification is irrelevant; big corporations can give as much money to candidates as they want and lobbyists run the country.

--

RESOLUTION TABLED

Councilor Boyle moved to remove Resolution 12-0515, confirming and approving members

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

to the Duluth citizen review board, from the table, which motion was seconded and unanimously carried.

Resolution 12-0515 was adopted as follows:

RESOLVED, that the following appointments by Mayor Ness to the Duluth citizen review board are hereby confirmed and approved:

NAME	TERM EXPIRATION DATE
Gabriel Green	3/31/2013
Renee K. Van Nett	3/31/2013
David R. Baker	3/31/2014
Katherine Eagle	3/31/2014
Patricia Behning Oakes	3/31/2015
Doug Bowen-Bailey	3/31/2015
Blair G. Powless	3/31/2015

Resolution 12-0515 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2013 currency exchange license to Pawn America Minnesota, LLC, 339 East Central Entrance.

Resolution 12-0529 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the application for permanent expansion of the designated serving area of the following on sale intoxicating liquor license and Sunday license for the period ending August 31, 2013, subject to departmental approval:

Coffee Cabin, LLC (Afterburner Lounge), 4701 Grinden Drive.

Resolution 12-0531 was unanimously adopted.

Approved October 22, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council previously approved Resolution 12-0251 on May 29, 2012, authorizing an annual contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fines for street improvement projects in year 2012; thereafter, the city issued the following purchasing orders:

\$521,500.00 File No. 12-0309 - annual 12-0251
\$176,050.91 File No. 12-0543 - flood projects 12-0466; and

WHEREAS, the city street maintenance division requires additional hot mix fines in the amount of \$150,000 for flood-related projects.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a second increase to the purchase order issued to Northland Constructors by \$150,000 for a new annual contract total of \$847,550.91.

(a) \$150,000.00 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-990;

(b) \$176,050.91 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-990;

(c) \$521,500.00 - General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop).

Resolution 12-0537 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an on sale non intoxicating malt liquor license for the period ending April 30, 2013, and approves issuance of an on sale wine license for the period ending August 31, 2013, subject to departmental approval, payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Pak's Green Corner, LLC (Pak's Green Corner), 4131 Grand Avenue, with Kamolpak Williams, owner.

Resolution 12-0541 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to increase Agreement No. 21708 with Adjusters International, for professional disaster management consulting services, by \$150,000 for a new contract total not to exceed \$350,000, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1800 (force labor), Object 5310 (contract services), Project Flood 990.

Resolution 12-0545 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) On August 27, 2012, the city council approved Resolution 12-0430 vacating this portion of Niagara Street; per the county recorder's office, the legal description needs to be amended; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) The city council found a sufficient petition was filed with the city requesting the vacation described below in (e) below; and

(c) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned platted street is useless for all purposes; and

(d) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition; and

(e) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-1022-09:

Rochester Street (Niagara Street) from the eastern line of Junction Avenue to the eastern line of Superior View Addition to Duluth and Superior View Addition to Duluth Second Division;

(f) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-1022-09:

A 20 foot portion along the easterly line of Junction Avenue, a 20 foot portion along the northerly edge of Lot 1, Block 10, Superior View Addition to Duluth, extended to the eastern line of Superior View Addition to Duluth, and a 20 foot portion along the southerly edge of Lot 47, Block 11, Superior View Addition to Duluth Second Division, extended to the eastern line of Superior View Addition to Duluth Second Division;

(g) 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. 12-1022-09 showing the platted street to be vacated.

Resolution 12-0540 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Salvation Army, under which the Salvation Army would administer an emergency energy assistance program using \$16,086 in funds that the city has received from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 12-1022-10; payment by the city will be made from the General Fund 110, Agency 700 (transfers and other functions), Organization 1407 (miscellaneous), Object 5407 (energy assistance program).

Resolution 12-0533 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Lake Superior Consulting, LLC, substantially the same as Public Document No. 12-1022-11 on file in the office of the city clerk, to perform professional engineering services to conduct a full confirmatory, direct assessment of the city's natural gas transmission pipeline in the amount of \$25,823, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1930 (engineering), Cost Center 2330 (utility engineering), Object 5303 (engineering services), Project No. 1193.

Resolution 12-0542 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved October 22, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LimnoTech to perform professional engineering services for the Duluth stream restoration flood 2012 project (scope of work to include only designated trout streams in Duluth) in the amount of \$100,000, payable from Disaster Recovery Fund 225, Department 125 (finance), Agency 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 12-0543 was unanimously adopted.

Approved October 22, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Barr Engineering Company to perform professional engineering services for the Duluth stream restoration flood 2012 project (scope of work to include only designated trout streams in Duluth) in the amount of \$100,000, payable from Disaster Recovery Fund 225, Department 125 (finance), Agency 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 12-0544 was unanimously adopted.

Approved October 22, 2012
DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth intends to act as legal sponsor for a portion of a project contained in the federal emergency management agency FY2011 national dam safety program award; and

(b) That the city is aware of requirements imposed by federal statute and regulations, and that the department of public works and utilities is hereby authorized to apply to the Minnesota department of natural resources for funding of the development of an emergency action plan for the Hartley Dam on Tischer Creek; and

(c) That the city has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to carry out the project; and

(d) That the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practices; and

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

RESOLVED, that the director of public works and utilities is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the city of Duluth; funds to be deposited in Stormwater Fund 535, Department 500 (public works and utilities), Agency 1900 (public works director's office), Source 4210-02 (pass-through federal grants operating).

Resolution 12-0548 was unanimously adopted.

Approved October 22, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with St. Louis County for an amount not to exceed \$46,268, the University of Minnesota-Duluth

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

police department for an amount not to exceed \$15,600, the city of Hermantown for an amount not to exceed \$23,550, the city of Proctor for an amount not to exceed \$19,450 and the city of Floodwood for an amount not to exceed \$13,000, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1022-12, for services provided under the 2013 toward zero deaths law enforcement grant from the Minnesota department of public safety, all reimbursement payments made to other agencies under the agreement shall be paid from Fund No. 215-200-2206-5447 (Duluth police grant programs, police, 2013 TZD grant, payments to other government agencies) and reimbursement payments for the Duluth police department shall be paid from Fund No. 215-200-2206-5700-10 (Duluth police grant programs, police, 2013 TZD grant, interfund transfers out to general fund).

Resolution 12-0528 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1022-13, with St. Louis County pursuant to a FY 2011 operation stone garden grant from the Minnesota department of public safety, homeland security and emergency management division, under which grant agreement the city shall perform services to protect and secure the international border and port of entry between St. Louis County and Canada from July 1, 2012, through August 31, 2014.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept reimbursement from St. Louis County for stated services in an amount not to exceed \$40,438.14, funds to be deposited in Fund No. 215-200-2297-4210-02 (Duluth police grant programs, police, 2009 operation stone garden).

Resolution 12-0532 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file with the city clerk as Public Document No. 12-1022-14, with the state of Minnesota, department of public safety, bureau of criminal apprehension providing for the continued participation by the city of Duluth police department in the Minnesota internet crimes against children task force program through May 31, 2013.

Resolution 12-0536 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a ballistic vest reimbursement grant from the United States department of justice, bureau of justice assistance, office of justice programs, in an amount not to exceed \$16,650 to be deposited in Fund No. 110-160-1610-4209-02 (general fund, police department, administration and investigation, federal operating grants), and to execute any documents required to be executed to accept such grant.

FURTHER RESOLVED, that the proper city officials are authorized to accept a ballistic vest reimbursement grant from the Minnesota department of public safety in an amount not to exceed \$31,894.65, to be deposited in Fund No. 110-160-1610-4220-02 (general fund, police department, administration and investigation, Minnesota operating grants), and to execute any documents

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

required to be executed to accept such grant.

Resolution 12-0539 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

BY COUNCILOR LARSON:

RESOLVED, that Resolution 11-0632 adopting license, permit and fee charges for 2012 be amended by adding the license fee listed below, pursuant to Section 6-80 of the Duluth City Code, 1959, as amended, effective upon the effective date of Ordinance 12-064.

Clerks	
Fee Name	2012 Fee
Bees, keeping of - annual	\$10.00

Resolution 12-0530 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the Minnesota pollution control agency (MPCA) in the amount of \$38,000 and to execute a grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1022-15, for the purpose of building Duluth's community resiliency through urban trees program, funds to be deposited in Fund 205-130-1220-4210-01 (parks, community resources, parks capital, pass through federal grants capital).

Resolution 12-0547 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0538, authorizing the purchase of Microsoft software licenses through SHI International Corporation for year 2012 in the amount of \$124,427.08, was introduced by Councilor Krause for discussion.

President Hartman felt that: this particular selection of licenses is outdated already; the city should be going ahead with a better selection and the city should never tie itself to a six year contract.

Resolution 12-0538 was adopted as follows:

WHEREAS, the Duluth City Council authorized a six-year agreement with Microsoft Licensing GP and SHI International Corporation for the use of specified Microsoft software products with approval of Resolution 11-0450 on August 29, 2011. At that time, the council approved the full amount of the six annual payments.

RESOLVED, that the proper city officials are hereby authorized to execute the required license additions for the current enterprise agreement with Microsoft via the reseller SHI International Corporation. These licenses will serve core city systems and accommodate migrations for a total of \$116,423 plus \$8,004.08 sales tax for a combined total of \$124,427.08, payable from Capital Equipment 250, Department/Agency 015 (administrative services), Division 2010 (fiscal year-2010), Object 5580 (capital equipment), Project No. CE250-E1004.

Resolution 12-0538 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

Nays: Councilor Stauber and President Hartman -- 2

Approved October 22, 2012

DON NESS, Mayor

- - -

RESOLVED, that, pursuant to the requirements of Minnesota Statutes Section 469.074, Subd. 2, the city council of the city of Duluth hereby approves of St. Louis County offering for sale the following-referenced, tax forfeited properties on Minnesota Point in St. Louis County, Minnesota:

(a) Lots 32 through 44, even numbered lots, UPPER DULUTH, St. Louis Avenue, Parcel 101-4400-01330;

(b) Lots 377 through 399, odd numbered lots, LOWER DULUTH, Minnesota Avenue, Parcel 010-3110-01950;

(c) Lots 124 and 130, LOWER DULUTH, St. Louis Avenue, Parcel 101-312-02750.

Resolution 12-0428 was unanimously adopted.

Approved October 22, 2012

DON NESS, Mayor

- - -

Resolution 12-0546, requesting design for a permanent street in and around Joshua Avenue from Maple Grove Road to Arrowhead Road, was introduced by Councilor Krause for discussion.

Councilor Krause moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Andy Brunette, Frank Stokes, Linda Booker and Tom Spehar opposed the resolution for the reasons of: there is still a great deal of concern that this connector not be built; over 185 individuals signed a petition expressing their concerns and have presented an alternative; not all on the Duluth Heights task force are convinced of the plan; this will change the whole dynamic of the area; the best option at this time would be to do nothing; the connector only benefits a small percentage of residents; property values will be adversely affected; this affects more than just three homes; 7,000 cars per day will affect how you live; without a funding plan it is irresponsible to have an "on the shelf" plan; residents on Arrowhead Road have been forgotten as to how it will affect them; with this plan there will be a 87 foot opening through the woods and curbs, gutters and sidewalk issues have not be determined yet.

Ron DeGrio, Pat Huston, Keith Haglin and Martin Tahja supported the resolution for the reasons of: 32 years ago this issue was being discussed and now the time has come to make a plan work; compensation to homeowners affected by this proposed road needs to be included; if this plan is not approved all the rezoning previously approved will be affected; federal dollars are paying for designing this road; there currently are a lot of residents being impacted with the situation with all the traffic that goes through this area, so there needs to be a good comprehensive plan; the proposed route is the least disruptive to the fewest amount of residents and this plan will alleviate traffic in the other residential areas in Duluth Heights.

Councilor Stauber opposed tabling the resolution and supported voting against the resolution for reasons of: approving this keeps the neighbors in limbo as to when or if it will be done and if there will be any compensation; the city should not be spending state and federal dollars for a plan that will be put on the shelf and if three years pass a new environmental assessment would need to be done.

Councilor Gardner moved to table the resolution so that councilors can study this issue further, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug and Larson -- 7
Nays: Councilor Stauber and President Hartman -- 2

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-058 (10180) - AN ORDINANCE EXEMPTING GO AIRPORT IMPROVEMENT BONDS FROM THE PROVISIONS OF SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE COMMUNITY ARTS SET-ASIDE.

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

- - -

INTRODUCED BY COUNCILOR KRUG

12-062 (10181) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS IN THE MAXIMUM AMOUNT OF \$700,000 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 Krug moved passage of the ordinance and the same was adopted upon the following vote.

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

Nays: Councilor Stauber -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

12-060 (10182) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MU-N TO F-1 AND F-2, OF PROPERTIES LOCATED ON THE NORTH SIDE OF EAST SUPERIOR STREET IN THE LAKESIDE AND LESTER PARK NEIGHBORHOODS (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-061 (10183) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM R-1 TO MU-N, OF THE PROPERTIES LOCATED AT 4131, 4201 AND 4219 GRAND AVENUE (KHAI KING, MURPHY OIL USA, INC., AND CHRIST THE KING LUTHERAN CHURCH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-063 (10184) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$50,000.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BY COUNCILOR LARSON

12-064 (10185) - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING NEW SECTIONS 6-80 AND 6-80.1, REGARDING THE KEEPING OF HONEYBEES.

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

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The meeting was adjourned at 8:21 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10180

AN ORDINANCE EXEMPTING GO AIRPORT IMPROVEMENT BONDS FROM THE PROVISIONS OF SECTION 20-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE COMMUNITY ARTS SET-ASIDE.

The city of Duluth does ordain:

Section 1. Notwithstanding the provisions of Section 20-19 of the Duluth City Code, 1959, as amended, the proceeds of the general obligation airport improvement bonds being issued to construct a new parking ramp, aprons and access road at the Duluth International Airport shall not be deemed to be "city funds" as that term is defined in Section 20-19(b) of the Duluth City Code, 1959, as amended, related to the community arts set-aside.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: November 22, 2012)

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

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

Nays: None -- 0

Passed October 22, 2012

Approved October 22, 2012

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 10181

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS IN THE MAXIMUM AMOUNT OF \$700,000 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. BOND PURPOSE AND AUTHORIZATION.

1.01 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.

1.02 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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 percent of the total project cost where such contribution is used to match state or federal grants, or 70 percent where it is used to match government and private grants, or 80 percent 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 \$700,000 plus other city funds, will be sufficient to pay the total project costs of \$2,354,518.66, 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.

1.03 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 \$700,000, 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 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city 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.

3.02 The city council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. TAX LEVY.

4.01 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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 5. CERTIFICATE OF PROCEEDINGS.

5.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: November 22, 2012)

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

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

Nays: Councilor Stauber -- 1

Passed October 22, 2012
Approved October 22, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10182

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MU-N TO F-1 AND F-2, OF PROPERTIES LOCATED ON THE NORTH SIDE OF EAST SUPERIOR STREET IN THE LAKESIDE AND LESTER PARK NEIGHBORHOODS.

The city of Duluth does ordain:

Section 1. That the 1.17 acres of the subject properties located on the northeast and northwest corners of North 45th Avenue East and East Superior Street and as more particularly described in Exhibit A and by the following:

010-3000-00050	010-3010-00820
010-3000-00060	010-3010-00840

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



Exhibit B
(Ref. File No. 12-120)

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 22, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 22, 2012
Approved October 22, 2012
DON NESS, Mayor

ORDINANCE NO. 10183

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM R-1 TO MU-N, OF THE PROPERTIES LOCATED AT 4131, 4201 AND 4219 GRAND AVENUE (KHAI KING, MURPHY OIL USA, INC., AND CHRIST THE KING LUTHERAN CHURCH).

The city of Duluth does ordain:

Section 1. That the 1.37 acres of the subject properties located at 4131, 4201 and 4219 Grand Avenue and as more particularly described as follows:

- 010-0480-00460 010-3610-09550 010-3610-09530
- 010-3610-09520 010-3610-09470

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

be reclassified from Residential-Traditional (R-1), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:



(Ref. File No. 12-125)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 22, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 22, 2012
Approved October 22, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10184

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FOR \$50,000.

The city of Duluth does ordain:

Section 1. The Duluth economic development authority ("DEDA") desires to acquire the below described property for the purpose of reconveying the same to Novos Development, LLC, for the construction of a general store, which is a commercial business, at the site.

Section 2. The city's planning agency has reviewed the proposed conveyance and finds it to be in conformity with the city's comprehensive plan.

Section 3. The city has no need for below described property and therefor, the city council finds that the need of DEDA is greater in importance than the need of the city to retain said property and the best interests of the neighborhood and of the citizens of the city will be best

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

served by accomplishing such conveyance.

Section 4. That the proper city officials are hereby authorized to convey to DEDA by quitclaim deed the below-described property in St. Louis County, Minnesota, for the sum of \$50,000; payable into the General Fund, Fund 110 (general fund), Agency 700 (other functions), Object 1420 (capital programs), Revenue Source 4640 (sale of land):

Lots 6 through 21, Block 41, NEW DULUTH FIRST DIVISION.

Section 5. That the city council finds, upon advice from the city assessor, that the sale is for fair market value.

Section 6. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 22, 2012)

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

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

Nays: None -- 0

Passed October 22, 2012
Approved October 22, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10185

BY COUNCILOR LARSON:

AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING NEW SECTIONS 6-80 AND 6-80.1, REGARDING THE KEEPING OF HONEYBEES.

The city of Duluth does ordain:

Section 1. The Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 6-80 as follows:

Sec. 6-80. Obtaining a license to keep honeybees.

(a) Any person who keeps honeybees in the city of Duluth other than areas zoned Rural-Conservation (R-C) or Residential-Rural 1 (RR-1) under Sections 50-14.2 and 50-14.3 of this Code, shall obtain an annual license prior to acquiring the honeybees. The license year commences on January 1 and ends on the following December 31. Applications shall be made to the city clerk. The city clerk shall collect the license fee;

(b) Fees to be charged for the issuance of a license to keep honeybees shall be set in accordance with Section 31-6(a) of this Code;

(c) Only one license shall be allowed per lot;

(d) The applicant for the license must notify all residents of the property if the applicant is not the owner or operator and the owner or operator must be an additional signatory on the license application. Notification is not required for renewal of a license;

(e) The animal control authority may refuse to grant or may revoke a license if the honeybees become a nuisance as determined by the animal control authority.

Section 2. That the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 6-80.1 as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Sec. 6-80.1. Keeping of honeybees.

(a) Each person holding a license to keep honeybees within the city of Duluth shall comply with the following:

(1) No more than five hives may be located on a lot;
(2) No hive shall exceed 20 cubic feet in volume;
(3) A constant supply of water shall be provided for all hives, except during the dormant period.

(4) No ground hive shall be located closer than five feet from any property line;

(5) No ground hive shall be located closer than 15 feet from a public sidewalk or 30 feet from a principal building on an abutting lot;

(6) A flyway barrier at least six feet in height shall shield any part of a property line that is within 30 feet of a ground hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded;

(7) Rooftop apiaries are allowed but shall not be located closer than 15 feet from a principal building on an abutting lot.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: November 22, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 22, 2012
Approved October 22, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 8, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 7

Absent: Councilors Fosle and Krause -- 2

- - -

At this time, Councilor Krause took his seat.

- - -

MOTIONS AND RESOLUTIONS

Resolution 12-0555, providing for the issuance, sale and delivery of \$3,275,000 general obligation capital equipment notes, Series 2012C; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, was introduced by Councilor Krug.

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

Robert Toftey, bond counsel, reviewed the bidding results on all of the bond issues.

Resolution 12-0555 was adopted as follows:

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

Section 1. Notes Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32(g) and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

1.02 The city council adopted Resolution No. 11-0640R on December 5, 2011 (the "Intent Resolution"), declaring the intention of the City to issue such capital equipment notes in the maximum amount of \$4,750,000 to finance the purchase of capital equipment authorized by the Act plus costs of issuance and discount on such capital equipment notes. It is hereby certified that the amount of the capital equipment notes to be issued by the City pursuant to this resolution is less than 0.25% of the market value of the taxable property of the City.

1.03 The city council hereby determines that it is necessary and expedient to issue \$3,275,000 General Obligation Capital Equipment Notes, Series 2012C, of the City (the "Notes") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Notes and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Notes will have a useful life of more than the term of the Notes.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Notes at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Notes.

1.05 Pursuant to such solicitation for bids for the sale of the Notes, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Wisconsin (the “Purchaser”), to purchase the Notes at a cash price of \$3,491,373.40, upon condition that the Notes mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the bid of the Purchaser is hereby accepted. Upon receipt of the good faith deposit, the mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Notes in accordance with the Purchaser’s bid. The city treasurer is directed to deposit the good faith check of the successful bidder. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Notes are hereby ratified and approved.

Section 2. Terms, Execution and Delivery of the Notes.

2.01 The Notes to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Notes shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2014	\$605,000	3.00%
2015	640,000	3.00%
2016	660,000	3.00%
2017	675,000	3.00%
2018	695,000	3.00%

2.02 The Notes are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 and in each year (each referred to herein as an “Interest Payment Date”), commencing August 1, 2013. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Notes by check or draft mailed to the registered owners of the Notes shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners’ addresses shown on such bond registration records.

2.04 The Notes shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Notes shall cease to be an officer before delivery of the Notes, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Note.

2.05 The city council hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Notes (such bank or its successor is herein referred to as the “Bond Registrar”). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Note shall be valid or obligatory for any purpose until the Bond Registrar’s authentication certificate on such Note, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Notes need not be signed by the same

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

representative. The manual signature of one officer of the City or the executed authentication certificate on each Note shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter");

(b) Notwithstanding any provision herein to the contrary, so long as the Notes shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern;

(c) All of the Notes shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter;

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Notes which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Notes of such stated maturity of any Notes in Book-Entry Form shall be issued and remain in a single note certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Notes of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Notes of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Notes.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Note in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new note in Book-Entry Form in exchange for a previous note, the Bond Registrar shall designate thereon the principal balance remaining on such note according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Note in Book-Entry Form or entitled to receive any note certificate. The beneficial ownership interest in any Note in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Notes of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Note, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever;

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Note.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Note in Book-Entry Form shall be transmitted to beneficial owners of such Notes at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter;

(f) All payments of principal, redemption price of and interest on any Notes in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Notes and the registration of transfers of the Notes entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Note at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Notes of the like aggregate principal amount, as requested by the transferor.

2.08 Each Note delivered upon transfer of or in exchange for or in lieu of any other Note shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Note. Each Note shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Notes called for redemption or to make any such exchange or transfer of the Notes during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Notes.

2.09 The City and the Bond Registrar may treat the person in whose name any Note is registered as the owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Notes shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Notes shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION CAPITAL EQUIPMENT NOTE, SERIES 2012C

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	November __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2013. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Note on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Note, the presentation or surrender of this Note, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Note to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Note is one of a series issued by the City in the aggregate amount of \$3,275,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32(g) and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 8, 2012 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes, as such principal and interest respectively come due. The Notes are not subject to redemption and prepayment before maturity.

The Notes of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Note is transferable by the registered owner hereof upon surrender of this Note for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution, and deliver, in exchange for this Note, one or more new fully registered Notes in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Note, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Note in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Note to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

City Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Note registered in the name of the owner named above, in the principal amount stated above, and this Note is one of the Notes of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

This Note must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Note shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
11/__/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13- 2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Note and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(Bank, Trust Company, member of National Securities Exchange)

Unless this Note is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City or its agent for registration of transfer, exchange, or payment, and any Note issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Fund 250 to which there shall be credited \$3,489,000 from the proceeds for the Notes, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for “capital equipment,” as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least the term of the Notes, and costs of issuance of the Notes, as such payments become due. The City’s intent is to acquire and finance the capital equipment listed in the Intent Resolution with the proceeds of the Notes.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2012	2013	\$756,753
2013	2014	756,105
2014	2015	756,945
2015	2016	751,905
2016	2017	751,643

(b) A separate debt service account is hereby created and designated as the “2012 G.O. Capital Equipment Notes Debt Service Account” (the “Debt Service Fund”) within the City’s debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Notes; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited the amount of accrued interest, if any, and the rounding amount (\$2,373.40) paid by the Purchaser upon closing and delivery of the Notes.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Notes, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

shall be irrevocable until the Notes and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Notes and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Notes on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the equipment purchases and/or payment of the principal and interest on the Notes when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Notes that the City will (i) take all action on its part necessary to assure that the interest on the Notes will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Notes and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Notes to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Notes and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Notes shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Notes were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Notes or \$100,000. To this effect, any proceeds of the Notes and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Notes) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations;

(b) In addition, the proceeds of the Notes and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Notes to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code");

(c) The City hereby covenants not to use the proceeds of the Notes, or to cause or permit them to be used, in such a manner as to cause the Notes to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby represents that with respect to the gross proceeds of the Notes, the following schedule is expected to be met: (i) at least 15% of the gross proceeds of the Notes will be allocated to expenditures for the governmental purpose of the Notes within six months of the date of issue of the Notes; (ii) at least 60% of such proceeds will be allocated for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Notes, and that 100% of the available proceeds of the Notes will be allocated within 30 months from the date of issue of the Notes;

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

4.04 In addition to the Notes, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Street Improvement Refunding Bonds, Series 2012D (the "Series 2012D Bonds"), and General Obligation Sewer Utility Revenue Refunding Bonds, Series 2012E (the "Series 2012E Bonds"). The Notes will not be paid out of substantially the same source of funds as the Series 2012E Bonds; consequently, the Notes will not be combined with the Series 2012E Bonds for a single issue. However, the Notes and the Series 2012D Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

Section 5. Continuing Disclosure. The City acknowledges that the Notes are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Notes. To provide for the public availability of certain information relating to the Notes and the security therefor and to permit underwriters of the Notes to comply with the Rule, which will enhance the marketability of the Notes, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate on file in the office of the city clerk as Public Document No. 12-1108-01.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Notes herein authorized have been duly entered on the county auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Notes and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Notes, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Notes and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Notes, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0555 was adopted upon the following vote:

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

7

Nays: Councilor Stauber -- 1

Absent: Councilor Fosle -- 1

Approved November 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond purpose and authorization.

1.01 The City previously issued \$3,515,000 General Obligation Sewer Utility Revenue Bonds, Series 2005F, dated December 19, 2005 (the "2005 Bonds"). The 2005 Bonds were authorized and issued pursuant to Section 55 of the City Charter, Minnesota Statutes, Section 115.46 and 444.075 and Chapter 475 and other pertinent provisions of Minnesota Statutes.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 2005 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$2,000,000 General Obligation Sewer Utility Revenue Refunding Bonds, Series 2012E (the "Bonds"), to refund the outstanding 2005 Bonds maturing on and after February 1, 2015, of which \$1,920,000 in principal amount is outstanding (the "Refunded Bonds"), in order to reduce debt service cost to the City. The 2005 Bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014. (February 1, 2014 is herein referred to as the "Redemption Date.") The 2005 Bonds maturing on February 1, 2013 and February 1, 2014, are not being prepaid or defeased (the "Unrefunded Portion of the 2005 Bonds").

1.04 The City's plan of finance for the payment and prepayment of the 2005 Bonds is as follows:

(a) The February 1, 2013 and the February 1, 2014 maturities of the 2005 Bonds shall remain outstanding and interest thereon on February 1, 2013, on August 1, 2013, and on February 1, 2014, shall not be defeased pursuant to this Resolution and the Escrow Agreement. The City will pay from the debt service account for the 2005 Bonds the principal of and interest due on the Unrefunded Portion of the 2005 Bonds when due. Proceeds of the Bonds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.04, which together with investment earnings thereon, will be sufficient to pay (i) interest on the Refunded Bonds due on February 1, 2013, on August 1, 2013, and on February 1, 2014; and (ii) the redemption and prepayment of the Refunded Bonds on the Redemption Date.

(b) Proceeds of the Bonds, and interest thereon, will provide the funds to pay the interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014, and to prepay and redeem the principal of the Refunded Bonds on the Redemption Date.

1.05 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of \$540,000; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

\$265,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$2,370,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$690,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount of \$1,489,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,675,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$640,000; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,206,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of \$669,000; general obligation sewer utility revenue note dated December 16, 2009, now outstanding in the amount of \$2,087,000; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,143; general obligation sewer utility revenue notes dated September 14, 2010, now outstanding in the amounts of \$7,241,097 and \$3,295,000; general obligation utilities revenue refunding bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$1,765,267; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$2,265,000; general obligation sewer utility revenue notes dated November 29, 2011, now outstanding in the amounts of \$58,391 and \$102,449; and general obligation sewer utility revenue note dated December 21, 2011, now outstanding in the amount of \$69,121.

Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3, 2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, November 29, 2011, and December 21, 2011.

1.06 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.07 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Bonds at a cash price of \$2,066,636.25, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

2.01 The Bonds shall be dated as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

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Year	Amount	Interest Rate
2015	\$265,000	2.00%
2016	270,000	2.00%
2017	280,000	2.00%
2018	290,000	2.00%
2019	290,000	2.00%
2020	300,000	2.00%
2021	305,000	2.00%

2.02 The Bonds are not subject to optional redemption and prepayment prior to maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on August 1, 2013. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery;

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter");

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern;

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by

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10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter;

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever;

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter;

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council.

Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY REVENUE REFUNDING BOND
SERIES 2012E

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	November __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the interest rate per annum specified above.

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Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2013. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association of Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,000,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and Section 55 of the Home Rule Charter of the City and all other laws and Charter provisions thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on November 8, 2012 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of the City's General Obligation Sewer Utility Revenue Bonds, Series 2005F, dated December 19, 2005, maturing on and after February 1, 2015.

The Bonds are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds are not subject to optional redemption and prepayment prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to

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limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

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By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
11/___/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of

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the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the clerk as Public Document No. 12-1108-02. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the municipal sewer utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the

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sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the director of finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due;

(b) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. Unless deposited in the Escrow Account, the treasurer shall credit to the Debt Service Fund unused discount (\$2,808.61) and the amount of accrued interest on the Bonds. The treasurer shall transfer from the Sewer Utility Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the City Council;

(c) Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

5.02 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the principal and interest on the Refunded Bonds that an irrevocable appropriation to the Escrow Account shall have been made within the meaning of Section 475.61, Subdivision 3(g) of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the Council resolution authorizing the Refunded Bonds for collection in the year 2013 and thereafter.

5.03 If the balances in either Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

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5.04 Escrow account.

(a) The City hereby creates an Escrow Account for the Refunded Bonds. To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Fund or are not to be used for payment of costs of issuance of the Bonds; (ii) Accrued Interest; (iii) Additional Interest [amounts referenced in clauses (i), (ii) and (iii) are herein referred to as the "Proceeds"]; and (iv) investment earnings on such monies referenced in clauses (i), (ii) and (iii), for the payment of (A) interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014; and (B) the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(b) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the Refunded Bonds for the payment of the interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014, and the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(c) From the Escrow Account there shall be paid: (i) interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014; and (ii) the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(d) The Escrow Account for the Refunded Bonds as set forth above for the payment of the interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014, and to prepayment and redemption of the Refunded Bonds due by reason of redemption and prepayment on the Redemption Date. The monies in the Escrow Account for the Bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund;

(e) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

5.05 The construction funds created for the 2005 Bonds have previously been terminated and all bond proceeds therein have been expended.

5.06 The City shall pay the cost of issuance of the Bonds with \$29,000 of the Bond proceeds.

Section 6. Refunding; findings; redemption of Refunded Bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the date of issuance of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City. In accordance with Section 475.67, Subdivision 12 of the Act, as of the date of issuance of the Bonds, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates;

(b) It is hereby found and determined that the Proceeds available and appropriated to the Escrow Account for the Refunded Bonds, together with investment funds thereon is sufficient for the payment of the interest on the Refunded Bonds on February 1, 2013,

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on August 1, 2013, and on February 1, 2014, and the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date.

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the forms of notices of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The Escrow Agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the Refunded Bonds in accordance with their terms and the Escrow Agreement.

6.03 The Escrow Agent is authorized and directed to cause to be provided a material event notice regarding the defeasance of the Refunded Bonds in accordance with the continuing disclosure certificates of the City dated December 19, 2005, and delivered in connection with the 2005 Bonds.

Section 7. Certificate of proceedings.

7.01 The clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds have been duly entered on his register.

7.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

7.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Section 8. Tax covenants.

8.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

8.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage

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regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations;

(b) The proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code");

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

8.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Equipment Notes, Series 2012C (the "Notes"), and General Obligation Street Improvement Refunding Bonds, Series 2012D (the "Series 2012D Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Notes and the 2012D Bonds; consequently, the Bonds will not be combined with any of them for a single issue under Treasury Regulations Section 1.150-1(c).

8.04 (a) The City covenants and certifies to and for the benefit of the owners of the Bonds that no use will be made of the proceeds of the Bonds, which will cause the Bonds to be arbitrage bonds within the meaning of Section 148(a) of the Code and the Treasury Regulations promulgated thereunder. Pursuant to such covenant, the City hereby agrees to comply throughout the term of the issue of the Bonds with the requirements of Section 148 of the Code and any Treasury Regulations promulgated thereunder; to this end, the City shall:

(i) maintain records identifying all "gross proceeds" (as defined in Section 148(f)(6)(B) of the Code) attributable to the Bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Bonds) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each Bond Year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the City (hereinafter, the "Rebate Amount");

(iii) pay, or cause to be paid, to the United States at least once every five Bond Years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the Bonds are paid in full;

(iv) not invest, or permit to be invested, "gross proceeds" in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the Bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the City shall determine the Rebate Amount within 30 days after the close of each Bond Year and upon payment in full of the Bonds; upon each such determination, the City shall deposit in the Rebate Fund the Rebate Amount so determined; the City shall separately account for the earnings from the investment of the Rebate Amount and such earnings shall become part of the Rebate Amount;

(b) For purposes of this section, "Bond Year" shall mean the 12-month period beginning on the date of issuance of the Bonds or such other 12-month period designated by the Board which is permitted by the Code or any Treasury Regulation promulgated thereunder.

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Section 9. Continuing disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 12-1108-01.

Resolution 12-0556 was unanimously adopted.

Approved November 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Section 475, the City previously issued \$2,250,000 General Obligation Steam Utility Revenue Bonds, Series 2003E, dated September 1, 2003 (the "2003 Bonds"); \$1,250,000 General Obligation Steam Utility Revenue Bonds, Series 2005B, dated June 1, 2005 (the "2005 Bonds"); and \$4,525,000 General Obligation Steam Utility Revenue Bonds, Series 2006E, dated December 19, 2006 (the "2006 Bonds"), for the purpose of financing improvements to the City's Steam Utility.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund the 2003 Bonds, the 2005 Bonds and the 2006 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$5,475,000 Taxable General Obligation Steam Utility Revenue Refunding Bonds, Series 2012G (the "Bonds"), to refund the outstanding 2003 Bonds maturing on and after February 1, 2013, of which \$1,535,000 in principal amount is outstanding (the "2003 Refunded Bonds"), to refund the outstanding 2005 Bonds maturing on and after February 1, 2013, of which \$800,000 in principal amount is outstanding (the "2005 Refunded Bonds"), and to refund the outstanding 2006 Bonds maturing on and after February 1, 2013, of which \$3,315,000 in principal amount is outstanding (the "2006 Refunded Bonds"), in order to reduce debt service cost to the City. (The 2003 Refunded Bonds, the 2005 Refunded Bonds and the 2006 Refunded Bonds are collectively referred to as the "Refunded Bonds"). The 2003 Refunded Bonds are presently subject to prepayment and redemption and are called for prepayment and redemption on December 27, 2012 (the "2003 Bonds Redemption Date"). The 2005 Bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014 (February 1, 2014 is herein referred to as the "2005 Bonds Redemption Date"). The 2006 Bonds maturing on and after February 1, 2016, are subject to

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prepayment and redemption on February 1, 2015 (February 1, 2015 is herein referred to as the "2006 Bonds Redemption Date").

1.04 The City's plan of finance for the payment and prepayment of the 2003 Bonds, the 2005 Bonds and the 2006 Bonds is as follows:

(a) The City will provide funds from the debt service account for the 2003 Bonds in an amount equal to the principal and interest due on the 2003 Bonds on February 1, 2013, plus the proceeds of the Bonds will provide the funds to prepay and redeem the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; such funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b);

(b) The City will provide funds from the debt service account for the 2005 Bonds to pay the principal of and interest due on the 2005 Bonds on February 1, 2013, and proceeds of the Bonds will provide the funds to prepay and redeem the 2005 Refunded Bonds on the 2005 Bonds Redemption Date. Funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b) which, together with investment earnings thereon, will be sufficient to pay (i) the principal and interest on the 2005 Refunded Bonds due through February 1, 2014; and (ii) the redemption and prepayment of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the 2005 Bonds Redemption Date;

(c) The City will provide funds from the debt service account for the 2006 Bonds to pay the principal of and interest due on the 2006 Bonds on February 1, 2013, and proceeds of the Bonds to pay the principal and interest due on the 2006 Refunded Bonds through February 1, 2015, and to prepay and redeem the 2006 Refunded Bonds maturing on and after February 1, 2016, on the 2006 Bonds Redemption Date. Funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(6) which, together with investment earnings thereon, will be sufficient to pay the principal and interest due on the 2006 Refunded Bonds through February 1, 2015, and the redemption and prepayment of the 2006 Refunded Bonds maturing on and after February 1, 2016, on the 2006 Bonds Redemption Date.

1.05 Other than the 2003 Bonds, the 2005 Bonds and the 2006 Bonds which have been defeased, no other City obligations have pledged the income and revenues of the municipal steam utility. Under the provisions of the ordinance authorizing the Bonds, the City reserved the privilege of issuing additional bonds payable from net revenues of the municipal steam utility on a parity with the Bonds.

1.06 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.07 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Raymond James & Associates, Inc. of Memphis, Tennessee (the "Purchaser"), to purchase the Bonds at a cash price of \$5,465,362.12, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

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2.01 The Bonds shall be dated as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2014	\$600,000	1.000%
2015	625,000	1.000%
2016	635,000	1.000%
2017	635,000	1.000%
2018	650,000	1.250%
2019	655,000	1.600%
2020	665,000	1.900%
2021	570,000	2.000%
2022	440,000	2.125%

2.02 (a) The Bonds are subject to optional redemption and prepayment prior to their respective maturities, in whole or in part, at the option of the City on any date at a redemption price equal to the "Make Whole Redemption Price."

The "Make Whole Redemption Price" is equal to the greater of (i) the amortized issue price of the Bonds set forth in the Official Statement (but not less than 100%) of the principal amount of the Bonds to be redeemed; or (ii) the sum of the present values of the remaining scheduled payments of principal and interest to the maturity date of the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Bonds are to be redeemed, discounted to the date on which the Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus 50 basis points (0.50%), plus, in each case, accrued interest on the Bonds to be redeemed to the redemption date.

The "Treasury Rate" is, with respect to any redemption date for a particular Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity, excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the call notice date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the Bonds to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

In connection with any optional redemption, the Make Whole Redemption Price will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the City at the City's expense. The City may conclusively rely on such determination of the Make Whole Redemption Price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance;

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided, however, that so

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long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time;

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an “Interest Payment Date”) commencing on August 1, 2013. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners’ addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery;

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the “Bond Registrar”). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar’s authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the “Representation Letter”);

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(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern;

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter;

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever;

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter;

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be

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maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE REFUNDING
BOND
SERIES 2012G

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	November __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered

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assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2013. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association of Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$5,475,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and Section 55 of the Home Rule Charter of the City, Minnesota Laws 1979, Chapter 113 and all other laws and Charter provisions thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on November 8, 2012 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of the City's General Obligation Steam Utility Revenue Bonds, Series 2003E, dated September 1, 2003, General Obligation Steam Utility Revenue Bonds, Series 2005B, dated June 1, 2005, and General Obligation Steam Utility Revenue Bonds, Series 2006E, dated December 19, 2006.

The Bonds are payable from the net revenues to be derived from the operation of the municipal steam utility of the City located in the downtown area of Duluth, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal steam utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal steam utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to

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produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds are subject to optional redemption and prepayment prior to their respective maturities, in whole or in part, at the option of the City on any date at a redemption price equal to the "Make Whole Redemption Price." The "Make Whole Redemption Price" is equal to the greater of (i) the amortized issue price of the Bonds set forth in the Official Statement (but not less than 100%) of the principal amount of the Bonds to be redeemed; or (ii) the sum of the present values of the remaining scheduled payments of principal and interest to the maturity date of the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Bonds are to be redeemed, discounted to the date on which the Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus 50 basis points (0.50%), plus, in each case, accrued interest on the Bonds to be redeemed to the redemption date. The "Treasury Rate" is, with respect to any redemption date for a particular Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity, excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the call notice date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the Bonds to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used. In connection with any optional redemption, the Make Whole Redemption Price will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the City at the City's expense. The City may conclusively rely on such determination of the Make Whole Redemption Price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City

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shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of

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the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
11/__/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

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Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the clerk as Public Document No. 12-1108-02. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal steam utility located in the downtown area of Duluth (the "Utility") at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining the Utility, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the Utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the Utility in a separate Steam Utility Operating Account within the Public Utility Steam District No. 1 Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Utility, and to

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maintain such reasonable reserves for such expenses as the Chief Financial Officer shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all steam utility bonds when due;

(b) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Utility Steam District No. 1 Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the Utility. Unless deposited in the Escrow Account, the treasurer shall credit to the Debt Service Fund unused discount (\$2,131.33) and the amount of accrued interest on the Bonds.

The treasurer shall transfer from the Steam Utility Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the City Council;

(c) Surplus Utility revenues from time to time received in the Steam Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Steam Utility Operating Account and in the Debt Service Fund, may be used for necessary capital expenditures for the improvement of the Utility, for the prepayment and redemption of bonds constituting a lien on the Utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

5.02 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the principal and interest on the Refunded Bonds that an irrevocable appropriation to the Escrow Account shall have been made within the meaning of Section 475.61, Subdivision 3(g) of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the Council resolutions authorizing the Refunded Bonds for collection in the year 2013 and thereafter.

5.03 If the balances in either Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

5.04 Escrow account.

(a) The City hereby creates an Escrow Account for the Refunded Bonds. To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Fund or are not to be used for payment of costs of issuance of the Bonds; (ii) Accrued Interest; (iii) Additional Interest [amounts referenced in clauses (i), (ii) and (iii) are herein referred to as the "Proceeds"]; (iv) funds of the City in the amount of \$585,845.01 (the "Funds"); and (v)

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investment earnings on such monies referenced in clauses (i), (ii), (iii) and (iv): (A) for the prepayment and redemption of the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; (B) for the payment of principal and interest on the 2005 Refunded Bonds through February 1, 2014, and the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the 2005 Bonds Redemption Date; and (C) for the payment of principal and interest on the 2006 Refunded Bonds through February 1, 2015, and the prepayment and redemption of the 2006 Refunded Bonds maturing on and after February 1, 2016, on the 2006 Bonds Redemption Date (collectively, the "Escrow Obligations");

(b) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the Refunded Bonds for the payment of the Escrow Obligations;

(c) From the Escrow Account there shall be paid, on the dates and in the amounts required, the Escrow Obligations in accordance with Section 5.04(a);

(d) The Escrow Account for the Refunded Bonds as set forth above for the payment of the principal and interest on the Refunded Bonds when due, and to the prepayment and redemption of the Refunded Bonds due by reason of redemption and prepayment on the redemption dates as set forth in the Escrow Obligations. The monies in the Escrow Account for the Refunded Bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund;

(e) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

5.05 The construction funds created for the 2003 Bonds, the 2005 Bonds and the 2006 Bonds have previously been terminated and all bond proceeds therein have been expended.

5.06 The City shall pay the cost of issuance of the Bonds with \$49,000 of the Bond proceeds.

Section 6. Refunding; findings; redemption of Refunded Bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the date of issuance of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City. In accordance with Section 475.67, Subdivision 12 of the Act, as of the date of issuance of the Bonds, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates;

(b) It is hereby found and determined that the Proceeds and the Funds available and appropriated to the Escrow Account for the Refunded Bonds, together with investment funds thereon is sufficient for the payment of the Escrow Obligations when due.

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the forms of notices of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The Escrow Agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case

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may be, and bond insurance company (if any), for the Refunded Bonds in accordance with their terms and the Escrow Agreement.

6.03 The Escrow Agent is authorized and directed to cause to be provided a material event notice regarding the defeasance of the Refunded Bonds in accordance with the continuing disclosure certificates of the City dated September 1, 2003, and delivered in connection with the 2003 Bonds; dated June 1, 2005, and delivered in connection with the 2005 Bonds; and dated December 19, 2006, and delivered in connection with the 2006 Bonds.

Section 7. Certificate of proceedings.

7.01 The clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds have been duly entered on his register.

7.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

7.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Section 8. Continuing disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 12-1108-01.

Resolution 12-0557 was unanimously adopted.

Approved November 8, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond purpose and authorization.

1.01 Pursuant to Chapter 475 of Minnesota Statutes and the home rule charter of the City, the City previously issued \$5,035,000 General Obligation Street Improvement Bonds, Series 2003D, dated September 1, 2003 (the "2003 Bonds"), \$4,785,000 General Obligation Street Improvement Bonds, Series 2004B, dated September 1, 2004 (the "2004 Bonds"), and \$4,260,000 General Obligation Street Improvement Bonds, Series 2005D, dated October 6, 2005 (the "2005 Bonds"), for the purpose of financing local public improvements.

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1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 2003 Bonds, the 2004 Bonds and the 2005 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$6,905,000 General Obligation Street Improvement Refunding Bonds, Series 2012D (the "Bonds"), to refund the outstanding 2003 Bonds maturing on and after February 1, 2013, of which \$2,710,000 in principal amount is outstanding (the "2003 Refunded Bonds"), to refund the outstanding 2004 Bonds maturing on and after February 1, 2014, of which \$2,600,000 in principal amount is outstanding (the "2004 Refunded Bonds"), and to refund the outstanding 2005 Bonds maturing on and after February 1, 2015, of which \$2,315,000 in principal amount is outstanding (the "2005 Refunded Bonds"), in order to reduce debt service cost to the City. (The 2003 Refunded Bonds, the 2004 Refunded Bonds and the 2005 Refunded Bonds are collectively referred to as the "Refunded Bonds.") The 2003 Bonds maturing on and after February 1, 2013, are subject to prepayment and redemption and are called for prepayment and redemption on December 27, 2012 (December 27, 2012 is herein referred to as the "2003 Bonds Redemption Date"). The 2004 Bonds maturing on and after February 1, 2014, are subject to prepayment and redemption on February 1, 2013 (February 1, 2013 is herein referred to as the "2004 Bonds Redemption Date"). The 2005 Bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014 (February 1, 2014 is herein referred to as the "2005 Bonds Redemption Date").

1.04 The City's plan of finance for the payment and prepayment of the 2003 Bonds, the 2004 Bonds and the 2005 Bonds is as follows:

(a) The City will provide funds from the debt service account for the 2003 Bonds in an amount equal to the principal and interest due on the 2003 Bonds on February 1, 2013, plus the proceeds of the Bonds will provide the funds to prepay and redeem the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; such funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b).

(b) The City will provide funds from the debt service account for the 2004 Bonds to pay the principal of and interest due on the 2004 Bonds on February 1, 2013, and proceeds of the Bonds will provide the funds to prepay and redeem the 2004 Refunded Bonds on the 2004 Bonds Redemption Date. Funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b), which together with investment earnings thereon, will be sufficient to (i) pay the principal and interest on the 2004 Bonds due on February 1, 2013; and (ii) the redemption and prepayment of the 2004 Refunded Bonds on the 2004 Bonds Redemption Date.

(c) The City will provide funds from the debt service account for the 2005 Bonds in the amount of \$47,163.13 and proceeds of the Bonds to pay interest due on the 2005 Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and to prepay and redeem the 2005 Refunded Bonds on the 2005 Bonds Redemption Date. Funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b) which, together with investment earnings thereon, will be sufficient to pay (i) the interest due on the 2005 Refunded Bonds due on February 1, 2013, August 1, 2013 and February 1, 2014; and (ii) the redemption and prepayment of the 2005 Refunded Bonds on the 2005 Bonds Redemption Date. The unrefunded portion of the 2005 Bonds (the 2013 and 2014 maturities of the 2005

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Bonds) and interest thereon will remain outstanding and will be paid when due from the debt service account for the 2005 Bonds.

1.05 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.06 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Bonds at a cash price of \$7,421,722.98, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

2.01 The Bonds shall be dated as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2014	\$ 640,000	2.00%
2015	965,000	2.00%
2016	1,000,000	3.00%
2017	1,035,000	3.00%
2018	1,075,000	3.00%
2019	1,110,000	3.00%
2020	725,000	3.00%
2021	355,000	3.00%

2.02 The Bonds are not subject to optional redemption and prepayment prior to maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on August 1, 2013. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be

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an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter");

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern;

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter;

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may

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treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever;

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter;

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council.

Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

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UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION STREET IMPROVEMENT REFUNDING BOND,
SERIES 2012D

R-__			\$_____
Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	November __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2013. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association of Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$6,905,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the

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governing body of the City on November 8, 2012 (the "Resolution"), for the purpose of providing money to refund, on a current refunding basis, the outstanding principal amount of the City's General Obligation Street Improvement Bonds, Series 2003D, dated September 1, 2003, to refund, on a current refunding basis, a portion of the outstanding principal amount of the General Obligation Street Improvement Bonds, Series 2004B, dated September 1, 2004, and to refund, on an advance refunding basis, a portion of the outstanding principal amount of the General Obligation Street Improvement Bonds, Series 2005D, dated October 6, 2005. The Bonds and interest thereon will be payable in part from special assessments levied against property specially benefitted by local public improvements and in part from annual ad valorem taxes, as described in the Resolution.

The Bonds are not subject to optional redemption and prepayment prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

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Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
11/___/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13- 2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
Identifying Number of Assignee

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the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the February 1, 2013 maturity of the 2004 Bonds and the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the clerk as Public Document No.12-1108-02. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions

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of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) Debt service fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a separate account within the special assessment debt service fund to be designated the 2012D Street Improvement Refunding Bonds Debt Service Account (the "Debt Service Fund") to be administered and maintained by the treasurer as a bookkeeping account, separate and apart from all other accounts maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the Debt Service Fund there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement attributable to the Refunded Bonds; (ii) any balance remaining on the 2003 Bonds Redemption Date, the 2004 Bonds Redemption Date and the 2005 Bonds Redemption Date, as applicable, in the debt service accounts created in the City's resolutions authorizing the issuance and sale of the 2003 Bonds (Resolution No. 03-0612), the 2004 Bonds (Resolution No. 04-0563), and the 2005 Bonds (Resolution No. 05-0633) (the "Prior Resolutions") after payment of principal and interest on the 2003 Refunded Bonds on the 2003 Bonds Redemption Date, on the 2004 Refunded Bonds on the 2004 Bonds Redemption Date and on the 2005 Refunded Bonds on the 2005 Bonds Redemption Date; (iii) all special assessments levied for the projects listed in Section 1.01 of the Prior Resolutions; (iv) any collections of ad valorem taxes hereafter levied for the payment of the Bonds and interest thereon; (v) all investment earnings on funds in the Debt Service Fund; (vi) accrued interest, if any, received from the Purchaser upon delivery of the Bonds to the extent not required to fund the Escrow Account (the "Accrued Interest"); (vii) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the "Additional Interest"), to the extent not required to fund the Escrow Account; (viii) all taxes pledged to repayment of the Refunded Bonds (but not the unrefunded portion of the 2005 Bonds) in the Prior Resolutions hereafter collected pursuant to levies made in the Prior Resolutions; (ix) unused discount (\$10,679.52); and (x) any and all other monies which are properly available and are appropriated by the City to the Debt Service Fund including taxes levied in Section 5.03 hereof. The amount of any surplus remaining in the Debt Service Fund when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act;

(b) Escrow account;

(i) To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Fund or are not to be used for payment of costs of issuance of the Bonds; (b) Accrued Interest; (c) Additional Interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the "Proceeds"]; (d) funds of the City in an amount (\$396,846.88), which are sufficient to pay the principal of and interest on the 2003 Bonds due on February 1, 2013, funds of the City in the amount (\$365,456.25), which are sufficient to pay the principal of and interest due on February 1, 2013 on the 2004 Bonds, and \$47,163.13 of funds of the City for prepayment of the 2005 Refunded Bonds (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for (A) the prepayment and redemption of the principal and interest on the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; (B) the payment of principal and interest due on the 2004 Bonds on February 1,

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2013, and the prepayment and redemption of the principal of the 2004 Refunded Bonds called for redemption and prepayment on the 2004 Bonds Redemption Date; and (C) the payment of interest due on the 2005 Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and the prepayment and redemption of the principal of the 2005 Refunded Bonds called for redemption and prepayment on the 2005 Bonds Redemption Date;

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account (a) for the 2003 Bonds for the prepayment of principal and interest on the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; (b) for the 2004 Bonds for the payment of principal and interest due on February 1, 2013 and for the principal of the 2004 Refunded Bonds called for redemption and prepayment on the 2004 Bonds Redemption Date; and (c) for the 2005 Bonds for the payment of interest on the 2005 Refunded Bonds due on February 1, 2013, August 1, 2013, and February 1, 2014, and the principal of the 2005 Refunded Bonds called for redemption and prepayment on the 2005 Bonds Redemption Date (collectively, the "Escrow Account Obligations");

(iii) From the Escrow Account there shall be paid the Escrow Account Obligations on the dates set forth in subparagraph (ii) above;

(iv) The Escrow Account (a) for the 2003 Refunded Bonds as set forth above is irrevocably appropriated to the prepayment and redemption of the principal of and interest on the 2003 Refunded Bonds on the 2003 Bonds Redemption Date; (b) for the 2004 Bonds as set forth above for the payment of principal of and interest on the 2004 Bonds due on February 1, 2013, and for the prepayment and redemption of the 2004 Refunded Bonds due by reason of redemption and prepayment on the 2004 Bonds Redemption Date; and (c) for the 2005 Refunded Bonds as set forth above for the payment of interest due on the 2005 Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and for the prepayment and redemption of the 2005 Refunded Bonds due by reason of redemption and prepayment on the 2005 Bonds Redemption Date. The monies in the Escrow Account for the Bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund;

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities;

(c) The construction funds created for the 2003 Bonds, the 2004 Bonds and the 2005 Bonds have previously been terminated and all bond proceeds therein have been expended;

(d) The City shall pay for the costs of issuance of the Bonds with proceeds of the Bonds in the amount of \$48,000.

5.02 The City Council hereby declares that it has assessed against benefitted property not less than 20% of the cost of the projects financed by each of the 2003 Bonds, the 2004 Bonds and the 2005 Bonds. The City further declares that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

5.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal

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and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and as part of the other general property taxes of the City for the years and in the amounts as follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2012	2013	\$ 908,327	\$164,919	\$743,408
2013	2014	1,200,465	243,464	957,001
2014	2015	1,211,700	245,864	965,836
2015	2016	1,227,608	247,770	979,838
2016	2017	1,231,598	249,170	982,428
2017	2018	1,234,485	255,070	979,415
2018	2019	795,270	159,775	635,495
2019	2020	383,933	78,188	305,745

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount;

(b) All proceeds of the special assessments from the properties described in Section 1.01 of each of the Prior Bonds Resolutions and said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

5.04 Proceeds of the Bonds on deposit in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 6. Refunding; findings; redemption of Refunded Bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the date of issuance of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City. In accordance with Section 475.67, Subdivision 12 of the Act, as of the date of issuance of the Bonds, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates;

(b) It is hereby found and determined that the Proceeds and Funds available and

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appropriated to the Escrow Account for the Refunded Bonds and the 2013 maturity of the 2004 Bonds as set forth in Section 5 will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay the Escrow Account Obligations on the dates set forth in Section 5.01(b)(ii).

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the forms of notices of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The Escrow Agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the Refunded Bonds in accordance with their terms and the Escrow Agreement.

6.03 The Escrow Agent is authorized and directed to cause to be provided a material event notice regarding the refunding and the defeasance of the Refunded Bonds in accordance with the continuing disclosure certificates of the City dated September 1, 2003, and delivered in connection with the 2003 Bonds, dated September 1, 2004, and delivered in connection with the 2004 Bonds, and dated October 6, 2005, and delivered in connection with the 2005 Bonds.

Section 7. Defeasance.

7.01 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of the Act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of proceedings.

8.01 The clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds have been duly entered on his register.

8.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

8.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

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Section 9. Tax covenants.

9.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

9.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations;

(b) The proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code");

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

9.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Equipment Notes, Series 2012C (the "Notes"), and General Obligation Sewer Utility Revenue Refunding Bonds, Series 2012E (the "Series 2012E Bonds"). The Bonds will not be paid out of substantially the same source of funds as the 2012E Bonds; consequently, the Bonds will not be combined with the Series 2012E Bonds for a single issue. However, the Bonds and the Notes are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

9.04 (a) The City covenants and certifies to and for the benefit of the owners of the Bonds that no use will be made of the proceeds of the Bonds, which will cause the Bonds to be arbitrage bonds within the meaning of Section 148(a) of the Code and the Treasury Regulations promulgated thereunder. Pursuant to such covenant, the City hereby agrees to comply throughout the term of the issue of the Bonds with the requirements of Section 148 of the Code and any Treasury Regulations promulgated thereunder; to this end, the City shall:

(i) maintain records identifying all "gross proceeds" (as defined in Section 148(f)(6)(B) of the Code) attributable to the Bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Bonds) and any earnings derived from the investment of such arbitrage profit;

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(ii) make, or cause to be made as of the end of each Bond Year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the City (hereinafter, the "Rebate Amount");

(iii) pay, or cause to be paid, to the United States at least once every five Bond Years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the Bonds are paid in full;

(iv) not invest, or permit to be invested, "gross proceeds" in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the Bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the City shall determine the Rebate Amount within 30 days after the close of each Bond Year and upon payment in full of the Bonds; upon each such determination, the City shall deposit in the Rebate Fund the Rebate Amount so determined; the City shall separately account for the earnings from the investment of the Rebate Amount and such earnings shall become part of the Rebate Amount;

(b) For purposes of this section, "Bond Year" shall mean the 12-month period beginning on the date of issuance of the Bonds or such other 12-month period designated by the Board which is permitted by the Code or any Treasury Regulation promulgated thereunder.

Section 10. Continuing disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 12-1108-01.

Resolution 12-0558 was unanimously adopted.

Approved November 8, 2012

DON NESS, Mayor

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BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond purpose and authorization.

1.01 The Duluth Economic Development Authority ("DEDA"), the City and St. Mary's/Duluth Clinic Health System agreed to cooperate in developing the parking ramp constructed in connection with the St. Mary's/Duluth Clinic Health Systems Digestive Disease/Cancer Center Project. DEDA established a Development Program and a Plan for Development District No. 17 and has created Tax Increment Financing District No. 22 located in Development District No. 17 ("TIF District No. 22"). Such Development Plan and the Tax Increment Financing Plan for TIF District No. 22 provides for the use of tax increment from TIF District No. 22 for public development costs associated with the construction and improvement of City parking facilities. The City financed a portion of the public development costs associated with the parking ramp constructed by the City within TIF District No. 22 (the "Parking Ramp"), and

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related project facilities costs for rock removal (collectively, the "Project"), with taxable general obligation tax increment bonds.

1.02 Pursuant to Minnesota Statutes Chapter 475 and Section 469.178 and the home rule charter of the City, the City previously issued \$12,785,000 Taxable General Obligation Tax Increment Bonds, Series 2005G, dated December 16, 2005 (the "2005 Bonds"), for the purpose of financing a portion of the public development costs associated with the Project constructed by the City within TIF District No. 22 as described in Section 1.01.

1.03 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 12 of the Act and Section 469.178, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 2005 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.04 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$10,270,000 Taxable General Obligation Tax Increment Refunding Bonds, Series 2012F (the "Bonds"), to refund the outstanding 2005 Bonds maturing on and after February 1, 2015, of which \$9,440,000 in principal amount is outstanding (the "Refunded Bonds"), in order to reduce debt service cost to the City. The 2005 Bonds maturing on and after February 1, 2015 are subject to prepayment and redemption on February 1, 2014. (February 1, 2014 is herein referred to as the "Redemption Date.") The 2005 Bonds maturing on February 1, 2013 and February 1, 2014 are not being prepaid or defeased (the "Unrefunded Portion of the 2005 Bonds").

1.05 The City's plan of finance for the payment and prepayment of the 2005 Bonds is as follows:

(a) The February 1, 2013 and the February 1, 2014 maturities of the 2005 Bonds shall remain outstanding and interest thereon due on February 1, 2013, on August 1, 2013, and on February 1, 2014, shall not be defeased pursuant to this Resolution and the Escrow Agreement. The City will pay from the debt service account for the 2005 Bonds the principal of and interest due on the Unrefunded Portion of the 2005 Bonds when due;

(b) Proceeds of the Bonds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.04, which together with certain funds of the City and investment earnings thereon, will be sufficient to pay (i) interest on the Refunded Bonds due on February 1, 2013, on August 1, 2013, and on February 1, 2014, and (ii) the redemption and prepayment of the Refunded Bonds on the Redemption Date. The Escrow Account under the Escrow Agreement will provide the funds to pay the interest on the Refunded Bonds on February 1, 2013, on August 1, 2013, and on February 1, 2014, and to prepay and redeem the principal of the Refunded Bonds on the Redemption Date.

1.06 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.07 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Raymond James & Associates, Inc. of Memphis, Tennessee (the "Purchaser"), to purchase the Bonds at a cash price of \$10,245,593.43, upon

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condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

2.01 The Bonds shall be dated as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2014	\$150,000	1.000%
2015	775,000	1.000%
2016	780,000	1.000%
2017	785,000	1.000%
2018	795,000	2.000%
2019	810,000	2.000%
2020	830,000	2.000%
2021	845,000	2.000%
2022	860,000	2.125%
2023	880,000	2.250%
2024	895,000	2.375%
2025	920,000	2.625%
2026	945,000	2.750%

2.02 (a) The Bonds are subject to optional redemption and prepayment prior to their respective maturities, in whole or in part, at the option of the City on any date at a redemption price equal to the "Make Whole Redemption Price."

The "Make Whole Redemption Price" is equal to the greater of (i) the amortized issue price of the Bonds set forth in the Official Statement (but not less than 100%) of the principal amount of the Bonds to be redeemed; or (ii) the sum of the present values of the remaining scheduled payments of principal and interest to the maturity date of the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Bonds are to be redeemed, discounted to the date on which the Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus 50 basis points (0.50%), plus, in each case, accrued interest on the Bonds to be redeemed to the redemption date.

The "Treasury Rate" is, with respect to any redemption date for a particular Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity, excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the call notice date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the Bonds to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity

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of one year will be used.

In connection with any optional redemption, the Make Whole Redemption Price will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the City at the City's expense. The City may conclusively rely on such determination of the Make Whole Redemption Price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance;

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time;

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on August 1, 2013. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery;

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond

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registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter");

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern;

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter;

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever;

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond

Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder

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of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter;

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council.

Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
TAXABLE GENERAL OBLIGATION TAX INCREMENT REFUNDING BOND,
SERIES 2012F

R-__

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	November __, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2013. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association of Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$10,270,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and Section 469.178, and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on November 8, 2012 (the "Resolution"), for the purpose of providing money to refund in advance of maturity a portion of the outstanding principal amount of the City's Taxable General Obligation Tax Increment Bonds, Series 2005G, dated December 16, 2005 (the "Refunded Bonds"). The Bonds and interest thereon will be payable in part from tax increment revenue from Tax Increment Financing District No. 22, in part from net revenues of the parking ramp financed with the Refunded Bonds, and in part from annual ad valorem real estate taxes, as set forth in the Resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The Bonds are subject to optional redemption and prepayment prior to their respective maturities, in whole or in part, at the option of the City on any date at a redemption price equal to the "Make Whole Redemption Price." The "Make Whole Redemption Price" is equal to the greater of (i) the amortized issue price of the Bonds set forth in the Official Statement (but not less than 100%) of the principal amount of the Bonds to be redeemed; or (ii) the sum of the present values of the remaining scheduled payments of principal and interest to the maturity date of the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Bonds are to be redeemed, discounted to the date on which the Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate plus 50 basis points (0.50%), plus, in each case, accrued interest on the Bonds to be redeemed to the redemption date. The "Treasury Rate" is, with respect to any redemption date for a particular Bond, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity, excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the call notice date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the Bonds to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used. In connection with any optional redemption, the Make Whole Redemption Price will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the City at the City's expense. The City may conclusively rely on such determination of the Make Whole Redemption Price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
11/___/2012	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the clerk as Public Document No. 12-1108-03. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, revenues, accounts and tax levies.

5.01 (a) Debt service fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a separate debt service account (the "Debt Service Fund") within the City's debt service fund to be administered and maintained by the treasurer as a bookkeeping account, separate and apart from all other accounts maintained in the official financial records of the City, to be used solely for the payment of the interest and the principal, respectively, on the Bonds. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the Debt Service Fund there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement attributable to the Refunded Bonds; (ii) any balance remaining on the Redemption Date in the debt service account created in the City's resolution authorizing the issuance and sale of the 2005 Bonds (Resolution No. 05-0803)(the "Prior Resolution") after payment of all principal and interest on the 2005 Bonds on the Redemption Date; (iii) all of the tax increment received pursuant to the Pledge Agreement pursuant to Section 5.02 and all of the net revenues from the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Parking Ramp pursuant to Section 5.03; (iv) all collections of ad valorem taxes hereafter levied for the payment of the Bonds and interest thereon; (v) all investment earnings on funds in the Debt Service Fund; (vi) accrued interest, if any, received from the Purchaser upon delivery of the Bonds to the extent not required to fund the Escrow Account (the "Accrued Interest"); (vii) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the "Additional Interest"), to the extent not required to fund the Escrow Account; (viii) all taxes pledged to repayment of the Refunded Bonds in the Prior Resolution hereafter collected pursuant to levies made in the Prior Resolution, except for the tax levies needed to pay the principal of and interest on the Unrefunded Portion of the 2005 Bonds; (ix) unused discount (\$1,507.27); and (x) any and all other monies which are properly available and are appropriated by the City to the Debt Service Fund including taxes levied in Section 5.04 hereof. The amount of any surplus remaining in the Debt Service Fund when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act;

(b) Escrow account;

(i) To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (1) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Fund or are not to be used for payment of costs of issuance of the Bonds; (2) Accrued Interest; (3) Additional Interest [amounts referenced in clauses (1), (2) and (3) are herein referred to as the "Proceeds"]; (4) funds of the City in the amount of \$0.00 (the "Funds"); and (5) investment earnings on such monies referenced in clauses (1), (2), (3) and (4), for the payment of interest due on the Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014; and the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the payment of interest due on the Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(iii) From the Escrow Account there shall be paid: (a) all interest to be paid on the Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014; and (b) the principal of the Refunded Bonds called for redemption and prepayment on the Redemption Date;

(iv) The Escrow Account for the Refunded Bonds as set forth above is irrevocably appropriated to the payment of the interest due on the Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and to prepayment and redemption of the Refunded Bonds due by reason of redemption on the Redemption Date. The monies in the Escrow Account for the Bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund;

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities;

(c) The construction fund created for the 2005 Bonds has previously been terminated and all bond proceeds therein have been expended;

(d) The City shall pay the cost of issuance of the Bonds with \$70,000 of the Bond proceeds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

5.02 (a) There is hereby pledged to the Debt Service Fund certain tax increments from TIF District No. 22 received by the City pursuant to the Tax Increment Pledge Agreement dated as of December 16, 2005, between the City and DEDA (the "Pledge Agreement"), which pledge has been accepted by the City. Based on the estimated market value and current tax rates of property within TIF District No. 22 and the obligations under the Pledge Agreement, the City covenants and agrees that not less than 20% of the costs of the Project financed with the 2005 Bonds will be paid from tax increment. The treasurer shall credit the amount paid under the Pledge Agreement as received to the Debt Service Fund;

(b) The treasurer shall transfer prior to each Interest Payment Date from the Medical Facility Parking Ramp Operating Account in the General Fund to the Debt Service Fund net revenues from the Parking Ramp then available and needed to pay the principal of the Bonds and interest thereon due on such Interest Payment Date. Such transfers shall be made at the times determined by the treasurer, in accordance with policies established by resolutions of the City Council.

5.03 The City Council covenants and agrees to segregate and account for the revenues of the Parking Ramp as provided in this Resolution. The City will place all such charges and revenues from the Parking Ramp, when collected, and all money received from the sale of any facilities or equipment of the Parking Ramp in a separate Medical Facility Parking Ramp Operating Account within the General Fund maintained by the City. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Parking Ramp, and to maintain such reasonable reserves for such expenses as the Chief Financial Officer shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues of the Parking Ramp which are herein pledged and appropriated first to pay the principal of and interest on the Bonds when due.

Surplus revenues from time to time for the Parking Ramp, in excess of payments due from and reserves required to be maintained in the Medical Facility Parking Ramp Operating Account, may be used for necessary capital expenditures for improvement to the Parking Ramp, for the prepayment and redemption of the Bonds, and thereafter for any other proper municipal purpose.

5.04 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and as part of the other general property taxes of the City for the years and in the amounts as follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Tax Increment	Estimated Net Revenues	Net Tax Levy
2012	2013	\$ 404,795	0	0	\$404,795
2013	2014	1,022,143	\$400,000	\$150,000	472,143
2014	2015	1,019,255	\$400,000	\$150,000	469,255
2015	2016	1,016,315	\$400,000	\$150,000	466,315
2016	2017	1,018,573	\$400,000	\$150,000	468,573
2017	2018	1,017,628	\$400,000	\$150,000	467,628
2018	2019	1,021,618	\$400,000	\$150,000	471,618
2019	2020	1,019,938	\$400,000	\$150,000	469,938

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

2020	2021	1,017,943	\$400,000	\$150,000	467,943
2021	2022	1,019,754	\$400,000	\$150,000	469,754
2022	2023	1,014,714	\$400,000	\$150,000	464,714
2023	2024	1,018,645	\$400,000	\$150,000	468,645
2024	2025	1,019,537	\$400,000	\$150,000	469,537

Said levies are such that if collected in full they, together with the estimated tax increment and estimated net revenues pledged for payment of the principal and interest on the Bonds, will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid, provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies (i) to the extent the funds expected to be received from tax increment from TIF District No. 22 pursuant to the Pledge Agreement exceeds the estimated amounts of tax increment set forth above, (ii) to the extent the funds expected to be received from net revenues from the Parking Ramp exceeds the estimated amounts of net revenues set forth above, and (iii) to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not tax increment and net revenues expected to be available as described above), and may direct the county auditor to reduce the levy for such calendar year by that amount;

(b) All proceeds of said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient.

5.05 The pledge of tax increment from TIF District No. 22, the pledge of net revenues from the Parking Ramp and the tax levies contained in the Prior Resolution (Resolution 05-0803) are hereby amended as follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Tax Increment	Estimated Net Revenue	Net Tax Levy
2012	2013	\$613,345	\$400,000	\$150,000	\$63,345

The collections of tax increment, net revenues and tax levy collected in 2012 and the above tax levy for Levy Year 2012/Collection Year 2013 shall remain. Following such collection for the Unrefunded Portion of the 2005 Bonds and deposit in the debt service fund for the 2005 Bonds, such pledges of tax increment, net revenues and tax levies in Resolution 05-0803 shall terminate.

Section 6. Refunding; findings; redemption of Refunded Bonds.

6.01 (a) It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the date of issuance of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City. In accordance with Section 475.67, Subdivision 12 of the Act, as of the date of issuance of the Bonds, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account for the Refunded Bonds as set forth in Section 5 will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay the interest due on the Refunded Bonds on February 1, 2013, August 1, 2013 and February 1, 2014, and to prepayment and redemption of the Refunded Bonds due by reason of redemption on the Redemption Date.

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The Escrow Agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company, for the Refunded Bonds in accordance with their terms and the Escrow Agreement.

6.03 The Escrow Agent is authorized and directed to cause to be provided a material event notice regarding the defeasance and the refunding of the Refunded Bonds in accordance with the continuing disclosure certificate of the City dated December 16, 2005.

Section 7. Defeasance.

7.01 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of the Act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of proceedings.

8.01 The clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds have been duly entered on his register.

8.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

8.03 The mayor and clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 9. Continuing disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 12-1108-01.

Resolution 12-0559 was unanimously adopted.

Approved November 8, 2012

DON NESS, Mayor

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The meeting was adjourned at 5:29 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, November 13, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on June 25, 2012, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1113-01 Dan and Lynn McGinty appeal of the planning commission denial of front and side yard setback variances for the construction of a garage at 1920 Minnesota Avenue. -- Committee 2 (planning and economic development)

12-1113-13 Michelle Peterson communication regarding the proposed changes to pet licensing (12-0566R). -- Received

12-1113-02 The following communications regarding the appeal of the planning commission denial of front and side yard setback variances for the construction of a garage at 1920 Minnesota Avenue (12-0569R and 12-0570R): (a) Philip Sutula; (b) Elisa A. Troiani. -- Received

12-1113-03 The following communications regarding the proposed design request for a permanent street in and around Joshua Avenue (12-0546R): (a) Al and Muriel Brodin; (b) David Sorenson. -- Received

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REPORTS FROM OTHER OFFICERS

12-1113-04 Assessor amended assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2011, to June 1, 2012, for which the licensed collector has not been reimbursed. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-1113-05 Building appeal board minutes of August 8, 2012, meeting. -- Received

12-1113-06 Duluth airport authority minutes of: (a) September 18; (b) September 27; (c) September 28; (d) October 4; (e) October 12, 2012, meetings. -- Received

12-1113-07 Duluth economic development authority minutes of September 26, 2012, meeting. -- Received

12-1113-08 Duluth public utilities commission minutes of: (a) June 6; (b) August 21; (c) August 27, 2012, meetings. -- Received

12-1113-09 Housing and redevelopment authority of Duluth minutes of July 11, 2012, meeting. -- Received

12-1113-10 Library board minutes of: (a) August 28; (b) September 25, 2012, meetings. -- Received

12-1113-11 Seaway Port authority of Duluth: (a) Minutes of: (1) June 21; (2) July 23, 2012, meetings; (b) Budget summary of September 2012. -- Received

12-1113-12 Spirit Mountain recreation area authority minutes of: (a) August 16;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) September 20, 2012, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented on his views of the financial status of the Duluth School District construction debt: the \$487 million that is killing them; paying debt levy out of the general fund is a lunatic financial arrangement; the district is looking at raising their tax levy to cover part of this expense, which if done for the life of the bonds, 16 years, the public will be paying \$30.4 million more than they were told they would pay and the claims of the red plan's savings is just "smoke and mirrors."

- - -

RESOLUTION TABLED

Councilor Julsrud moved to remove Resolution 12-0546, requesting design for a permanent street in and around Joshua Avenue from Maple Grove Road to Arrowhead Road, which motion was seconded and failed upon the following vote:

Yeas: Councilors Fosle, Julsrud, Krug and Stauber -- 4

Nays: Councilors Boyle, Gardner, Krause, Larson and President Hartman -- 5

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BE IT RESOLVED, by the city council (the "city council") that the city of Duluth experienced a disaster on June 19-20, 2012. The disaster caused extensive property damage to residential and commercial properties in the city of Duluth which was declared a disaster area by presidential declaration. Minnesota Statutes sections 273.1231 – 273.1235 provides for property tax relief upon reassessment of properties damaged by disaster, and upon application to the governor of the state of Minnesota and the executive council. The minimum requirements of the aforementioned statutes have been met as demonstrated in the damage assessment reports.

Resolution 12-0562 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September 5, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of City Wine & Liquor Store, Inc., d/b/a Warehouse Liquor Store, 104 West Central Entrance, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1113-14;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on November 12, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1113-14 regarding any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of City Wine & Liquor Store, Inc., d/b/a Warehouse Liquor Store, 104 West Central Entrance, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0551 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

WHEREAS, the purchasing division executed the first year of a potential three-year contract with Bedrock Flint, Inc., in year 2010 for tuckpointing services by issuing two purchase orders totaling \$43,765; and

WHEREAS, the Duluth City Council authorized the first increase and contract renewal by approving Resolution 11-0324 on June 27, 2011; thereafter, the city issued additional purchase orders, bringing the actual total to \$116,700; and

WHEREAS, the city seeks additional tuckpointing services from Bedrock Flint, Inc., in the third and final year of the contract.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a second increase of \$68,300 for additional tuckpointing services at various city buildings, payable as follows:

\$58,300 from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project CP2010-1005b;

\$10,000 from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5520 (buildings and structures), Project CM205-CCUPGD.

Resolution 12-0553 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Julee Quarve-Peterson, Inc., (JQP, Inc.), substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1113-15 for professional services in complying with applicable codes, and laws and design guidelines pertaining to accessibility for persons with disabilities for an amount not to exceed \$55,875, payable as follows:

\$39,452.50 - General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2120 (architecture and facilities management), Object 5319 (other professional services);

\$16,422.50 - Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5520 (buildings and structures), Project No. CM205 - PKAMEN.

Resolution 12-0563 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that, pursuant to the provisions of Minnesota Statutes Section 280.385, the city of Duluth hereby consents to the voluntary forfeiture of those parcels of property in St. Louis

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

County, Minnesota, bearing St. Louis County tax identification numbers of 010-0640-00320 and 010-0640-00340 and generally described below to the state of Minnesota as authorized by said statute:

Lots 32, 33, 34 and 35, except the easterly 11 feet of the southerly 65 feet of Lot 35, Block 1, COLMANS THIRD ADDITION TO DULUTH.

Resolution 12-0549 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a contract with Ulland Brothers, Inc., to run from October 1, 2012, through September 30, 2013, for the purchase of 700 tons of cold mix based on 12 months of estimated usage, in accordance with city-approved specifications and the vendor's bid of \$68.50 per ton for a total of \$47,950 plus \$3,296.56 sales tax for a combined total of \$51,246.56, payable as follows:

\$28,185.61 - Water 510, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5222 (blacktop);

\$7,686.98 - Gas 520, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5222 (blacktop);

\$7,686.98 - Sewer 530, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5222 (blacktop);

\$7,686.99 - Stormwater 535, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5222 (blacktop).

Resolution 12-0561 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials hereby authorized to enter into an agreement substantially in the form of that on file with the city clerk as Public Document No. 12-1113-16 with the Minnesota department of transportation to cooperate in the provision of services related to the design, construction and maintenance of roadways, provided that authorized work orders will be approved in accordance with Chapter 41 of the Duluth City Code, 1959, as amended.

Resolution 12-0564 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1113-17, with the organized crime drug enforcement task forces program under the direction of the United States bureau of alcohol, tobacco, firearms and explosives enforcement (ATF) to reimburse the city for its costs in providing criminal investigative services from October 1, 2012, through September 30, 2013, in an amount not to exceed \$25,000, funds received payable to Fund No. 110-160-1610-4209-02 (general, police, administration and investigation).

Resolution 12-0550 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept an emergency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

management performance grant agreement for Grant No. A EMPG-2012-DULUTHCI-00004, a copy of which is on file in the office of the city clerk as Public Document No. 12-1113-18, from the Minnesota department of public safety, homeland security and emergency management division, in the amount of \$20,000, said funds to be deposited in Fund No. 210-030-3164-4210-02 (special projects fund, finance department, homeland security, pass-thru federal grants operating), for the purpose of assisting and supporting the city in maintaining adequate local emergency management programs, with matching funds in the amount of \$20,000 to be provided from Fund No. 110-150-1501-5440 (general fund, fire, administration).

Resolution 12-0565 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept a matching funds grant from the Minnesota department of natural resources and Minnesota's Lake Superior coastal program in the amount of \$6,000 and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1113-19, for the purpose of designing a toilet addition to the Lafayette Community Center. Funds received shall be deposited in Fund 205-130-1220-4210-01 (parks fund, community resources, parks capital, other grants – capital). \$6,000 matching funds will come from Fund 205-130-1220-5530 (parks fund, community resources, parks capital, improvements other than buildings).

Resolution 12-0573 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept, a matching funds grant from the MnDNR and Minnesota's Lake Superior coastal program in the amount of \$80,000 and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1113-20, for construction of a toilet addition to the Lafayette Community Center. Funds received shall be deposited in Fund 205-130-1220-4210-01 (parks fund, community resources, parks capital, pass thru other grants – capital). Matching funds to be issued from Fund 205-130-1220-5520 (parks fund, community resources, parks capital, building and structure).

Resolution 12-0574 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Lincoln Park Business Group 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 12-0577 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

WHEREAS, the chief administrative officer upon the direction of the mayor has

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

recommended the appointment of Peggy Spehar to the position of chief financial officer; and WHEREAS, the City Charter requires the city council confirm this appointment. THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Peggy Spehar to the position of chief financial officer for the city of Duluth. Resolution 12-0554 was unanimously adopted.
Approved November 13, 2012
DON NESS, Mayor

- - -

Resolution 12-0566, by Councilor Stauber, of support for changes to the city's pet licensing process, was introduced.

Councilor Stauber moved to amend subparagraph (g) of the resolution, to insert after the word "Add", the phrase "a prorated license fee and," which motion was seconded and carried as follows:

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

Nays: Councilor Fosle -- 1

Councilors Krause and Fosle opposed the resolution because: this higher fee will be hard for many individuals who are struggling and that life-time licenses should not be that expensive.

Resolution 12-0566, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, with over 35,000 households and using the American pet products manufacturer's formula the city of Duluth is projected to have as many as 20,000 dogs and 60,000 cats within city limits; and

WHEREAS, licensing pets is important for public safety and pet safety and ensures that urban pets are properly vaccinated and further provides a mechanism for pets to be cared for and reunited with their owners if lost; and

WHEREAS, it appears that the bulk of dogs and cats in Duluth are not being registered since less than 3,000 dogs and cats are licensed in an average year; and

WHEREAS, many cities provide for penalties as high as \$500 for failing to license a cat or a dog and; and

WHEREAS, the council believes the city's animal control operations are a valuable public service and seeks to make those operations more financially sustainable; and

WHEREAS, the council supports having the revenue collected from pet registration fees and penalties go to help support the city's animal control operations.

THEREFORE, BE IT RESOLVED, that the council hereby indicates its support for the following possible changes to the city's pet licensing process and procedures:

- (a) Increasing dog and cat licensing fees;
- (b) Increase the current \$50 penalty for failing to register a pet to further increase licensing compliance;
- (c) Encouraging the city's animal control operations to more actively pursue education and enforcement opportunities to increase the number of pets licensed within the city;
- (d) Streamline fees, policies and procedures to provide an incentive for the proper licensing of dogs and cats;
- (e) Crediting or allocating dog and cat license fees and fines to the city's animal control and shelter operations;
- (f) New pet licensing options, including allowing animal shelters, veterinarians, pet stores and Animal Allies to issue licenses and/or to provide an on-line process for licensing;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(g) Add a prorated license fee and a "life-time" license with applicable fee which would enable owners to make only one license purchase to cover the life of the pet;

(h) Reducing licensing fees for animals that are spayed, neutered, micro-chipped or adopted from an animal shelter.

Resolution 12-0566, as amended, was adopted upon the following vote:

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

7

Nays: Councilors Fosle and Krause -- 2

Approved November 13, 2012

DON NESS, Mayor

- - -

Resolutions 12-0569 and 12-0570, by Councilor Stauber, affirming and reversing, respectively, the decision of the planning commission to deny the application for a variance from the front and side yard setbacks of Section 50-14.5 of the Duluth City Code (Lynn and Dan McGinty), were introduced for discussion.

Councilor Stauber moved to suspend the rules to hear a speaker on the issue, which motion was seconded and unanimously carried.

Julie Calliguri spoke on behalf of the applicants' neighbor who was out of the country, expressing support for Resolution 12-0569 for the reasons that if the variance is approved, the garage will be built to block off the neighbor's diningroom window and it will adversely affect their property value.

Councilor Krug opposed Resolution 12-0570 for the reason that this issue should be returned to the planning commission to consider the new information that has come forward about the proposed garage digging into a sand dune.

Keith Hamre, director of planning and construction services, reviewed deadlines and meeting schedules of the planning commission, noting that the process has been followed and now it is up to the council to consider all the factors.

Resolution 12-0569, affirming the planning commission decision, failed upon the following vote (Public Document No. 12-1113-21):

Yeas: Councilor Krug -- 1

Nays: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Larson, Stauber and President Hartman -- 8

- - -

Resolution 12-0570, reversing the planning commission decision, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council finds as follows:

(a) Lynn and Dan McGinty's property is located at 1920 Minnesota Avenue and is zoned Residential-Traditional (R-1);

(b) On September 4, 2012, Lynn and Dan McGinty applied for a variance that would allow them to construct a one-car garage to be set back 22'3" from the front lot line and 3'1.5" from the side lot line, Section 50-14.5 of the Duluth City Code, 1959, as amended (Table 50-14.5-1), requires a minimum front yard setback of 25 feet and a minimum side yard setback of six feet;

(c) A public hearing was held by the planning commission at its October 9, 2012 meeting. At this meeting, the commission voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) Section 50-37.9.C of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property and not caused by the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

landowner as required by Section 50-14.5 of the City Code; and

(2) The applicants did not establish practical difficulty because a driveway could be placed in the side yard, allowing a garage to be constructed in the rear of the property, thus eliminating the need for any variance;

(d) Lynn and Dan McGinty were provided written notice of the commission's action on October 10, 2012;

(e) Lynn and Dan McGinty filed an appeal of the commission's decision to the city council on October 19, 2012, and pursuant to Section 50-37.1.O(4) of the City Code;

(f) The city council heard the appeal at its November 8, 2012, meeting of the planning and economic development committee, and the matter was considered at the November 13, 2012, council meeting;

RESOLVED FURTHER, that the decision of the planning commission to deny the application for a variance is reversed on the following grounds:

(a) The property located at 1920 Minnesota Avenue is a single-family home and is a reasonable use of a property in an R-1 district;

(b) Lynn and Dan McGinty seek a variance that would authorize the construction of a one-car garage that would be within the required front and side yard setbacks under Section 50-14.5;

(d) The narrowness of the existing side yard would cause practical difficulty for the applicant if used as a driveway and the presence of an elevated dune in the rear yard would cause a practical difficulty for locating the garage;

(e) The only reasonable location for a garage is at the proposed site within the front and side yard setbacks;

(f) Lynn and Dan McGinty have demonstrated the existence of a practical difficulty and have met the standards necessary to support a variance as provided in Section 50-37.9.C of the City Code.

RESOLVED FURTHER, that pursuant to the authority to grant variances as provided in Section 50-37.9, the application for a variance is granted subject to the following conditions:

(a) The garage is no closer to the front property line than 22'3" and to the side property line than 3'1.5";

(b) Applicants shall survey and stake the property lines throughout construction to ensure compliance with this variance;

(c) The authority to issue a building permit for the construction of a garage pursuant to this variance shall expire one year from the date of approval of this resolution.

Resolution 12-0570 was adopted upon the following vote:

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

Nays: Councilor Krug -- 1

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a redevelopment grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1113-22, with the state of Minnesota acting through the department of employment and economic development (DEED) in the amount of \$472,865 payable into Fund 255 (economic development), Agency 020 (planning), Object 4220-02 (state of Minnesota operating), subject to provision of the local matching amount of not less than \$472,865 from the Pier B project financing.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0571 was unanimously adopted.
Approved November 13, 2012
DON NESS, Mayor

- - -

Resolution 12-0560, awarding a construction contract to International Chimney Corporation for the rehabilitation of the chimney stack at the Duluth steam plant in the amount of \$339,870, was introduced by Councilor Julsrud for discussion.

Councilor Fosle expressed his opposition to this expenditure because recently the city had the opportunity to sell the steam plant and now dollars have to be spent to keep it going.

Resolution 12-0560 was adopted as follows:

RESOLVED, that the proper city officials are authorized to enter into a construction contract with International Chimney Corporation for the rehabilitation of the chimney stack at the Duluth steam facility located at One Lake Place Drive in accordance with plans and specifications prepared by LHB, Inc., the city's project engineer, and the vendor's bid of \$339,870, payable from Steam Fund 540, Department/Agency 920 (steam department), Organization 1499 (steam non-operating), Object 5530 (improvements other than buildings).

Resolution 12-0560 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved November 13, 2012

DON NESS, Mayor

- - -

Resolution 12-0568, awarding a contract to Signature Bridge, Inc., for installation of Phase 1 bridge and placement of existing ski trail bridge at Chester Park in the amount of \$122,769.24, was introduced by Councilor Julsrud.

Councilor Julsrud moved to remove the resolution from the agenda, as requested by the administration, which motion was seconded and unanimously carried.

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Resolution 12-0567, scheduling a public hearing on the proposed designation of certain streets in the vicinity of the University of Minnesota-Duluth as a resident permit parking zone and further designating the south side of East Clover Street as no parking, was introduced by Councilor Fosle for discussion.

Councilor Krug reviewed the background on this issue and the Duluth parking commission's involvement with the concerns of Mark Lambert, the developer in this area.

She moved to amend the resolution by:

(a) Adding the phrase "(AND ALLOWING PARKING ON THE NORTH SIDE)" to the title;

(b) In the first paragraph, after the phrase "prohibit parking on the south side," inserting the phrase "(and allow parking on the north side),"

which motion was seconded and unanimously carried.

Resolution 12-0567, as amended, was adopted as follows:

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, 1959, as amended, the city council hereby indicates that on Monday, November 26, 2012, at 7:00 PM in the Council Chamber on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate both sides of East Eighth Street between East Clover Street and its terminus by Woodland Avenue and both sides of East College Street between East Eighth Street and Irving Place as a resident permit parking zone, and to further prohibit parking on the south side (and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

allow parking on the north side) of East Clover Street between Woodland Avenue and East Seventh Street, as manifested by the map on file in the office of the city clerk as Public Document No. 12-1113-23.

FURTHER RESOLVED, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to the occupants at each address within or abutting the parking areas of the streets so proposed to be designated.

Resolution 12-0567, as amended, was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept a grant from Cities of Service on behalf of Bloomberg Philanthropies in the amount of \$25,000 and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1113-24, for the purpose of increasing residents' access to affordable fresh, healthy food by developing community gardens in the Lincoln Park neighborhood, which is considered a food desert. Funds are to be deposited in Fund 205-130-1220-4270 (parks fund, community resources, parks capital, other grants).

Resolution 12-0572 was unanimously adopted.

Approved November 13, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-065 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE COFFEE CREEK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-066 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE BAYHILL COVE LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-067 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE EASTRIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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The meeting was adjourned at 8:00 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 26, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-1126-01 Building appeal board minutes of September 12, 2012, meeting. -- Received

12-1126-02 Community development committee minutes of: (a) August 21; (b) September 25; (c) October 9, 2012, meetings. -- Received

12-1126-03 Spirit Mountain recreation area authority minutes of October 18, 2012, meeting. -- Received

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At this time, 7:02 p.m., the public hearing on the University of Minnesota - Duluth (UMD) resident permit parking zone expansion began.

Michelle Killebrew and Mick Conlan, counsel for Summit Management, commented that: in many houses in this area there are not enough driveways or garage spaces; parking during the school day is virtually impossible and allowing parking along Clover Street on the north side, with maybe a one to two hour limitation, is supported by the neighborhood and the developer for the former Woodland Middle School area.

At this time, 7:10 p.m., the public hearing was declared closed and the regular order of business resumed.

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REPORTS OF COUNCIL OPEN ISSUES

Councilor Gardner and other councilors expressed their concerns at length about the public sale of the former fire hall on Park Point and that the council was not made aware of this before the sale process started.

- - -

Councilors Julsrud and Gardner expressed concern that there has not been enough time to discuss budgets during the budget review process and that a better way to handle the review needs to be found.

- - -

Councilors Krause and Stauber expressed concern that the council was not made aware of a litigation issue at Bentleyville when a previous resolution was on the council's agenda and how the city administration created a free speech zone there without city council knowledge.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Paul King expressed his concern about the restrictions associated with the free speech zone at Bentleyville and that the council should allow this freedom of speech without this restricted zone.

- - -

Tom Karas commented on an energy opportunity that hopefully will come to the city of Duluth (Public Document No. 12-1126-07).

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the proper city officials are hereby authorized to contract with Unique Paving Materials Corporation for the purchase of 450 tons of UPM high performance cold mix in accordance with city-approved specifications, Minnesota State Contract 39535 (Release B-357(5)), and the vendor's alternate bid of \$115 per ton, for a total of \$51,750 plus \$3,557.81 sales tax for a combined total of \$55,307.81, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop).

Resolution 12-0580 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, by the governing body of the city of Duluth, St. Louis County, Minnesota, as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999 submitted a petition to the Minnesota pollution control agency (the "MPCA") requesting creation of the Duluth/North Shore Sanitary District (the "sanitary district") pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the "act"). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the "municipalities.")

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the "order"). The order was published in the *State Register* on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the "board of managers") as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 115.23, subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following person, who is a voter residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

Kevin J. Bovee, of the town of Lakewood, Minnesota, whose term shall commence on January 1, 2013, and shall expire on January 1, 2016.

Section 3. Election of board of managers. Election of the above-named person to the board of managers of the sanitary district is approved and such person is elected for the term indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to the board member elected a certificate of the board member's election.

Resolution 12-0575 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division has conducted an analysis of land use in the area along Commonwealth Avenue from Stowe Street to Prescott Street, with the findings showing a mix of commercial and residential properties along a state highway; and

(c) The existing zoning is Mixed Use-Neighborhood, which allows a mixture of commercial and residential uses, while the comprehensive land use plan - future land use map shows the area as Traditional Neighborhood, which would not support these uses; and

(d) The Municipal Planning Act requires that zoning implement a city's comprehensive plan; and

(e) Based on the review conducted by the planning division and public input, the city proposes amending the comprehensive land use plan - future land use map from Traditional Neighborhood and Neighborhood Commercial to Neighborhood Mixed Use, as described and depicted below; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



(Ref. File. No. 12-156)

(f) The city planning commission has reviewed the proposal, conducted a public hearing on November 13, 2012, at their planning commission meeting, and recommends adoption of the proposed future land use map amendments; and

(g) The city council of the city of Duluth hereby amends the comprehensive land use plan - future land use map as described above.

Resolution 12-0582 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. L6007 at Skyline Parkway over Stewart Creek, City Project No. 1016.

RESOLVED, that the grant has been approved and that the amount of the grant is \$73,143.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 175.40, subdivision 5, clause (30), 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 bridge 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. 12-1126-04, concerning the above referenced grant. Grant monies received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

hereunder shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1016, S.P. 118-060-010.

Resolution 12-0579 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services related to the design and construction administration for the reconstruction of Hawthorne Road, Vermilion Road and St. Marie Street from Superior Street to Wallace Avenue in an amount not to exceed \$356,318, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1172, S.P. 118-134-016 and 118-156-011, Requisition No. 12-0649.

Resolution 12-0581 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) That it is deemed necessary for the public conveyance and safety that Hawthorne Road, Vermilion Road and St. Marie Street between Superior Street and Wallace Avenue (City Project No. 1172) be reconstructed; and

(b) That this project will not be eligible for municipal state aid funds unless it is constructed to state aid standards for collector roadways of urban (new or reconstruction) projects, or unless a variance is granted; and

(c) Practical limitations require that tighter horizontal and vertical curves than dictated by standards be used. This results in a 17 mph design speed in lieu of a 30 mph design speed, which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9936, whereby the minimum design standards for urban (new or reconstruction) projects be reduced for this project allowing for a 75-foot radius (-0.03 superelevation) horizontal curve at the intersection of Vermilion Road and St. Marie Street; a 50-foot length vertical crest curve at the intersection of Hawthorne Road and East First Street in lieu of a 90-foot vertical crest curve; a 50-foot length vertical sag curve at the intersection of Hawthorne Road and East First Street in lieu of a 90-foot vertical sag curve; a 60-foot vertical crest curve at the intersection of Hawthorne Road and East Second Street in lieu of a 90-foot vertical crest curve; a 50-foot vertical sag curve at the intersection of Hawthorne Road and East Second Street in lieu of a 90-foot vertical crest curve; an 80-foot vertical sag curve at the intersection of Hawthorne Road and Lakeview Avenue in lieu of a 122-foot vertical sag curve; and a 70-foot vertical sag curve at the intersection of Vermilion Road and St. Marie Street in lieu of a 132-foot vertical sag curve.

FURTHER RESOLVED, the city of Duluth agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees of and from claims, demands, actions or causes of action arising out of or by reason of the reconstruction of Hawthorne Road, Vermilion Road and St. Marie Street in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9936, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of this variance.

Resolution 12-0587 was unanimously adopted.
 Approved November 26, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept an amended grant from the state of Minnesota, commissioner of public safety, office of justice programs, in the additional amount of \$300,813 bringing the total grant amount to \$611,626 and extending the expiration date to December 31, 2013, and to execute an amended grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1126-05, for the purpose of supporting the operations of the Lake Superior drug and violent crime task force, funds to be deposited in Fund No. 215-200-2263-4210-02 (Duluth police grant programs, police narcotic/gang task force-state).

Resolution 12-0576 was unanimously adopted.
 Approved November 26, 2012
 DON NESS, Mayor

- - -

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 1536 North Eighth Avenue East.

Resolution 12-0578 was unanimously adopted.
 Approved November 26, 2012
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

Organization	Program Name	Recommended Amount
Cyclists of Gitchee Gummee Shores	Mountain bike trail system sustainability upgrades	\$5,000
Gary-Morgan Park Hockey Association	Player boxes rebuild and rink repair	\$5,000
Hawk Ridge Bird Observatory, Inc.	Interpretive signage for Hawk Ridge Nature Reserve	\$5,000
Park Point Community Club	LaFayette summer youth program	\$3,200
Woodland Amateur Hockey Association	Public skating rink resurface	\$5,000
YMCA of Duluth	Woodland Community Center garden and kitchen	\$3,076
TOTALS		\$26,276

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0589 was unanimously adopted.
Approved November 26, 2012
DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes purchase of the property at 3405 Carlton Street, Duluth, Minnesota, in the county of St. Louis. The state of Minnesota legally describes the property as Lots 7, 8, 9 and 10; Block 4, Centredale Addition to Duluth. The purchase price of the property is \$78,000. Payment will be made from 205 (parks fund), 130 (community resources), 1220 (parks capital), 5520 (buildings and structures).

Resolution 12-0591 was unanimously adopted.
Approved November 26, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0590, authorizing an amendment to the agreement with the Duluth economic development authority (DEDA) relating to the Interstate Parking management agreement, was introduced by Councilor Stauber.

Councilor Fosle moved to remove the resolution from the agenda and refer it back to the administration to work out issues that were raised at the previous agenda session, which motion was seconded, discussed and carried upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Krause, Larson, Stauber and President Hartman -- 7

Nays: Councilors Julsrud and Krug -- 2

- - -

RESOLVED, that the proper city officials are hereby authorized to award a contract to Northland Constructors of Duluth, LLC, for construction of the Lakewalk East Extension Phase V in the amount of \$1,784,190.14, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0645TR.

Resolution 12-0406 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved November 26, 2012

DON NESS, Mayor

- - -

WHEREAS, Resolution 89-0885, adopted by the city council on October 30, 1989, designated portions of certain streets in the vicinity of the University of Minnesota-Duluth as a resident permit parking zone pursuant to Section 33-125 of the Duluth City Code, 1959, as amended; and

WHEREAS, the residents of East Eighth Street and East College Street submitted a petition requesting to be included in this zone; and

WHEREAS, a public hearing was held on November 26, 2012, and after review of this matter, the city council has determined that the addition of such street segments to the resident permit parking zone is appropriate.

THEREFORE, BE IT RESOLVED, that Resolution 89-0885 is hereby amended by designating the parking areas on both sides of East Eight Street between East Clover Street and its terminus by Woodland Avenue and the parking areas on both sides of East College Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

between East Eighth Street and Irving Place as resident permit parking, as manifested by the map on file in the office of the city clerk as Public Document No. 12-1126-06.

Resolution 12-0586 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

Resolution 12-0588, to establish no parking on the south side of East Clover Street and allow parking on the north side, was introduced by Councilor Fosle for discussion.

Councilor Fosle moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Mick Conlan, representing Summit Management, expressed support for the resolution because it allows for flexibility with the re-use of the former Woodland Middle School. He requested an amendment so that Summit Management would be able to revisit the restrictions of one and two hour parking zones on the north side of Clover Street in the future.

Councilors discussed at length the request and how to best handle it for the intended future uses.

Councilor Boyle moved to remove the resolution from the agenda and refer it back to the administration to consider this request, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Fosle -- 1

- - -

Resolution 12-0592, granting approval and implementation of the Lower Chester Park master plan, was introduced by Councilor Larson for discussion.

Councilor Larson moved to suspend the rules to consider a speaker on the resolution, which motion was seconded and unanimously carried.

Debra Filipovich expressed support for the resolution, noting that the neighborhood has been working with city staff on this for about 1-1/2 to two years and they are excited to have a lot of things happening there, including more available skating time.

Resolution 12-0592 was adopted as follows:

RESOLVED, that the city council hereby approves the Lower Chester Park master plan and authorizes implementation of the plan as funding becomes available.

Resolution 12-0592 was unanimously adopted.

Approved November 26, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-068 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-2 TO R-P THE PROPERTY LOCATED AT THE NORTHERN SHORES TOWNHOMES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCED BY COUNCILOR STAUBER

12-069 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-070 - AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-27, 50-35, 50-37.1, 50-37.11, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE.

Councilor Stauber moved to suspend the rules to consider a speaker on the ordinance, which motion was seconded and unanimously carried.

Todd Johnson, Todd Sign Company, expressed concerns over this ordinance and how it will get rid of businesses.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-071 - AN ORDINANCE GRANTING TO RITCH MAKOWSKY A CONCURRENT USE PERMIT FOR CONSTRUCTION OF AN ACCESSIBLE RAMP TO PROJECT INTO THE NORTH 29TH AVENUE WEST RIGHT-OF-WAY.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-065 (10186) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE COFFEE CREEK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-066 (10187) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE BAYHILL COVE LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-067 (10188) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE EASTRIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

- - -

The meeting was adjourned at 8:08 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10186

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE COFFEE CREEK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 19 acres of the subject properties located in the Coffee Creek low density planned development and as more particularly described as follows:

Coffee Creek Division, Block 7, Lots 5-22; Block 8, Lots 1-6; Block 9, Lots 1-2; Block 10, Lots 1-14; Block 11, Lots 1-14; Outlot D, Outlot E, Outlot K and Outlot M; be reclassified from Residential-Traditional (R-1), to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-144)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 28, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 26, 2012
Approved November 26, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10187

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE BAYHILL COVE LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 12.89 acres of the subject properties located in the Bay Hill Cove low density planned development and as more particularly described as follows:

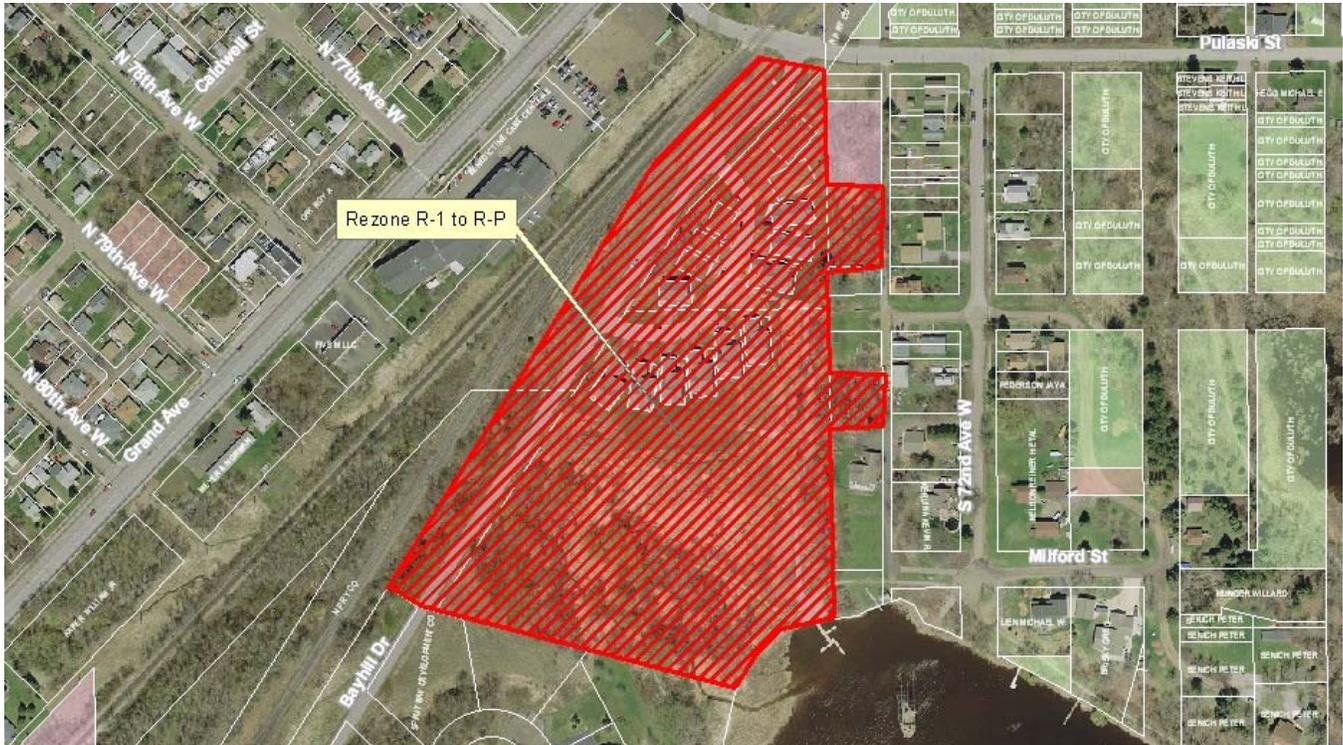
commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,177.03 feet to the beginning of the line to be described; then north 32 degrees 34 minutes 45 seconds east along the southeasterly right-of-way line Burlington Northern, Inc., (formerly the Duluth Transfer Track of the Northern Pacific Railway) also being the northwesterly right-of-way line of the Lake Superior and Mississippi Railroad as described in deed recorded in Book K of Deeds page 2 to the south line of said SW1/4 of SW1/4; then continuing northeasterly along the said southeasterly right-of-way line of the Burlington Northern, Inc., to the south line of Pulasky Street; thence southeast along the south line of Pulasky Street to the east line of said SW1/4 of SW1/4, except that part of Gov't Lot 2 Sec 24, T49N,R15 lying southeasterly, southerly and westerly of a line described as follows:

commencing at the northwest corner of said Section 24, thence south 0 degrees 29 minutes 58 seconds east (assumed bearing), along the west line of said Section 24 a distance of 1,297.96 feet to the beginning of the line to be described; thence north 32 degrees 34 minutes 45 seconds east along a line 66.00 feet distant and parallel with the southeasterly right-of-way of Burlington Northern, Inc., (formerly the Duluth Transfer Track of the Northern Pacific Railway) a distance of 212.00 feet; thence south 57 degrees 25 minutes 15 seconds east a distance of 46.51 feet; thence southerly and easterly along a tangential curve concave to the north having a radius of 183.00 feet and a central angle of 49 degrees 21 minutes 28 seconds a distance of 157.65 feet and the cord of said curve bears south 82 degrees 05 minutes 59 seconds east: thence south 11 degrees 07 minutes 58 seconds east a distance of 307 feet, more or less, to the northwesterly bank of the St. Louis River and said line there terminating; except that part platted as Spirit Cove Division.

ALSO Lots 19 through 24, Block 33, Hunter and Markells Grassy Point Addition according to the plat thereof; Lots 26 through 29, Block 34, Hunter and Markells Grassy Point Addition according to the original plat thereof on file and of record in the office of the register of deeds in and for said St. Louis County, Minnesota, in Book "C" of Plats, page 130,

be reclassified from Residential-Traditional (R-1), to Residential-Planned (R-P), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



(Ref. File No. 12-145)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: December 28, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 26, 2012
Approved November 26, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10188

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTIES LOCATED IN THE EASTRIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 144 acres of the subject properties located in the Eastridge Estates low density planned development and as more particularly described as follows:

those parts of Section 33, Township 51 North, Range 13 West of the Fourth Principal Meridian in the city of Duluth, county of St. Louis, state of Minnesota, summarized and described as follows:

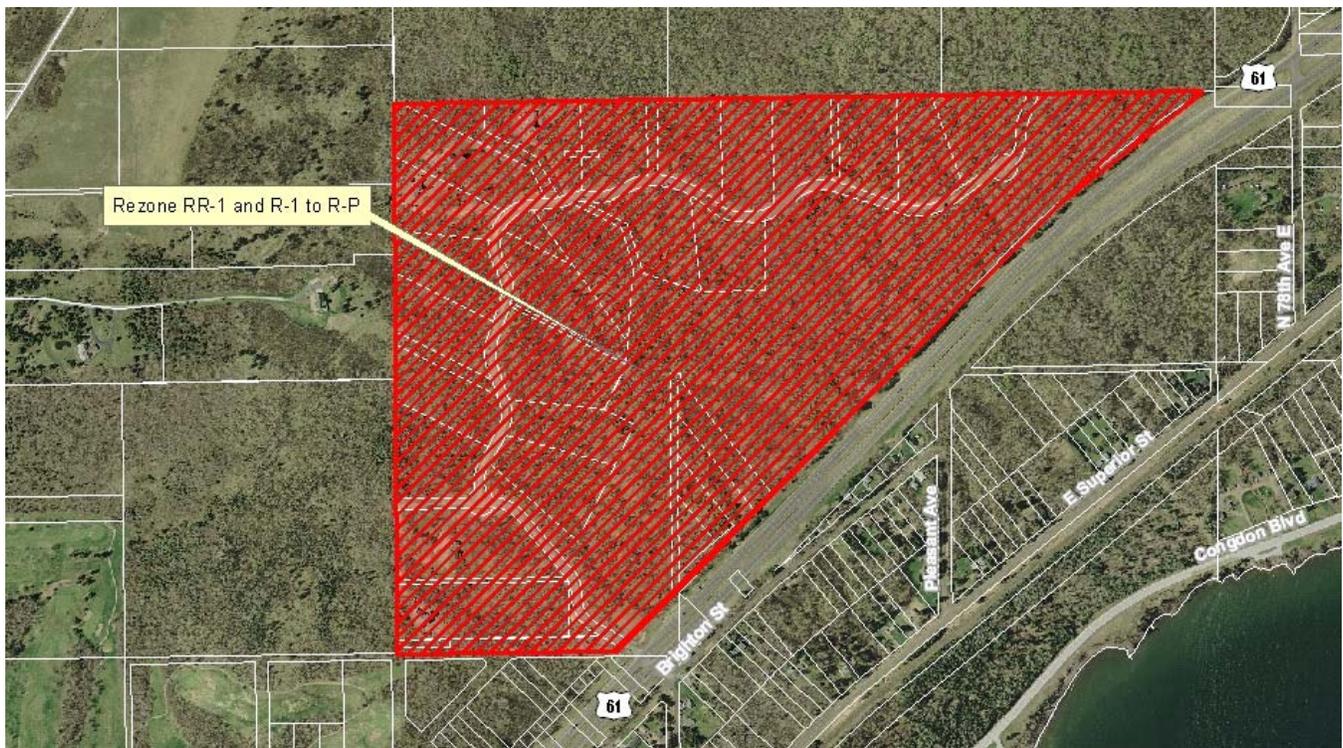
the NE 1/4 of the SE 1/4; the S 1/2 of the SE 1/4 of the NE 1/4; the Plat of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

LAKEVIEW MANOR, except Lot 28 of Block 3 all in the N 1/2 of the SE 1/4 of the NE 1/4; those parts of Section 34, Township 51 North, Range 13 West of the Fourth Principal Meridian in the city of Duluth, county of St. Louis, state of Minnesota, summarized and described as follows:

the SW 1/4 of the NW 1/4 and the SE 1/4 of the NW 1/4 lying north of the northerly right-of-way line of State Trunk Highway No. 61; that part of the following listed lots lying north of the northerly right-of-way line of State Trunk Highway No. 61 of Block 1 in the Plat of BRIGHTON GARDENS, FIRST DIVISION: Lots numbered 3 through 12, 27 through 31, and Lot 33;

be reclassified from Rural-Residential (RR-1) and Residential-Traditional (R-1), to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-146)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 28, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 26, 2012
Approved November 26, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 3, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1203-01 Todd Johnson communication regarding the proposed amendments to the sign code (12-070-O). -- Received

12-1203-07 The following communications regarding the proposed design request for a permanent street in and around Joshua Avenue (12-0546R): (a) Horace Kahlbaugh; (b) Matt Oman; (c) Sandy Purcell; (d) Carol Reimer. -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-1203-02 Chief engineer of transportation report on the request by the city council to review the feasibility of creating a four way stop and/or installing stop lights at the intersection of 75th Avenue West and Grand Avenue/Highway 23 (11-0367R). -- Received

12-1203-03 Clerk application for exempt permit (raffle) to the Minnesota gambling control board from Lake Superior Chapter of Muskies, Inc., on March 9, 2012. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-1203-04 Duluth public utilities commission minutes of October 16, 2012, meeting. -- Received

12-1203-05 Duluth transit authority: (a) Minutes of August 29, 2012, meeting; (b) Income statement of September 2012. -- Received

12-1203-06 Parks and recreation commission minutes of November 14, 2012, meeting. -- Received

- - -

At this time, 7:03 p.m., the public hearing on the 2013 budget and levy was opened.

Paul King voiced opposition to the budget and levy increases, noting: that it is not helpful for poor people and hurts them the worst; his taxes went up 22 percent; the city squanders money; if the money was used in a good way the city would not need to raise taxes; this is hurting businesses by increasing fees, water rates, and now property taxes and there is no good use for the money the city is going to take.

Ron Kope noted that his taxes went up 38.3 percent and he objected to the increase in his valuation.

Andy Strom, business owner, said his taxes are over \$14,000 for lots that do not have any buildings on them.

Tim Carter stated that he purchased tax forfeited property next to his home after moving up from Minneapolis because of more affordable housing. He claimed that his taxes have kept rising ten years in a row, and for a total of 72.5 percent, which he cannot afford.

At this time, 7:15 p.m., this public hearing was declared closed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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At this time, 7:15 p.m., the public hearing on the capital improvement plan (CIP) for 2013-2017; the intent to issue CIP bonds and the reallocation of previously issued CIP bonds was declared opened. No one appeared who wished to be heard and the public hearing was declared closed at 7:16 p.m.

- - -

RESOLUTION TABLED

Councilor Julsrud moved to remove Resolution 12-0546, requesting design for a permanent street in and around Joshua Avenue from Maple Grove Road to Arrowhead Road, from the table, which motion was seconded and unanimously carried.

Councilor Julsrud moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Matthew Eckman, Andy Brunette and Dave Skolasinski felt that: there is a positive alternative of a nature park with trails; the city should develop the pond that is there, use the green space for environmental purposes, preserve the wetlands, develop hiking, biking and cross country ski trails; this plan would still not stop the Eklund cut through traffic; the traffic data is outdated; the route selected by consensus was not the best decision; there has been a large amount of money spent with the negative outweighing the positive; there is a perception that this solves a problem, but at what costs; this proposal is an ill-conceived project and the last thing we need to do is spend large amounts of money to provide a minor convenience to the public while other roads are available to access the mall area.

Horace Kahlbaugh felt that: the city should utilize the allocated funds to complete the engineering for this project; all councilors run for office saying that the city needs jobs and labor supports this; not doing the project would be wasting the federal and state monies and sending the money back to them and Eklund Avenue is badly deteriorating.

Ron DeGrio felt that: individuals on the committee spent a lot of time reviewing this issue; the committee urged the administration to look at alternatives, but the mayor wanted the committee to look at this area; the committee voted on a plan with the condition that property acquisitions would have to be done before the project would be started; the plan presented here brings devastation to the seven property owners directly affected. He further requested that the council make the decision on what was sent to them by the committee and not the plan that was changed by the administration and added that the homeowners do not want to have the street go through while waiting for the city to get the money to buy their houses.

Councilors Julsrud, Krug, Stauber, Larson and Gardner felt that: the issue is where the city should spend the money for streets; Joshua Avenue does not come to the top of priorities with the other streets that need attention; to receive federal money for municipal design is difficult but it is the responsibility of the council to make wise use of taxpayers' money and allocate the local funds to other streets; the resolution is for design work and not to order the road in; this is not a jobs bill as there is no funding for this project; without funding on the horizon, one cannot support this bill; the streets are in bad shape all over the city and they cannot support spending more money on this project and it is drastically changing a landscape in the neighborhood as it is a new road.

Councilor Krause felt that: roads and the infrastructure below the street are deteriorating in Duluth Heights because the traffic is too high for the type of road that was built; the plan was to keep the green space and preserve the wetlands, with trails and walkways and the Duluth-Superior Metropolitan Interstate Council approved this plan.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0546 failed upon the following vote (Public Document No. 12-1203-08):

Yeas: Councilor Krause -- 1

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

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the operation budget for the fiscal year January 1, 2013, to December 31, 2013, in the amount of \$4,585,200 for the Duluth Airport Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 12-0597 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

- - -

The city council finds:

(a) The city is required to submit a pay equity implementation report to the state every three years; and

(b) The city submitted its pay equity implementation report to the Minnesota management and budget pay equity division for 2011; and

(c) The city received a "notice of noncompliance" from the state, citing failure to pass the exceptional service pay test based on employee longevity awards; and

(d) The city is submitting a reconsideration request, including an updated pay equity report based on payroll records effective November 7, 2011, and a second updated pay equity report which adjusts the way pay structures are reported to include longevity awards in the salary scale; and

(e) Such reconsideration request and reports require approval by the Duluth City Council.

THEREFORE, BE IT RESOLVED, that the city's pay equity implementation report(s) and reconsideration request, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1203-09, is hereby approved.

Resolution 12-0596 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

- - -

WHEREAS, city and DEDA entered into an agreement on or about April 26, 2012, related to each party's rights and responsibilities under the parking management agreement with the Interstate Parking Company of Minnesota, LLC ("Interstate") (City Contract No. 21605); and

WHEREAS, DEDA sold one of its parking lots known as the Phoenix Lot resulting in the need to amend the agreement to remove the Phoenix Lot and to reduce DEDA's management fee accordingly.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1203-10, reducing DEDA's management fee payable thereunder and providing for DEDA to add or delete DEDA parking facilities and approve the corresponding adjustment in DEDA's portion of the parking management fee paid to Interstate Parking.

Resolution 12-0590 was unanimously adopted.
Approved December 3, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC, in the amount of \$202,827 for removal of a flood damaged bridge and construction of a box culvert at Greene Street over Keene Creek, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1128, S.A.P. 118-080-044, Flood Site No. 135, Requisition No. 12-0628.

Resolution 12-0602 was unanimously adopted.
Approved December 3, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 12-0593, establishing annual bonding plan for 2013, was introduced by Councilor Krug for discussion.

Councilor Stauber felt that this is going to be retiring \$14,000,000 of bonds and at the same time borrowing \$21,000,000 more to do the extra things and the city would be going \$6,000,000 further into debt with this vote.

Chief Administrative Officer David Montgomery explained the details of this financial transaction.

Resolution 12-0593 was adopted as follows:

RESOLVED, that, pursuant to Section 20-33 of the Duluth City Code, 1959, as amended, the following is hereby established as the annual, ordinary course general obligation bonding plan for the city of Duluth for the year 2013:

General obligation bonds and notes to be issued in 2013	\$21,400,000
General obligation bonds and notes scheduled to be retired in 2013	<u>\$14,523,001</u>
Net anticipated increase (decrease) in general obligation bonding for 2013	<u>\$ 6,876,999</u>

Resolution 12-0593 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0594, of the city of Duluth, Minnesota, stating the intent to issue general obligation capital equipment notes, Series 2013, and approving the capital equipment list

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

associated with the notes in the approximate amount of \$4,600,000, was introduced by Councilor Krug for discussion.

Councilor Krause commented that the city should be tightening up its budget.

Mr. Montgomery reported that if this unit works as well as hoped there could be a future reduction of staff.

Resolution 12-0594 was adopted as follows:

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

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, the city is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

Section 2. The council declares the intent of the city to issue capital equipment notes in 2013 in an amount up to \$4,419,300 to finance the purchase of capital equipment authorized by the act, together with an additional amount to pay costs of issuance of the capital equipment notes and discount in an amount estimated to be not more than \$180,700.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 12-1203-11), which list of equipment is hereby approved for purchase in 2013.

Section 4. The terms and conditions of the capital equipment notes and the sale thereof shall be established by further resolution of the council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to acquire all or a portion of the capital equipment prior to the issuance of the capital equipment notes and to reimburse expenditures incurred with respect to such capital equipment purchase program with the proceeds of the capital equipment notes.

Resolution 12-0594 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0598, approving the fiscal year January 1, 2013, to December 31, 2013, operation budget of the Duluth transit authority (DTA), was introduced by Councilor Krug for discussion.

Councilors Stauber and Krause opposed the resolution because this is a budget increase and thus is creating a tax increase; money sources are flat and an increase is hard for the citizens and the DTA has already stated what they would do if they do not get the increase.

Resolution 12-0598 was adopted as follows:

RESOLVED, that the operation budget for the fiscal year January 1, 2013, to December 31, 2013, in the amount of \$14,017,215 for the Duluth Transit Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 12-0598 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved December 3, 2012
DON NESS, Mayor

- - -

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

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the "act"), the council has authorized preparation of a capital improvement plan for the years 2013 through 2017 which has been presented to the council in the section entitled "Capital Improvement Bond Summary" in the document entitled "2013-2017 Capital Improvement Plan-Capital Budget and Plan" (the "plan");

(b) A notice of public hearings has been published in accordance with the act, and the council has held on December 3, 2012, a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The council has considered the following for each project discussed in the plan and for the overall plan:

(1) The condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the city;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the plan and Section 1.01(c) hereof, the council finds that the Plan is desirable and beneficial to the city and its residents;

(b) The council finds that the proposed improvements under the plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The plan is approved.

Section 2. (a) Under and pursuant to the authority contained in the act and Minnesota Statutes, Chapter 475, the city is authorized to issue capital improvement bonds to provide funds for capital improvements pursuant to the plan;

(b) The council also held a public hearing on December 3, 2012, after notice of public hearing required by the act, on the city's intention to issue general obligation capital improvement bonds, in an amount not to exceed \$1,900,000 for the purposes set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were considered;

(c) The council hereby finds and determines that it is necessary, expedient and in the best interests of the city's residents that the city issue, sell and deliver general obligation capital improvement bonds in the maximum amount of \$1,900,000 (the "bonds"), for the purpose of providing funds for the following capital improvements under the plan: improvements to eligible facilities (City Hall, libraries, public safety facilities and public works facilities) under the act throughout the city, including furnace replacements and masonry repair, modernization/remodeling, roof replacements, ADA compliance, overhead door replacements, energy conservation measures, Firehall #1 remodeling, Firehall #10 apparatus bay floor and upgrade, firehall overhead doors, firehall structural access approaches, firehall ventilation, Firehall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

#10 and #6 remodeling, steps and tuckpointing and stone repair at City Hall, and carpet at west library building, and for the payment of costs of issuance of the bonds;

(d) If, within 30 days after December 3, 2012, a valid petition is filed with the city clerk calling for a vote on the proposition of issuing the bonds, signed by voters residing within the boundaries of the city equal to five percent of the votes cast in the city in the last general election, the bonds shall not be issued until the question of their issuance has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question;

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

Section 3. (a) The city previously issued its \$1,240,000 general obligation capital improvement bonds, Series 2007C, dated December 13, 2007 (the "Series 2007 bonds"). Up to \$50,000 of the proceeds from the Series 2007 bonds allocated to the capital improvement project described in the bond resolution for the Series 2007 bonds shall be reallocated to improvements to City Hall, including MIS upgrades;

(b) The city has also previously issued its \$1,600,000 general obligation capital improvement bonds, Series 2008D, dated December 9, 2008 (the "Series 2008 bonds"). Up to \$360,000 of proceeds from the Series 2008 bonds allocated to capital improvement projects described in the bond resolution for the Series 2008 bonds shall be reallocated to improvements to City Hall, including MIS upgrades, acquisition and construction of a public safety facility, including a communications tower for police and fire departments, and a facility needs project for a new public works facility;

(c) The council also held a public hearing on December 3, 2012, after notice of public hearing required by the act, on the city's reallocation of proceeds of the Series 2007 bonds and the Series 2008 bonds. All persons who desired to speak at the public hearing were heard and written comments were considered;

(d) The city will reallocate up to \$50,000 of the proceeds of the Series 2007 bonds and up to \$360,000 of the proceeds of the Series 2008 bonds if no petition requesting a vote on the reallocation of the Series 2007 bonds or the Series 2008 bonds signed by voters equal to five percent of votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 3(c) of this resolution.

Resolution 12-0603 was adopted upon the following vote:

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

Nays: Councilors Fosle and Stauber -- 2

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0584, authorizing change order one to Construction Contract 21763 with Hunt Electric Corporation for the installation of new Type A and Type B light fixtures at Enger Park, an increase of \$43,313, and a new contract total of \$167,414, was introduced by Councilor Krause for discussion.

Councilor Krause felt that this additional expenditure of money could be better spent on existing community clubs that are desperately in need of repairs.

Resolution 12-0584 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are authorized to execute Change Order One with Hunt Electric Corporation for the installation of new Type A and Type B light fixtures at Enger Park, per the original proposal dated September 27, 2012, thereby increasing Contract No. 21763 by \$43,313, for a new contract total of \$167,414; with the increase of \$43,313 payable from the Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5220 (buildings and structures), Project No. CM205-engtr.

Resolution 12-0584 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 3, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1203-12, with Moran, Stahl & Boyer-FL, LLC, for development of an economic development plan for the city of Duluth and Duluth economic development authority, for an amount up to \$100,000: \$50,000 payable from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1407 (miscellaneous), Object 5441 (other services and charges); and a matching amount of no more than \$50,000 from the Duluth Economic Development Authority (DEDA) Fund 860-860-8640-5319 (other professional services).

Resolution 12-0595 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0601, setting legislative initiatives for the 2013 legislative session, was introduced by President Hartman for discussion.

Councilors Krause and Stauber expressed concerns and that since the items listed are in no particular order, projects such as the Norshor may get funded versus a higher priority listed on the resolution.

Resolution 12-0601 was adopted as follows:

The city council finds as follows:

- (a) The city desires to establish a clear set of legislative initiatives which the city supports in the 2013 legislative session;
- (b) The city has devoted meeting time and discussion to the legislative initiatives;
- (c) The city supports legislative initiatives that are of vital interest to the community.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth expresses support for the following projects of regional significance:

- **Flood recovery and relief projects;**
- **Restoring previous cuts in local government aid;**
- **The enactment of a comprehensive jobs bill;**
- **Public infrastructure funding, including street construction, bridge construction, wastewater and drinking water;**
- Other legislative priorities, in no particular order:
 - Support for programs to construct or rehabilitate affordable housing units;
 - Support for state bond funding to conduct the pre-design for Duluth's

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

municipal baseball stadium (Wade Stadium);

- Support for state bond funding for public infrastructure elements of the NorShor Theatre renovation;
- Support for bonding requests by the Spirit Mountain recreation area authority for a water supply project;
- Support for state programs and projects that impact the Duluth community, including but not limited to, port development, public transit funding and tax increment financing options.

Resolution 12-0601 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0599, granting approval and implementation of the Washington Square mini-master plan, was introduced by Councilor Larson for discussion.

Councilor Krause and President Hartman expressed concerns that the existing community clubs need attention before any new areas are added; there is a need for open spaces and historic land use should be considered.

Resolution 12-0599 was adopted as follows:

RESOLVED, that the city council hereby approves the Washington Square mini-master plan and authorizes implementation of the plan as funding becomes available.

Resolution 12-0599 was adopted upon the following vote:

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

Nays: Councilor Krause and President Hartman -- 2

Approved December 3, 2012

DON NESS, Mayor

- - -

Resolution 12-0600, granting approval and execution of a lease agreement with the Duluth Area Family YMCA for shared use of the upper level of the Woodland Community Center, was introduced by Councilor Larson for discussion.

Councilor Krause expressed concerns that there should have been a fair and open process to bid on this because there is no compensation to the city.

Resolution 12-0600 was adopted as follows:

RESOLVED, that the city council hereby grants approval for acceptance and execution of a lease agreement (Public Document No. 12-1203-13) with the Duluth Area Family YMCA. The agreement for shared use of the upper level of the Woodland Community Center building is to commence on January 1, 2013, and continue through December 31, 2014, with a one time automatic renewal for an additional two year period.

Resolution 12-0600 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 3, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-073 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.

- - -

INTRODUCED BY COUNCILOR KRUG

12-074 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

- - -

INTRODUCED BY COUNCILOR KRUG

12-076 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-075 - AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-068 (10189) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-2 TO R-P THE PROPERTY LOCATED AT THE NORTHERN SHORES TOWNHOMES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-069 (10190) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-070 - AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-27, 50-35, 50-37.1, 50-37.11, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE.

Councilor Stauber moved that the ordinance be split as to address the sign regulations section separately from the vacation rental section, which motion was seconded and carried unanimously.

Councilor Stauber moved to table the ordinances, which motion was seconded and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

unanimously carried.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-071 (10191) - AN ORDINANCE GRANTING TO RITCH MAKOWSKY A CONCURRENT USE PERMIT FOR CONSTRUCTION OF AN ACCESSIBLE RAMP TO PROJECT INTO THE NORTH 29TH AVENUE WEST RIGHT-OF-WAY.

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

- - -

The meeting was adjourned at 8:45 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10189

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

The city of Duluth does ordain:

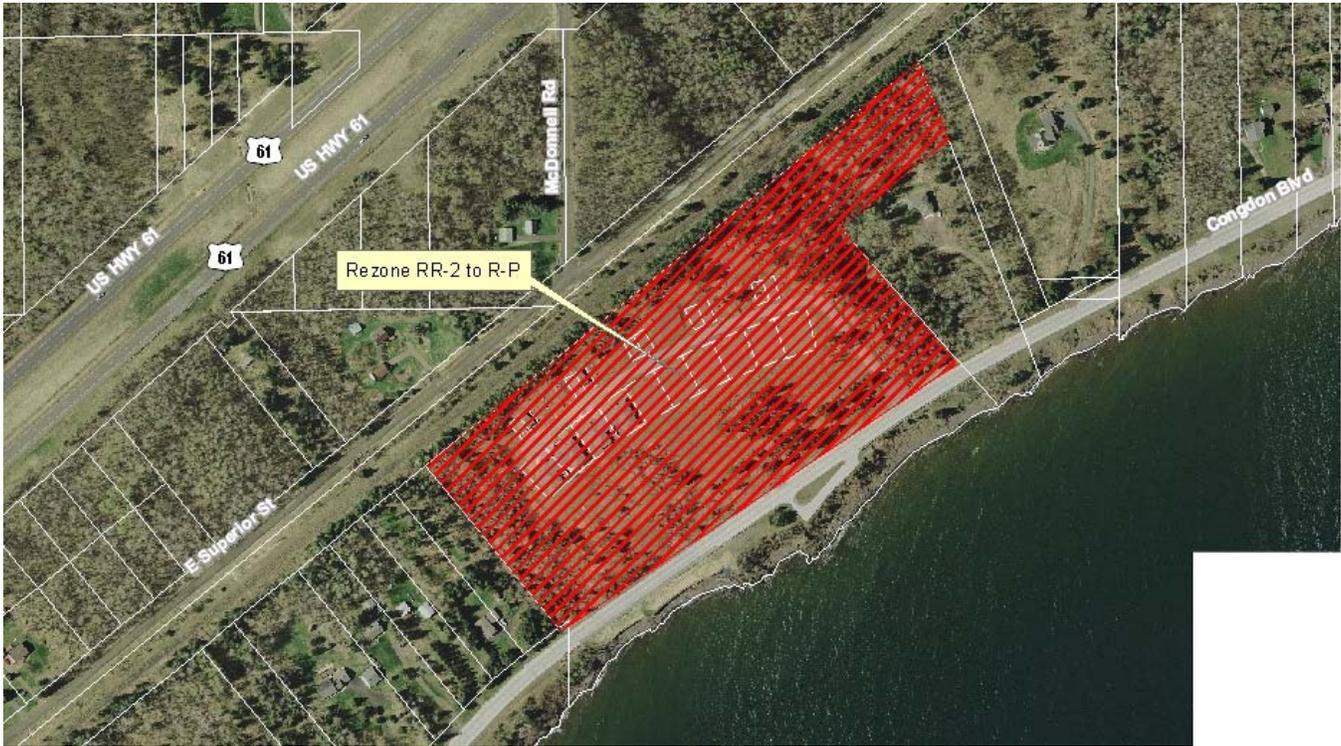
Section 1. That the 16 acres of the Northern Shores Townhomes low density planned development property located on the north side of Congdon Boulevard and as more particularly described as follows:

Lots 32, 33 and 34, Block 3, Hyde Park and that part of Government Lot 2, Section 26, Township 51 North, Range 13 West, Saint Louis County, Minnesota, described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Saint Louis and Lake County Railroad authority right-of-way (f.k.a. D.M.&I.R. Railroad) and the east line of said Government Lot 2; thence south 51 degrees 26 minutes 36 seconds west, along said southerly right-of-way line a distance of 1,037.71 feet to the point of beginning; thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 422.90 feet; thence south 20 degrees 33 minutes 24 seconds east a distance of 199.79 feet; thence south 51 degrees 26 minutes 36 seconds west a distance of 348.37 feet to the point of intersection with a line that bears south 42 degrees 20 minutes 11 seconds east from the point of beginning; thence south 42 degrees 20 minutes 11 seconds east a distance of 446.0 feet to the northerly right-of-way line of Congdon Boulevard (Scenic Highway 61); thence westerly, along said northerly right-of-way line a distance of 1,162.0 feet to the west line of said Government Lot 2; thence northerly, along said west line a distance of 655.0 feet to the southerly right-of-way line of the Saint Louis and Lake County Railroad authority right-of-way (f.k.a. D.M.&I.R. Railroad); thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 679.0 feet to the point of beginning. Subject to and together with any valid easements, restrictions and reservations, if any;

be reclassified from Rural-Residential (RR-2) and Residential-Traditional 2 (R-1), to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



(Ref. File No. 12-159)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2012
Approved December 3, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10190

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

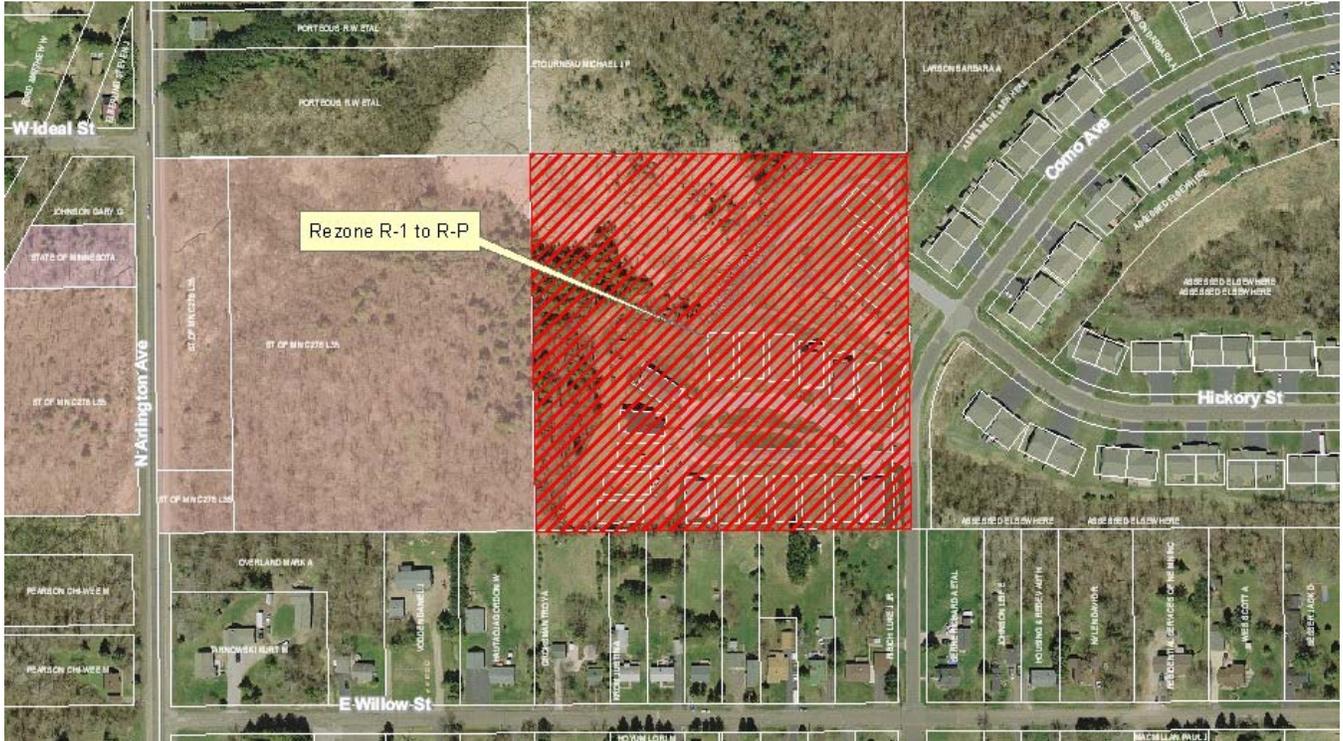
The city of Duluth does ordain:

Section 1. That the 10.07 acres of the Bluffs Ridge Estates low density planned development property located at the southwest corner of Como Avenue and Hickory Street and as more particularly described as follows:

The southwest quarter of the southwest quarter of the southwest quarter, Section 16, Township 50 North, Range 14 West;
be reclassified from Residential-Traditional (R-1) to Residential-Planned (R-P), and that the official

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-162)

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2012
Approved December 3, 2012
DON NESS, Mayor

ORDINANCE NO. 10191

AN ORDINANCE GRANTING TO RITCH MAKOWSKY A CONCURRENT USE PERMIT FOR CONSTRUCTION OF AN ACCESSIBLE RAMP TO PROJECT INTO THE NORTH 29TH AVENUE WEST RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Ritch Makowsky and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following: an accessible ramp structure located four-and-one-half feet from the property line, as shown in Public Document No. 12-1203-14.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

- (a) Homeowners liability insurance in an amount not less than \$300,000; and
- (b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and
- (c) The insurance policy shall be approved by the city attorney; and
- (d) The policy shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and
- (e) The city of Duluth shall be named as an additional insured; and
- (f) The certificate shall also reference this ordinance by its ordinance number.

Permittee shall cause a current version of the required insurance certificate to be filed with the city clerk while permission granted by this ordinance is exercised.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its agents, representatives, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engage in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the city clerk within five days of such transfer. The permittee's successor(s) in interest shall file with the city clerk within ten days of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3, above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3 above.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 12-1203-14; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file acceptance of this ordinance as specified in Section 2 within 30 days after this ordinance takes effect; or

(b) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(c) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

Section 10. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 3, 2012
Approved December 3, 2012
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 17, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on July 2, 12 and 16, 2012, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1217-07 Jodi Broadwell communication regarding state and local government funding and the impact of Pentagon spending (12-0639R). -- Received

12-1217-01 Ritch Makowsky acceptance of terms, conditions and provisions of a concurrent use permit granted by Ordinance No. 10191 on December 3, 2012. -- Received

12-1217-02 RT Quinlan's Saloon communication regarding the proposed 2013 liquor license fees (12-0608R). -- Received

12-1217-08 The following communications regarding the proposed procedure to correct errors related to eligible salary reporting to the Public Employees Retirement Association (PERA) (12-0642R): (a) Claudia Johnson; (b) Public Employee Retirees Group. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-1217-03 Duluth economic development authority minutes of October 24, 2012, meeting. -- Received

12-1217-04 Duluth parking commission: (a) Minutes of: (1) September 7; (2) October 5, 2012, meetings; (b) Resolutions, pursuant to Section 33-78 of the Duluth City Code: (1) Adding three parking meters on the west side of Second Avenue East just below First Street (2012-18); (2) Charging for parking only from 8:00 a.m. to 5:00 p.m. and only on weekdays at the Library/ Depot Upper Lot (2012-19); (3) Approving a parking advisory committee and development of a strategic plan (2012-20); (4) Approving a Duluth parking logo (2012-21); (5) Recommending that revenue recapture be utilized as a collection tool for parking ticket debts (2012-22); (6) Converting a portion of East Eighth Street to alternate side parking (2012-23); (7) Converting a portion of East College Street to alternate side parking (2012-24); (8) Prohibiting parking in the cul-de-sac terminus of East Eighth Street (2012-25); (9) Recommending that the city council add the eastern half of East Clover Street to the UMD resident permit parking zone (2012-26); (10) Prohibiting parking on a portion of East College Street (2012-27); (11) Converting the western half of a portion of East Clover Street to parking on the north side only (2012-28). -- Received

12-1217-05 Housing and redevelopment authority of Duluth minutes of: (a) August 28; (b) October 30, 2012, meetings. -- Received

12-1217-09 Spirit Mountain recreation area authority minutes of November 15, 2012, meeting. -- Received

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REPORTS OF COUNCIL COMMITTEES

12-1217-06 City council civil service reform working group recommendations dated:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(a) December 7; (b) December 13; (c) December 14, 2012, pursuant to Resolution 12-0130. --
Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tim Peterson reviewed the need for community development block grant funding for Life House programs and the successes that they have had.

- - -

Shawna Mulleneardly noted the harm of plastic bag littering and that they get into Lake Superior which then causes harm to humans and wildlife.

- - -

Loren Martel commented on the Duluth School District, noting: their financial plans such as projected savings and value of excess property was risky and unrealistic; school officials refused to listen to anyone else; escrow accounts have fallen 43 percent; a larger red plan tax bill is likely coming down the road and the red plan has never been audited.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the city council hereby authorizes a line of credit in the amount of \$300,000 for the Arrowhead Zoological Society subject to a fully executed promissory note, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-10, requiring loan repayment at 2.5 percent interest with the entire outstanding principal amount due and payable on August 1, 2013, funds to be paid from the zoo fund, loans receivable (Fund 200-1330).

Resolution 12-0634 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September 5, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Ridgeview Country Club, 700 West Redwing Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-11;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-11 regarding any suspension, revocation and/or civil penalty relating to the on sale club liquor license of Ridgeview Country Club, 700 West Redwing Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0552 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Roto of Duluth, Inc. (University Liquor), 1603 Woodland Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-12;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-12 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of Roto of Duluth, Inc. (University Liquor), 1603 Woodland Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0605 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Osaka Duluth, Inc. (Osaka Sushi Hibachi Steakhouse), 5115 Burning Tree Road, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-13 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of Osaka Duluth, Inc. (Osaka Sushi Hibachi Steakhouse), 5115 Burning Tree Road, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0606 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 7, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-14;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-14 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0607 was unanimously adopted.

Approved December 17, 2012

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 Carlton County Sheriff's Mounted Posse and A Race Worth Winning - ALS, Inc., and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 12-0610 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, the city council approved, with passage of Resolution 12-0048 on January 30, 2012, a proprietary annual contract with All Computer Service for consulting services, as well as hardware maintenance and support for mainframe operations during year 2012. The purchasing agent issued Purchase Order 12-0120 on January 31, 2012, for consulting services in the amount of \$70,000; and

WHEREAS, the city now requires additional consulting services from All Computer Service through December 31, 2012, with services to remain proprietary since the vendor maintains the equipment as well and city has no other options for this mainframe system support.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to increase the annual contract with All Computer Service by \$15,000 for consulting services in mainframe operations during 2012, for a new contract total of \$85,000; the increase of \$15,000 payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS) and Object 5319 (other professional services).

Resolution 12-0620 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into a contract with Structural Buildings, Inc., for the construction of a new communications tower on Park Point in Duluth in accordance with plans and specifications prepared by the city's project engineer MSA Professional Services, Inc., MSA Project No. 00616038, dated November 28, 2012, and the contractor's bid of \$130,003, payable from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2008-OTO810.

Resolution 12-0621 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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RESOLVED, that the appointment by Mayor Ness of Debbie Isabell-Nelson to the Duluth parking commission for a term expiring on March 31, 2013, is confirmed.

Resolution 12-0638 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves of that second amendment lease agreement between the Duluth economic development authority and AAR Aircraft Serves, Inc., for the lease of the MRO facility at Duluth International Airport, a copy of which is on file in the office of the city clerk as Public Document No. 12-1217-15, reducing rents for the facility for a five year period.

Resolution 12-0609 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the Minnesota historical society (MHS) in the amount of \$7,000 and to execute a grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-16, for the purpose of Duluth's planning process for an ethnographic study of the American Indian heritage of Duluth project and agreeing to provide the city's in-kind contribution of \$3,000 in the form of city staff services, funds to be deposited in Fund 265-020-5441 (CD and housing administration, planning, other services and charges).

Resolution 12-0616 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that:

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

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, November 13, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted easement described below and as described and depicted on Public Document No. 12-1217-17:

An easement for utility and pedestrian purposes which lies over the easterly 10.0 feet of Lot 3, Block 5, and the westerly 10.0 feet of Lot 4, Block 5, Hartley Estates First Addition, according to the plat recorded January 28, 1992, as Document No. 543859, St. Louis County, Minnesota; and

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-1217-17 showing the platted easement to be vacated.

Resolution 12-0618 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Approved December 17, 2012
DON NESS, Mayor

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the FY 2013 action plan portion of the FY 2010-2014 city of Duluth consolidated plan for housing and community development required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 12-0626 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 12-0625 and 12-0624 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

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

Resolution 12-0623 was unanimously adopted.

Approved December 17, 2012
DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated plan; and

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

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

2013 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD13ES		
SUBPROJECT	PROJECTS	AMOUNT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

1244	CHUM emergency shelter	\$ 31,744
2109	MACV - Duluth	\$ 4,608
2509	Battered women's shelter - Safe Haven	\$ 19,968
2511	Transitional housing - Salvation Army	\$ 27,136
1974	HMIS data collection - Life House	\$ 7,680
1226	Transitional housing - Center City Housing Corporation	\$ 31,232
1050	Transitional housing and shelter - AICHO	\$ 10,752
6092	HMIS data administration - Wilder Foundation	\$ 8,000
AD-05	Prevention and rapid re-housing assistance	\$ 64,346
AD-04	Program administration - city	\$ 16,672
	Total	\$222,138

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

Source of Funding

2013 ESGP grant	\$222,138
Total	\$222,138

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

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

Resolution 12-0624 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated plan; and

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

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

2013 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD13HM

SUBPROJECT	ACTIVITY	PROJECTS	AMOUNT
GN13	1736	Homeless rental assistance program (TBRA)- HRA	\$125,000
GN13	1737	TBRA administration - HRA	\$ 7,500
GN13	1738	Homeowner rehabilitation - housing resource connection - HRA	\$ 79,619

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

CH13	1226	Housing redevelopment - Center City Housing	\$ 13,000
CH13	6915	Hillside Apartments - One Roof Housing	\$250,000
GN13	AD03	Program administration (city)	\$ 44,450
		Total	\$519,569

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

Year 2013	HOME grant	\$519,569
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BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

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

Resolution 12-0625 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-18, for public street, roadway and utility purposes over, under and across a strip of land 66 feet wide lying in the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota, the centerline of said easement being described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320 on file in the office of the St. Louis County registrar of titles; thence North 89 degrees 23 minutes 03 seconds East along the centerline said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the centerline to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 83.00 feet; thence southeasterly a distance of 79.00 feet along a tangential curve concave to the northeast having a radius of 100.00 feet and a central angle of 45 degrees 15 minutes 49 seconds; thence South 89 degrees 49 minutes 54 seconds East, a distance of 163.00 feet to a point hereinafter referred to as Point "A"; thence continuing South 89 degrees 49 minutes 54 seconds East, a distance of 350.32 feet to the east line of said SW 1/4 of the SE 1/4 and said centerline there terminating.

The sidelines of said easement are prolonged or shortened to terminate on the easterly line of Nick Glumac Drive and the east line of the SW 1/4 of the SE 1/4 of said Section 34.

Subject to existing easements of record.

TOGETHER WITH

An easement for public street, roadway and utility purposes over, under and across

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota, not included in the above described easement which lies within the circumference of a circle having a radius of 75.00 feet. The center point of said circle being the aforementioned Point "A."

Subject to existing easements of record.
Resolution 12-0628 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

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RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-19, for public drainage purposes over, under and across that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; said easement being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds; thence South 44 degrees 34 minutes 05 seconds East, a distance of 83.00 feet; thence southeasterly a distance of 79.00 feet along a tangential curve concave to the northeast having a radius of 100.00 feet and a central angle of 45 degrees 15 minutes 49 seconds; thence South 89 degrees 49 minutes 54 seconds East, a distance of 513.52 feet; to the east line of said SW 1/4 of the SE1/4; thence South 00 degrees 15 minutes 59 seconds East along said east line of said SW 1/4 of the SE1/4, a distance of 33.00 feet to the Point of Beginning; thence South 00 degrees 15 minutes 59 seconds East along said east line of said SW 1/4 of the SE1/4, a distance of 210.00 feet; thence North 89 degrees 49 minutes 54 seconds West, a distance of 70.00 feet; thence North 00 degrees 15 minutes 59 seconds West parallel with said east line, a distance of 210.00 feet; thence South 89 degrees 49 minutes 54 seconds East, a distance of 70.00 feet to the Point of Beginning.

Subject to existing easements of record.
Resolution 12-0629 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

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RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-20, for public street, roadway and utility purposes over, under and across a strip of land lying in the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Fifteen (15) West of the Fourth (4th) Principal Meridian, described in Document No. 851320 as recorded in the registrar of titles office, St. Louis County, the easement being described as follows:

A 17 foot wide easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; lying between two lines 33.00 feet and 50.00 feet easterly of the centerline described in Document No. 851320 as recorded in the registrar of titles office, St. Louis County, Minnesota described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet to the Point of Beginning of the line to be described; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West, a distance of 195.64 feet; thence northwesterly along a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet and said line there terminating.

The southerly sideline being a line 33.00 feet northeasterly of and parallel with the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the line to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 45 feet more or less and said southerly sideline there terminating.

AND

A 90 foot wide easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; lying 40.00 feet northwesterly of and 50.00 feet southeasterly of the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West along the centerline said Nick Glumac Drive, a distance of 195.64 feet; thence northwesterly along said Nick Glumac Drive and being a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet to the Point of Beginning of the line to be described; thence North 17 degrees 36 minutes 52 seconds West, a distance of 93.50 feet; thence northerly a distance of 184.70 feet along a tangential curve concave to the east having a radius of 330.00 feet, and a central angle of 31 degrees 46 minutes 46 seconds to a point hereinafter referred to as Point "A" and said line there terminating.

TOGETHER WITH

An easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota not included in the above described easement which lies within the circumference of a circle having a radius of 90.00 feet. The center point of said circle being the aforementioned Point "A."

Resolution 12-0630 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-21, for public utility and drainage purposes over, under and across that part of the Northwest Quarter of the Southeast Quarter (NW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; said easement being more particularly described as follows:

Commencing at the Northwest Corner of the NW 1/4 of the SE 1/4 of said Section 34; thence North 89 degrees 38 minutes 47 seconds East, assumed bearing, along the north line of the NW 1/4 of the SE 1/4 of said Section 34, a distance of 835.29 feet; thence South 00 degrees 21 minutes 13 seconds East, a distance of 40.00 feet to south line of Commonwealth Avenue and being the Point of Beginning; thence South 00 degrees 34 minutes 17 seconds East, a distance of 400.00 feet; thence South 13 degrees 49 minutes 32 seconds West, a distance of 156.00 feet; thence South 33 degrees 02 minutes 18 seconds West, a distance of 196.00 feet; thence northeasterly a distance of 98.56 feet along a 90.00 foot radius curve concave to the south and being Nick Glumac Drive, having a chord bearing North 43 degrees 54 minutes 19 seconds West, and a central angle of 62 degrees 44 minutes 33 seconds; thence North 14 degrees 43 minutes 25 seconds East, a distance of 73.00 feet; thence North 23 degrees 49 minutes 29 seconds East, a distance of 151.71 feet; thence North 62 degrees 35 minutes 16 seconds East, a distance of 70.00 feet; thence North 00 degrees 15 minutes 38 seconds East, a distance of 384.00 feet; thence South 89 degrees 59 minutes 15 seconds West, a distance of 355.00 feet; thence South 40 degrees 18 minutes 19 seconds West, a distance of 105.00 feet; thence South 49 degrees 41 minutes 41 seconds East, a distance of 16.00 feet; thence South 20 degrees 24 minutes 43 seconds West, a distance of 164.36 feet; thence South 00 degrees 50 minutes 54 seconds East, a distance of 186.00 feet; thence South 89 degrees 39 minutes 52 seconds West, a distance of 75.26 feet to the east line of said Commonwealth Avenue and also being the most easterly line of Minnesota Trunk Highway No. 23; thence northerly along said most easterly line of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Minnesota Trunk Highway No. 23 to the south line of Commonwealth Avenue; thence easterly along the south line of Commonwealth Avenue to the Point of Beginning.

AND

A 20.00 foot wide easement for drainage purposes over, under and across those parts of Lots Three (3) thru Eight (8), Block 4, MORGAN PARK FIRST ADDITION (formerly known as Gary Second Division of Duluth), St. Louis County, Minnesota; centered on the following described line:

Commencing at the Northwest Corner of the NW 1/4 of the SE 1/4 of said Section 34; of said Section 34; thence North 89 degrees 38 minutes 47 seconds East, assumed bearing, along the north line of the NW 1/4 of the SE 1/4 of said Section 34, a distance of 877.45 feet; thence North 00 degrees 21 minutes 13 seconds West, a distance of 40.00 feet to a point on the south line of Block 4, MORGAN PARK FIRST DIVISION and being the Point of Beginning of the line to be described; thence North 47 degrees 18 minutes 55 seconds East, a distance of 116.00 feet and said line there terminating.

Resolution 12-0631 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth does hereby approve the land sale agreement on file in the office of the city clerk as Public Document No. 12-1217-22, between the Duluth economic development authority (DEDA) and the housing and redevelopment authority of Duluth, Minnesota (HRA), conveying certain property to the HRA for the sum of \$1 related to the Park Place development project.

Resolution 12-0635 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-23, with Local 66 of AFSCME Council 5, addressing the separation of city assessor office employees from city employment and the transition of employment to St. Louis County.

Resolution 12-0640 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-24, with Duluth-Superior Public Access Community Television, Inc., (PACT) for providing cablecasting, training and production and administrative services in 2013 relating to public access television in the net amount of \$182,000, to be paid from 110-700-1414-5441 (general, transfers and other functions, public access television).

Resolution 12-0619 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 12-1217-25, with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2013 state legislative program, at a cost to the city not to exceed \$46,500 for the year 2013, and ability for the administration to renew for a second year, which shall be payable from 110-700-1401-5312 (general fund, transfers and other functions, citywide dues and lobbying, lobbyist fees).

Resolution 12-0633 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-26, with St. Louis County, Minnesota, authorizing the county to provide assessment services to the city for all real property located in the city effective January 1, 2013.

FURTHER RESOLVED, that pursuant to the terms of the agreement the city is authorized to make transition assistance payments to the county in a total amount not to exceed \$375,000, payable from Fund 110-125-1213-5441 (general fund, finance department, assessor, other services and charges.)

Resolution 12-0641 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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RESOLVED, that calculation of monthly steam customer charges as described in Public Document No. 10-0913-17 approved pursuant to Resolution No. 10-0464 is hereby amended by the rate calculation on file in the office of the city clerk as Public Document No. 12-1217-27, to authorize inclusion of a rate normalization factor in the calculation of customer consumption charges, effective for steam provided to customers on and after January 1, 2013.

Resolution 12-0636 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-28, with Coulomb Technologies, Inc., for the purchase of a jumpstart program ChargePoint electric vehicle charging station at no cost to the city.

Resolution 12-0646 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

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WHEREAS, Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, has completed Contract 21242 with the city of Duluth for all phases of the purchase, installation and expansion of a port security camera system, following approval of resolutions 10-0496 (September 27, 2010) and 12-0285 (June 11, 2012); and

WHEREAS, the city desires to continue to enhance its security system and initiate a new contract with Avrio for additional installations.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

contract with Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, for the purchase and installation of five additional cameras and related equipment for the city's port security system and impound lot for \$59,316.91 plus \$2,545.60 sales tax, for a combined total of \$61,862.51, in accordance with the vendor's quotes and payable as follows:

Requisition: 12-0652

- \$19,284.22 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating);
- \$22,103.07 Duluth Police Grant Programs Fund 215, Department/Agency 200 (Police), Division 2295 (2010 justice assistance grant), Object 5241 (small equipment-office/operating);
- \$9,775.44 Duluth Police Grant Programs Fund 215, Department/Agency 200 (Police), Division 2299 (2012 JAG), Object 5580 (capital equipment).

Requisition: 12-0651

- \$1,208.00 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5201 (computer supplies/software);
- \$4,133.78 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating);
- \$5,358.00 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating).

Resolution 12-0612 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-29, with the International Association of Chiefs of Police, to conduct 15 days of training and instruction on the subject of leadership, payable from Fund No. 110-160-1610-5448 (general, police, administration and investigation).

Resolution 12-0615 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to contract with Emergency Automotive Technologies, Inc., for the tax-exempt purchase and delivery of various equipment for outfitting fully-marked Duluth police squads in accordance with Minnesota State Contract Release V-30(5) specifications and pricing for a total amount of \$51,321.35, payable from Capital Equipment 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year-2012), Object 5580 (capital equipment), Project No. CE250-V1202.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0637 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, 1959, as amended, the city council hereby indicates that on Monday, January 14, 2013, at 7:00 PM in the Council Chamber on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate East Clover Street between East Eighth Street and East Seventh Street as a resident permit parking zone, as manifested by the map on file in the office of the city clerk as Public Document No. 12-1217-30.

FURTHER RESOLVED, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to the occupants at each address within or abutting the parking areas of the streets so proposed to be designated.

Resolution 12-0643 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

RESOLVED, the proper city officials authorize amendment to Concession Management Agreement 21045, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-31, between the city and Professional Golf Management, Inc. The amendment extends operation and management of the Lester Park and Enger Park golf courses for an additional year, ending December 31, 2013. The annual cost in 2013 will be \$416,160, payable from Fund 503 (golf), 400 (parks and recreation), ENGR and LSTR (Enger and Lester Golf Course).

Resolution 12-0622 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

RESOLVED, the proper city officials authorize acceptance of a donation from the Senior Programs Advisory Board. The monies received from the Senior Programs Advisory Board are committed for use in senior activities and will be deposited into 210 (special funds), 030 (finance), 3133 (senior programs), 4660 (gifts and donations).

Resolution 12-0632 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

The following resolutions were also considered:

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated Plan; and

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

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

funding levels as set forth below:

2013 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD13CD

SUB

PROJECT	ACTIVITY	AMOUNT	PROJECTS
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HOUSING PROJECTS

HOUS	1734	\$514,400	Housing Resource Connection - One Roof/HRA
HOUS	1091	\$180,407	Weatherization Program - AEOA/Ecolibrium3

ECONOMIC DEVELOPMENT PROJECTS

ECDV	2412	\$120,000	SOAR Duluth At Work - SOAR Career Solutions
ECDV	1244	\$ 72,000	CHUM Support Services for Employment - Churches United in Ministry
ECDV	2264	\$ 64,000	Growing Neighborhood Businesses - Northeast Entrepreneur Fund, Inc.
ECDV	1974	\$ 24,000	Futures Program - Life House
ECDV	1291	\$ 48,000	Circles of Support - Community Action Duluth

PUBLIC FACILITY IMPROVEMENT PROJECTS

PFAC	PF01	\$225,000	Hillside Apts. Facility - One Roof Housing
PFAC	PF03	\$142,000	Lifeline Building renovation - Life House

PUBLIC SERVICE PROJECTS

PSVC	1244	\$ 65,550	Duluth Hunger Project - CHUM
PSVC	1929	\$ 62,890	Primary Health Care Services - Lake Superior Community Health Center
PSVC	1348	\$ 16,500	Clothes That Work and Social Services - Damiano Center
PSVC	124A	\$ 27,950	Homeless Stabilization Services - CHUM
PSVC	1974	\$ 28,870	LIFELINE Expressway of Youth Services - Life House
PSVC	1226	\$ 15,280	Permanent Supportive Housing - Center City
PSVC	2509	\$ 17,100	Battered Women's Shelter Program - Safe Haven Shelter
PSVC	2511	\$ 16,730	Transitional Housing Program - Salvation Army
PSVC	1168	\$ 20,810	Feeding Kids Through Youth Programs - YMCA
PSVC	2109	\$ 15,000	Services for Homeless Veterans - MACV
PSVC	122A	\$ 18,810	Transitional Housing Program - Center City
PSVC	1050	\$ 3,150	Oshki Transitional Housing - AICHO
PSVC		\$ 12,085	Coordinated Homeless In-take process

PLANNING/PROGRAM ADMINISTRATION

ADMC	AD01	\$407,633	CDBG Program Administration
ADMC	AD02	\$ 20,000	Neighborhood Revitalization Planning

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

SOURCE OF FUNDING

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Year 2013	CDBG grant - city	\$2,138,165
Total		\$2,138,165

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

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

Resolution 12-0626 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0585, distributing the estimated 2013 tourism taxes of hotel-motel and food and beverage, was introduced by Councilor Krug for discussion.

President Hartman moved to amend the resolution by inserting the following language to the first paragraph:

“with an understanding that each entity will complete an annual performance review for their performance in 2013 (questions for the performance review shall be approved by resolution of the city council)”,

which motion was seconded and carried upon the following:

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

Nays: Councilor Fosle -- 1

Resolution 12-0585, as amended, was adopted as follows:

RESOLVED, that the 2013 tourism taxes of hotel-motel and food and beverages, as estimated, be distributed in the following manner, with the understanding that each entity will complete an annual performance review for their performance in 2013 (questions for the performance review shall be approved by resolution of the city council):

	3% Hotel-Motel	1% Hotel-Motel	1.75% Food & Beverage	Add'l 2% Hotel-Motel	Total
DECC Amsoil Arena Debt Service	1,160,900		1,482,000		\$2,642,900
Visit Duluth	625,100	196,100	600,000	178,800	\$1,600,000
Transfer to General Fund	94,000	260,100	287,000	96,800	\$737,900
Lake Superior Zoo Fund			403,800	106,200	\$510,000
Spirit Mountain Debt/Capital				500,000	\$500,000

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	3% Hotel-Motel	1% Hotel-Motel	1.75% Food & Beverage	Add'l 2% Hotel-Motel	Total
Great Lakes Aquarium Operations		53,300	184,000	112,700	\$350,000
Business Improvement District			200,000		\$200,000
Heritage and Arts Center		81,500	73,000	22,300	\$176,800
Capital Projects			17,500	82,500	\$100,000
Other Promotional Programs			88,400		\$88,400
DECC - Bayfront Park		36,000	50,700		\$86,700
Undesignated Fund Balance			6,600	43,200	\$49,800
Public Arts Fund			30,000	20,000	\$50,000
Duluth Sister Cities International			15,000	15,000	\$30,000
Lake Superior & Mississippi RR			20,000		\$20,000
Rail Alliance				12,500	\$12,500
TOTALS	\$1,880,000	\$627,000	\$3,458,000	\$1,190,000	\$7,155,000

Resolution 12-0585, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson and President

Hartman -- 7

Nays: Councilors Krause and Stauber -- 2

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, was introduced by Councilor Krug for discussion.

Councilor Krause moved to amend the first paragraph of the resolution by inserting after the phrase, "are hereby established," language to the effect of:

"at the private sector cost of living increase and not the implicit price deflator as required by City Code Section 2-5(b)...,"

which motion was seconded and discussed.

Councilor Krause reviewed that his amendment would change the fee index to what citizens experience in their everyday, private lives.

Councilor Stauber supported the amendment because the inflation for government is higher

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

than what consumers pay.

Chief Administrative Officer David Montgomery opposed the amendment because the index reflects what the city's inflation costs are, which the city has to pay, and the council should either approve, or have the city absorb, those increased costs.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

Councilor Fosle opposed the liquor fee increases because activity in these businesses has slowed down. He thought that maybe the increases should be based on sales volume and an annual capped fee.

Resolution 12-0608 was adopted as follows:

RESOLVED, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses, fines, penalties and other charges listed in Public Document No. 12-1217-32 are hereby established as those set forth in said public document, effective as of January 1, 2013.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said public document are hereby superseded as of January 1, 2013, and of no future effect.

Resolution 12-0608 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0614, approving the fiscal year January 1, 2013, to December 31, 2013, budgets of the Duluth economic development authority (DEDA), was introduced by Councilor Krug.

Councilor Stauber expressed his opposition to the internal transfer of funds from DEDA to the general fund, which has a significant impact on economic development.

Resolution 12-0614 was adopted as follows:

RESOLVED, that the DEDA operating fund, debt service fund, capital project fund, storefront loan funds and NWA maintenance facility fund budgets on file in the office of the city clerk as Public Document No. 12-1217-33 are hereby approved.

Resolution 12-0614 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0642, establishing a procedure to correct errors related to eligible salary reporting to the public employees retirement association (PERA), was introduced by Councilor Krug for discussion.

Councilor Krug moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Patrick Alexander, president of the Public Employees Group, Mark Wick and Jim Wood

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

supported the resolution, with Option B, for the reasons of: many retired employees were uncertain how they would make back payments if they were forced to; some have cancelled home purchases due to the uncertain settlement of this issue; in 1997, a new retiree never had an idea that they might have to pay part of their pension back and pensions have been reduced as health care costs have increased.

Councilor Krug moved to amend the ninth paragraph of the resolution to insert Option "B" in the blank, which motion was seconded and unanimously carried.

Councilors discussed at length the issue and its history.

Resolution 12-0642, as amended, was adopted as follows:

WHEREAS, the city auditor discovered in July of 2007 that certain employer-paid benefits, primarily city provided deferred compensation/family health care premium subsidies had been incorrectly treated as Public Employees Retirement Association (PERA) eligible salary since approximately 1995; and

WHEREAS, Chapter 8 of House File Number 14, and Senate File Number 7 of 2011 Minnesota 1st Special Session Laws, passed into law by Governor Mark Dayton on July 20, 2011, established procedures by which the executive director of PERA shall adjust erroneous employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth and by the Duluth Airport Authority on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008; and

WHEREAS, pursuant to the ruling *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) on August 6, 2012, the Minnesota Supreme Court found that the PERA board erred by adjusting employees' contributions and benefits and by recouping overpayments of benefits based on the city of Duluth's salary-supplement payments relating to deferred compensation; the Minnesota Court of Appeals ordered PERA to modify its adjustments to the contributions and benefits and to modify its recoupment of overpayments of benefits so as to ensure that the city of Duluth's salary-supplement payments related to deferred compensation were included in the calculation of PERA eligible salary, however salary-supplement payments relating to health care premiums were upheld to be non-PERA eligible salary; and

WHEREAS, the PERA board has not appealed the Minnesota Court of Appeals decision *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) to the Minnesota Supreme Court; all appeal deadlines have since passed; and

WHEREAS, the Minnesota Court of Appeals' decision *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) is legally binding on the amounts that the PERA board must deem to be valid versus invalid salary; and

WHEREAS, considering the provisions of the above-referenced 2011 Special Session Law, the city has three possible options available to it for the correction of erroneous employee deductions, employer contributions and the adjustment of overpaid benefits (1) follow existing law, (2) a compromise option, and (3) limit application to three years; and

WHEREAS, the city council has reviewed the options available and has determined which procedure is in the best interests of the city to pursue.

THEREFORE BE IT RESOLVED, that in accordance with Minnesota Statutes Section 645.021, Subd. 2, the Duluth City Council hereby approves the provisions of Chapter 8 of House File Number 14, and Senate File Number 7 of the 2011 Minnesota 1st Special Session Laws and directs the city clerk to file the applicable certificate of approval with the secretary of state.

FURTHER RESOLVED, that the city council hereby elects to employ Option B, as set forth

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

on Public Document No. 12-1217-34 on file in the office of the city clerk, in order to correct erroneous employee deductions, employer contributions and adjusting overpaid benefits due to certain employer-paid benefits being incorrectly treated as PERA eligible salary since approximately 1995 through 2007.

Resolution 12-0642, as amended, was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0644, authorizing the application for and acceptance of a \$50,000 grant from the U.S. department of energy and Minnesota department of commerce through the American recovery and reinvestment act of 2009 for a feasibility study on the expansion of Duluth's steam systems in Canal Park; and Resolution 12-0645, authorizing an agreement with Ever-Green Energy, LLC, for professional consulting services for the preparation of a feasibility study for the expansion of Duluth's steam network in canal park in an amount not to exceed \$45,100, were introduced by Councilor Krug for discussion.

Councilor Fosle expressed his concerns that Ever-Green originally stated that they would not be looking to change from steam to hot water and now it shows that they will be making that change with the costs of this being on all the taxpayers of the city, even though they will not all receive this service.

Mr. Montgomery reviewed how this study is not for the full system, just the leg going to the Canal Park, which currently has hot water being used in some locations there.

Resolutions 12-0644 and 12-0645 were adopted as follows:

RESOLVED, that the proper city officials are authorized to apply for an accept a grant in the amount of \$50,000 from the U.S. department of energy and Minnesota department of commerce through the American Recovery and Reinvestment Act of 2009 (ARRA) and to execute a grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-35, for the purpose of a feasibility study on the expansion of Duluth's steam systems in Canal Park, funds to be deposited in Fund 540-920-1496-4210 (steam fund, steam department, utility revenues, pass-thru federal grants).

Resolution 12-0644 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Ever-Green Energy, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-36, for professional consulting services for the preparation of a feasibility study for the expansion of Duluth's steam network in Canal Park in an amount not to exceed \$45,100, payable from Fund 540-920-1495-5319 (steam fund, steam department, steam general and administrative, other professional services).

Resolution 12-0645 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 17, 2012

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

DON NESS, Mayor

- - -

Resolution 12-0604, in the matter of the off sale liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, was introduced by Councilor Krause for discussion.

Councilor Krause moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Katie Hagglund, a member of the family owning this business, noted that there was a mitigating circumstance to the police department's sting of their employee since the employee did ask the decoy for his identification and when he did not have it, the employee asked him if he was 21 and the decoy then stated that he was, which is not proper procedure for the decoy to lie. She noted that they realize their employee broke the law, but there are mitigating circumstances, as supported by alcohol, gambling and tobacco commission's recommendation.

Councilor Krause expressed concerns that other licensees with similar circumstances were charged \$500 and that the city should treat all licensees the same and not be discriminatory.

Resolution 12-0604 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 7, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-37;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-37 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$100 for the offense payable within 30 days of final city action.

Resolution 12-0604 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0613, authorizing execution of an agreement with the Duluth economic development authority (DEDA) relating to participation by DEDA in the city of Duluth self insurance fund program for 2013, was introduced by Councilor Stauber for discussion.

Councilor Krause expressed concerns that, with the city being self insured, when something happens on DEDA property, the city taxpayers would have to pay for it and with only one catastrophic incident it would significantly affect the city's operations.

Resolution 12-0613 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

No. 12-1217-38, which allows DEDA to participate in the city's self insurance fund program during 2013; DEDA funds in the amount of \$7,000 to be deposited into self insurance fund Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 12-0613 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0627, by councilors Stauber and Krause, requesting the mayor and city administration remove any signage designating a free speech zone (first amendment area) in Bayfront Festival Park and terminate any enforcement thereof, was introduced for discussion.

Councilor Stauber commented at length about the issues of: historical free speech creation across the nation and locally; the creation of this free speech zone at Bayfront that the council was not made aware of prior to its creation and that the City Charter states the legislative duties and powers of the city council.

Mr. Montgomery noted that: the administration could have handled this process better; the city was sued and responded to it; the police officer there has been removed and the city is looking to resolve this situation and support Bentleyville.

City Attorney Gunnar Johnson noted that: the litigation is from an incident in 2010; no one has been arrested; a closed session should be conducted if the councilors have further questions about this case.

Councilors commented at length about the issue raised in the resolution and the administration's comments.

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

- - -

Resolution 12-0639, by Councilor Gardner, regarding state and local government funding and the impact of Pentagon spending, was introduced for discussion.

Councilor Gardner moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Fletcher Hinds, Rodger Cragun, John Clark Pegg, Hal Moore, Justine Anderson, Scot Bol, Jan Karon, Jack Nelson-Pallmeyer, Tyler Nord, Tom Gilliam and Warren Howe supported the resolution for the reasons of: from a veteran's point of view supporting the troops means transporting the veterans back into a culture that is committed to care for them; this is a country who takes care of those who are in need; the federal budget should not be balanced on the back of those who have fought in the wars, that have put the country into debt; multi-million dollar military expenditures are supporting corporate welfare to executives; we are being destroyed and bankrupted with a budget that has over 50 percent spending on the military; the city and school board has had to make cuts because of state and federal funding cuts; a strong and realistic national defense is needed but an unchallenged national defense budget is creating a nation less stable and secure; it is respect and interest in the trust of others that brings about cooperation and goodwill, rather than the other way around which is practiced through the military; there are very serious issues that citizens have to deal with at home that will not be solved through the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

production of assault weapons; most students are drowning with education debt; this resolution has strong support across the state and country; the country is not broke, just that too much is spent on the military; there is so much that could be accomplished with reprioritizing our spending; the United States spends an enormous amount on military spending; our national priorities need to be changed to domestic spending; this is only a request to Minnesota representatives to make an effort to shift spending priorities; this starts a conversation of what needs are not being met in communities and what could be changed with less military spending; next year more dollars will be spent in Afghanistan than on the entire total food stamp program; the government has created a phony perception of terrorism and this is the business of the city council because this is a vote for the constituents, because, with less military spending, it could bring federal dollars back to the community.

Councilors Krause and Stauber opposed the resolution for the reasons of: military spending keeps local manufacturing businesses open and local residents employed; there is a great deal of research that is done for the military and then available to consumers; local guard bases employ citizens and support the community and a strong military is the most crucial service that the government can provide to its citizens.

President Hartman stated that he would be abstaining for professional reasons.

Resolution 12-0639 was adopted as follows:

WHEREAS, in 2011 the Minnesota state government shut down over disputes as to how to address a \$5 billion two-year budget shortfall; and

WHEREAS, many small towns, cities and rural communities throughout the state are managing austerity budgets, laying off police, firefighters, and teachers and cutting essential services in response to cuts in state aid and/or federal cuts to community development block grants; and

WHEREAS, communities throughout the state have suffered from a regressive property tax system due in part to state and federal cuts; and

WHEREAS, Duluth tax payers have contributed \$450 million and counting towards the Iraq and Afghanistan wars alone; and

WHEREAS, in addition to these costly wars, Minnesota tax payers are spending more than \$16 billion in 2012 for their share of the base Pentagon budget, a budget that increased from \$290.5 billion to \$526 billion between 2000 and 2011; and

WHEREAS, in 2012 \$.59 of every dollar of federal discretionary spending is funding military purposes; and

WHEREAS, on a local level the 148th Fighter Wing is an example of a military unit doing more with less, and serves as a model of prudent military spending; and

WHEREAS, the budget for veterans is separate from the military budget and the nation has a responsibility to provide veterans with quality medical care and other support, including opportunities for meaningful jobs; and

WHEREAS, although the council highly values our military, our nation needs to better balance its approach to national security to include the economic, social, and environmental needs of our local communities, state and nation.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests that our state and federal representatives make an effort to shift federal funding priorities from Pentagon spending to domestic economic, social and environmental priorities to better serve local communities.

Resolution 12-0639 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krug and Larson -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: Councilors Fosle, Krause and Stauber -- 3

Abstention: President Hartman -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0617, authorizing a license agreement with the Duluth economic development authority (DEDA) to dispose of snow on property owned by DEDA Lot D located west of Bayfront Park at no cost to the city, was introduced by Councilor Julsrud for discussion.

Councilors Stauber and Fosle expressed concerns of: every state except Minnesota has rules about dumping snow next to rivers and streams; states that prohibit this, because of the problem of what is in the snow and DEDA has a grant to clean up Lot D.

Mr. Montgomery reviewed that the Minnesota pollution control agency has to approve this annual process and have notified the city that this should have a negative effect.

Resolution 12-0617 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute a license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-39, with the Duluth economic development authority (DEDA), to allow the city to dispose of snow from street plowing operations on certain DEDA-owned property known as DEDA Lot D located west of Bayfront Park.

Resolution 12-0617 was adopted upon the following vote:

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

Nays: Councilors Fosle and Stauber -- 2

Approved December 17, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

INTRODUCED BY COUNCILOR STAUBER

12-070(a) (10192) - AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-35, 50-37.1, AND 50-37.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING R-2 AND MU-N DEVELOPMENT STANDARDS, RESIDENTIAL PLANNED ZONING DISTRICTS, MIXED USE PLANNING ZONING DISTRICTS, SKYLINE PARKWAY OVERLAY DISTRICT, HIGHER EDUCATION OVERLAY DISTRICT, PERMITTED USE TABLE, VACATION DWELLING UNITS, SUMMARY TABLE, ADMINISTRATIVE ADJUSTMENTS, AND PLANNING REVIEW.

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

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-070(b) - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NON-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

CONFORMING SIGNS, AND DEFINITIONS.

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

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Todd Johnson commented that: businesses will be killed with these changes; permits for signs have been delayed; other cities in Minnesota and the city of Superior, Wisconsin, allows larger signs than this ordinance and measuring from the street curb is absurd for businesses built on hills.

Councilor Stauber moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-073 (10193) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.

Councilor Krug moved to suspend the ordinance from a speaker, which motion was seconded and unanimously carried.

David Ross, executive director of the Duluth Area Chamber of Commerce, expressed concerns that additional economic initiatives be found within the city's proposed budget with no additional tax increases and that a tax increase would be counterproductive.

Councilors Stauber, Gardner, Krause and Fosle opposed the ordinance for the reasons of: if the levy increased for additional staff, the city would lose three times that many private sector jobs; the need is to pay attention to the basic services and support existing businesses; these are tough economic times with job losses already; the more that is done in one area, requires a reduction in a different area and when the maximum levy was passed in September, DEDA had already hired an employee.

Mr. Montgomery noted that the employee referenced was already in the existing budget and that the city cannot successfully increase the tax base without this staffing.

Councilors Boyle, Larson, Krug, Julsrud and President Hartman supported the ordinance for the reasons of: this is the time to support economic development; this could help bring a couple of big companies to Duluth; the city is understaffed in this area; it is one of the smallest increases; there is a lot of momentum to move forward at this time; even with our other business partners, this is needed to carry new business opportunities across the line; next to streets, this was the next highest priority for citizens and compared to other cities in Minnesota of our size, their economic staff is much larger than this.

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

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

- - -

INTRODUCED BY COUNCILOR KRUG

12-074 (10194) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

Councilor Krug moved passage of the ordinance and the same was adopted as follows:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

INTRODUCED BY COUNCILOR KRUG

12-076 (10195) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013; APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Stauber noted that the 2013 budget did not include any funding for street preservation and improvements.

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

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

- - -

INTRODUCED BY COUNCILOR STAUBER

12-075 (10196) - AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH).

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

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Boyle announced that he wished to be considered as a candidate for council president in 2013.

Councilors Krug and Stauber announced that they wished to be considered as candidates for council vice president for 2013.

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The meeting was adjourned at 10:19 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10192

AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-35, 50-37.1, AND 50-37.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING R-2 AND MU-N DEVELOPMENT STANDARDS, RESIDENTIAL PLANNED ZONING DISTRICTS, MIXED USE PLANNING ZONING DISTRICTS, SKYLINE PARKWAY OVERLAY DISTRICT, HIGHER EDUCATION OVERLAY DISTRICT, PERMITTED USE TABLE, VACATION DWELLING UNITS, SUMMARY TABLE, ADMINISTRATIVE ADJUSTMENTS, AND PLANNING REVIEW.

The city of Duluth does ordain:

Section 1. That Section 50-2 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Sec. 50-2. Purpose.

The purpose of this Unified Development Chapter is to protect public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan using those authorities over the development, redevelopment, use, and occupancy of land and structures, and over the protection of the environment, granted to the city by the state. This general purpose includes, but is not limited to, the following:

- (a) To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles travelled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production;
- (b) To control or eliminate soil erosion and sedimentation within the city;
- (c) To protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- (d) To enhance the visual and aesthetic character, diversity and interest of the city;
- (e) To promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the city;
- (f) To regulate erection and maintenance of signs in the city in order that signs might fulfill their necessary and useful function in such a way to preserve the public welfare and safety;
- (g) To preserve the integrity of residential areas and the character and dignity of public structures, parks and other open spaces;
- (h) To enhance property values and the general appearance and natural beauty of the city;
- (i) To protect the public investment in streets and highways;
- (j) To establish a comprehensive system of sign controls governing the display, design, construction, installation and maintenance of signs and to promote the orderly and effective display of outdoor advertising;
- (k) To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands, and floodplains.

Section 2. That Section 50-13.3 of Chapter 50 be amended as follows:

50-13.3 Zone districts established.

For the purposes of this Article, the city is hereby divided into districts, as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Table 50-13.3-1: Zone Districts Established		
District Type	Abbreviation	District Name
Residential	R-C	Rural-Conservation
	RR-1	Residential-Rural 1
	RR-2	Residential-Rural 2
	R-1	Residential-Traditional
	R-2	Residential-Urban
	R-P	Residential-Planned
Mixed Use	MU-N	Mixed Use-Neighborhood
	MU-C	Mixed Use-Commercial
	MU-I	Mixed Use-Institutional
	MU-B	Mixed Use-Business Park
	MU-W	Mixed Use-Waterfront
	MU-P	Mixed Use-Planned
Form Based	F-1	Form District 1
	F-2	Form District 2
	F-3	Form District 3
	F-4	Form District 4
	F-5	Form District 5
	F-6	Form District 6
	F-7	Form District 7
	F-8	Form District 8
	F-9	Form District 9
Special Purpose	I-G	Industrial-General
	I-W	Industrial-Waterfront
Overlay	NR-O	Natural Resources Overlay
	PS-O	Park & Open Space
	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay
	HE-O	Higher Education-Overlay

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 3. That Section 50-14.6 of Chapter 50 be amended as follows:

50-14.6 Residential-Urban (R-2).

A. Purpose.

The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

TABLE 50-14.6-1 R-2 DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
Minimum lot area per family	Two-family	2,500 sq. ft.
Minimum lot area per family	Multi-family	750 sq. ft.
Minimum lot area per family	Townhouse	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use.		
Minimum lot frontage	One-family, two-family, and townhouse	30 ft.
	Multi-family and non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard for structures less than 3 stories		6 ft.
Minimum width of side yard for structures 3 stories or more		10 ft.
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory structure	20 ft.
	Permitted non-residential structure	25 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure		45 ft.

Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

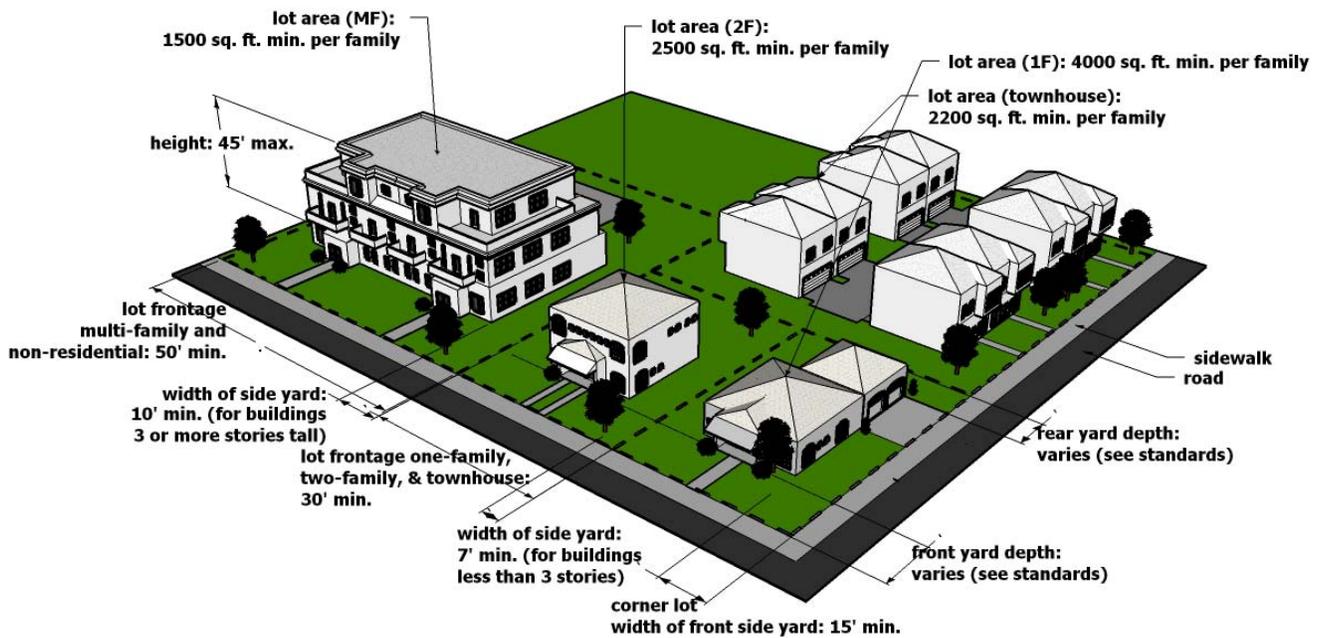
B. Example.

R-2 Example Building Form



C. Illustration.

R-2 Example Lot Layout



Section 4. That Section 50-14.7 of Chapter 50 be amended as follows:

50-14.7 Residential-Planned.

A Purpose.

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide

unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences, and townhouses, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan.

B. Examples.

R-P Example Building Forms



C. Modifications.

An applicant may seek only the modifications in Table 50-14.7-1, based on demonstration of how the proposal supports the purpose of the R-P district as stated in Section 50-14.7.A and the following desired R-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28.
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit.
6. Creative site design as appropriate for the site, such as New Urbanist design for a walkable community or conservation development for a rural neighborhood.
7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Table 50-14.7-1: Modifications Allowed.	
Chapter Requirement	Maximum Modification Allowed
<u>Distance from property lines</u>	<u>Reduction in setbacks; minimum 5' setback from rights of way</u>
<u>Lot frontage</u>	<u>25% decrease</u>
<u>Lot area, general</u>	<u>20% decrease</u>
<u>Lot area, when clustering is used to preserve open space</u>	<u>Overall density of the R-P district should demonstrate a maximum of 20% decrease over base zone districts. Individual lot sizes are allowed up to a 50% decrease.</u>
<u>Building height</u>	<u>Up to a 5' increase</u>
<u>Landscaping</u>	<u>15% decrease</u>
<u>Street width</u>	<u>As determined by city engineer</u>

D. Applicability.

An R-P district shall only be established in the RR-1, RR-2, and R-1 districts provided the property meets the requirements in Table 50-14.7-2.

TABLE 50-14.7-2: Characteristics of R-P Areas	
<u>Current zoning</u>	<u>RR-1, RR-2, R-1</u>
<u>Minimum lot size</u>	<u>4 acres</u>

E. Rezoning approval and regulating plan required.

The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11 that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the R-P district, approval of the R-P plan is deemed to include subdivision approval; R-P districts are not required to submit a separate subdivision application under Section 50-37.5.

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P regulating plan. The ordinance approving an R-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the R-P shall follow the density requirements of the previous zone district unless modified as part of the R-P plan.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

3. Minimum percentage of property (excluding common open space) used for residential purposes shall be 66%.
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 30% of the area of the project (not including right of way) and shall comply with the following requirements:
 - a. Common open space shall include the shore and bluff impact zones;
 - b. Common open space shall include, where possible, lands within the Skyline Overlay;
 - c. Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - d. No more than one-quarter of the required common open space shall consist of wetlands;
 - e. Common open space shall not include areas within 25 ft. of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
 - f. At least 50% of the common open space shall be retained in a contiguous area;
 - g. Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
 - h. Common open space shall not include land within rights-of-way.
 - i. Ownership of common open space. Common open space shall be owned and managed by a property owners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city.
5. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the R-P process.

G. Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - a) A concept map showing the property to be rezoned and general uses within the area;
 - b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - c) Maximum building heights.
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed R-P district and shall regulate all future development in the R-P district. An approved R-P plan is required before any building permits may be issued within the R-P district. The R-P plan shall include maps and text describing the following information:

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- a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
- b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
- c) Previous base zone districts;
- d) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
- e) A natural resources inventory and natural site features to be protected;
- f) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the R-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- g) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the R-P plan will need to apply for and receive a special use permit prior to building.
- h) Maximum residential densities and maximum square footage for nonresidential land uses.
- i) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- j) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- k) A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- l) Off-street parking to be provided in driveways, surface lots and garages;
- m) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- n) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.
- o) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each

phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city attorney for the completion of the development according to the approved R-P plan.

- p) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

H. Previously approved developments.

All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved R-P developments, and will be rezoned to the R-P zone district.

I. Amendments.

Applications to amend an existing R-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 5. That Section 50-15.2 of Chapter 50 be amended as follows:

50-15.2 Mixed Use-Neighborhood.

A. Purpose.

The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood, as shown in Table 50-19.8.

TABLE 50-15.2-1 MU-N DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	One-family, non-residential, and mixed use	The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.

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	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 200 ft. of R-1)	35 ft.
	Residential or mixed use (within 200 ft. of R-2)	50 ft.

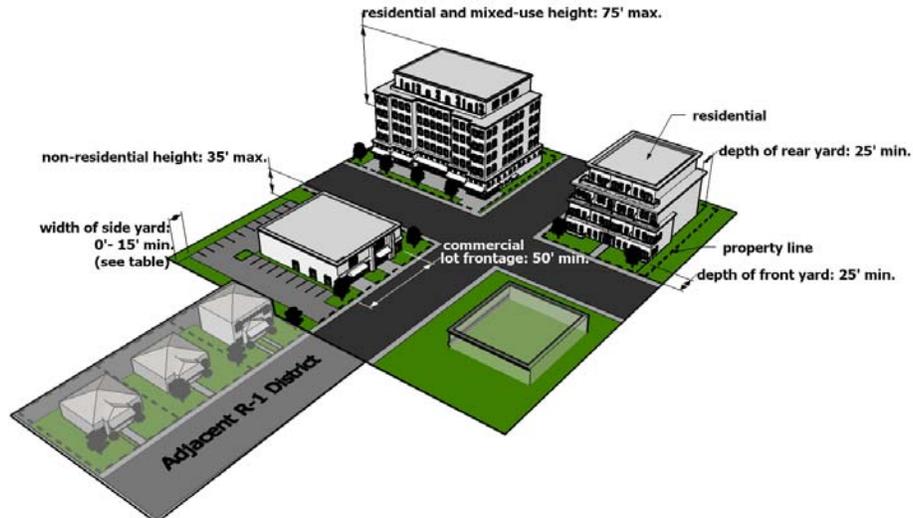
Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

B Example.

MU-N Example Building Form



C Illustration.



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Section 6. That Section 50-15.7 of Chapter 50 be created as follows:

50-15.7 Mixed Use-Planned.

A. Purpose.

The MU-P district is established to provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. A variety of residential and commercial uses are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved MU-P plan.

B. Examples.



MU-P Example Building Forms

C. Modifications.

An applicant may seek only the modifications in Table 50-15.7-1, based on demonstration of how the proposal supports the purpose of the MU-P district as stated in Section 50-15.7.A and the following desired MU-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28.
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit.
6. Creative site and building design.
7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

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Table 50-15.7-1: Modifications Allowed.	
Chapter Requirement	Maximum Modification Allowed
<u>Distance from property lines</u>	<u>No required yards</u>
<u>Building height</u>	<u>20% increase if not within 200' of an R-1 or R-2</u>
<u>Lot frontage</u>	<u>10% decrease</u>
<u>Buildings per lot</u>	<u>More than one building may be placed on one lot</u>
<u>Parking</u>	<u>10% decrease in addition to other allowable chapter reductions or a 10% increase over the maximum</u>
<u>Landscaping</u>	<u>20% decrease</u>
<u>Street width</u>	<u>As determined by City Engineer</u>
<u>Building design standards</u>	<u>Can propose alternative standards</u>
<u>Higher Education Overlay</u>	<u>Can propose alternative standards</u>

D. Applicability.

An MU-P district shall only be established in the R-2, MU-N, MU-C, and MU-B districts provided the property meets the requirements in Table 50-15.7-2.

TABLE 50-15.7-2: Characteristics of MU-P Areas.	
<u>Current zoning</u>	<u>R-2, MU-N, MU-C, MU-B</u>
<u>Minimum lot size</u>	<u>2 acres</u>

E. Rezoning approval and regulating plan required.

The establishment of an MU-P district requires rezoning the property per Section 50-37.3 from a current zone district to MU-P and the approval of an MU-P plan per Section 50-37.11, that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the MU-P district, approval of the MU-P plan is deemed to include subdivision approval; MU-P districts are not required to submit a separate subdivision application under Section 50-37.5.

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any MU-P zoned land unless waived or varied by the terms of an approved MU-P regulating plan. The ordinance approving an MU-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P plan.

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3. Height standards:

- (a) Maximum building height within 200 ft. of an R-1 district is 35 ft.
- (b) Maximum building height within 200 ft. of an R-2 district is 50 ft.

4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 20% of the area of the project and shall comply with the following requirements:

- a. Common open space shall include the shore and bluff impact zones;
- b. Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
- c. At least 50% of the common open space shall be retained in a contiguous area;
- d. Common open space shall not include roads or right-of-way.

5. The development shall encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected street networks, small blocks, front porches, and buildings that are sited adjacent to streets;

6. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the MU-P process.

G. Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - a) A concept map showing the property to be rezoned and general uses within the area;
 - b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - c) Maximum building heights.
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed MU-P district and shall regulate all future development in the MU-P district. An approved MU-P plan is required before any building permits may be issued within the MU-P district. The MU-P plan shall include maps and text describing the following information:
 - a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
 - b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
 - c) Previous base zone districts;
 - d) A traffic impact analysis;
 - e) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
 - f) A natural resources inventory and natural site features to be protected;

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- g) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the MU-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- h) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the MU-P plan will need to apply for and receive a special use permit prior to building.
- i) Maximum residential densities and maximum square footage for nonresidential land uses.
- j) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- k) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- l) A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- m) Off-street parking to be provided in driveways, surface lots and garages;
- n) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- o) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.
- p) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the City Attorney for the completion of the development according to the approved MU-P plan.
- q) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

H. Amendments.

Applications to amend an existing MU-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 7. That Section 50-18.4 of Chapter 50 be amended as follows:

50-18.4 Skyline Parkway Overlay (SP-O).

A. Purpose.

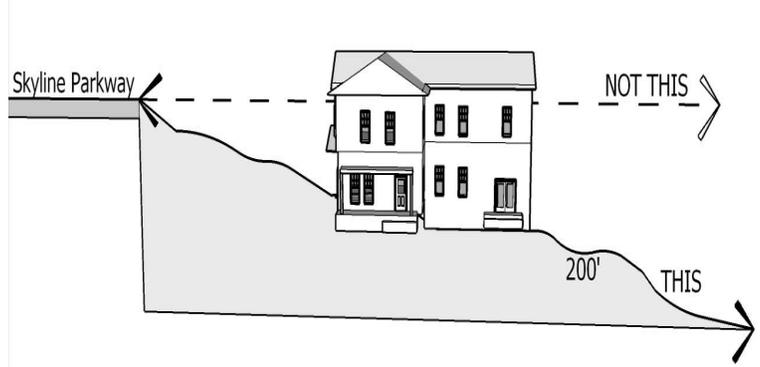
The purpose of this Section 50-18.4 is to protect the unique character and visual qualities of Skyline Parkway as documented in the Skyline Parkway corridor

management plan and the Comprehensive Land Use Plan while protecting the property rights of private property owners affected by these regulations. One key purpose is to protect views from Skyline Parkway toward Lake Superior, the St Louis River, and the harbor, from a wide variety of vantage points along the parkway and to encourage the construction of narrower buildings located farther from the Skyline Parkway rather than wider buildings located closer to the parkway.

B. Land affected.

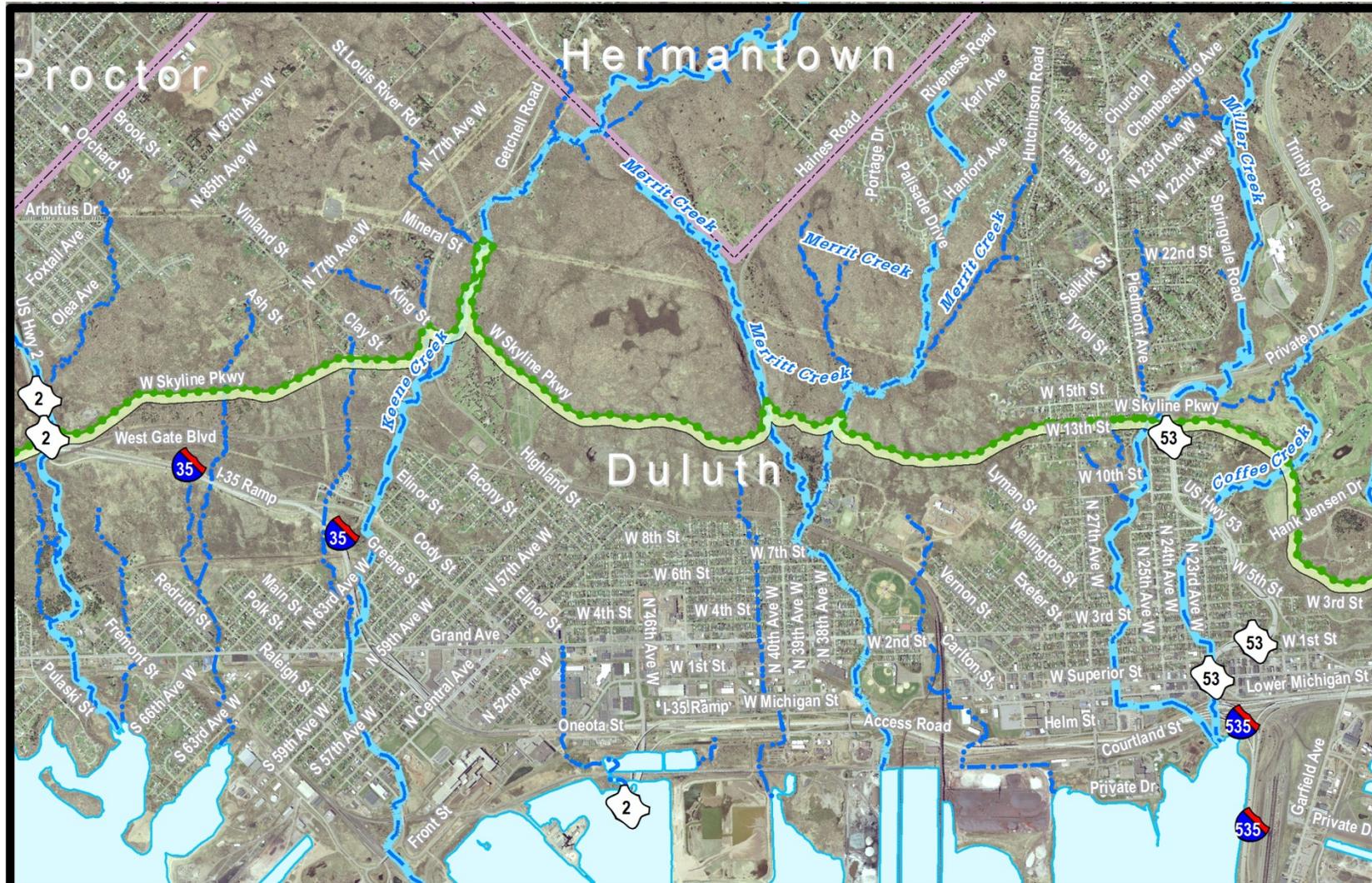
The regulations of this Section 50-18.4 apply to all private and public property located within 200 feet of the downhill side of Skyline Parkway as shown on exhibits 50-18.4-1 to 4. The 200 foot distance shall be measured from the edge of the right-of-way along the slope of the affected property (not horizontally from the road), as shown in Figure 50-18.4-1. The Skyline Parkway Overlay maps are shown only for illustrative purposes and are not intended to regulate the boundary of the 200 foot distance.

Figure 50-18.4-1: Measurement of 200' boundary





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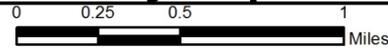


Legend

- Skyline Parkway
- Skyline Overlay
- Municipal Boundary

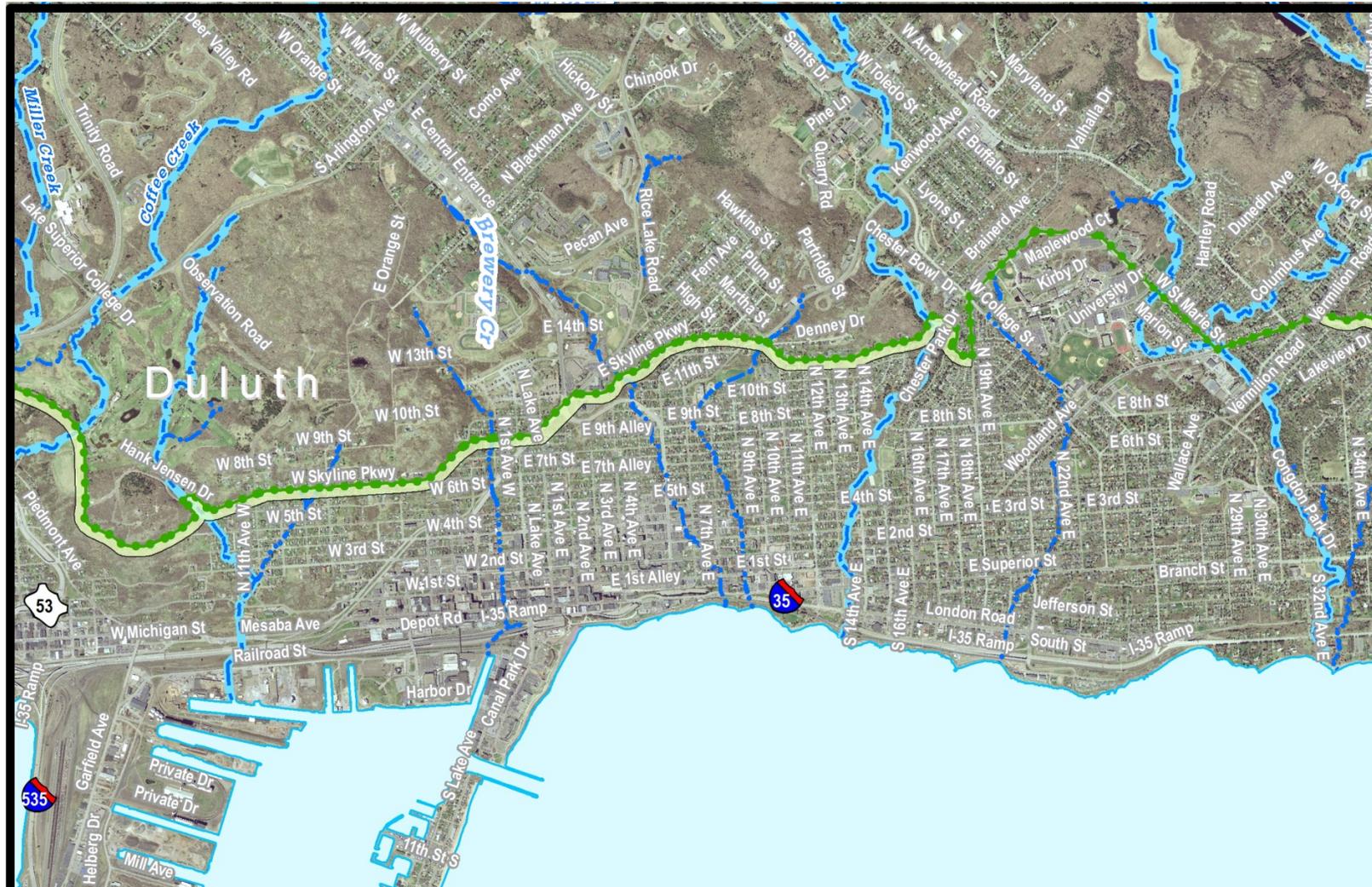


Exhibit 50-18.4-2
Skyline Parkway Overlay Map 2 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MndOT.

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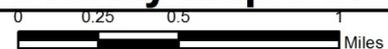


Legend

- - - Skyline Parkway
- Skyline Overlay
- Municipal Boundary



Exhibit 50-18.4-3
Skyline Parkway Overlay Map 3 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.

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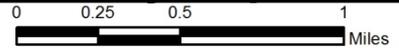


Legend

- Skyline Parkway
- Skyline Overlay
- Municipal Boundary



Exhibit 50-18.4-4
Skyline Parkway Overlay Map 4 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.

C. Construction and reconstruction affected.

This Section 50-18.4 shall apply to (1) all construction of new buildings or additions to buildings, (2) all reconstruction of an existing building or addition, (3) all construction of fences and walls, and (4) all installation and maintenance of landscaping within the SP-O zone district, after November 19, 2010, Buildings, additions, fences and walls that are permitted or exist on November 19, 2010, shall not be required to comply with the provisions of this Section, and shall be considered conforming structures for zoning purposes.

D. Design Controls.

When construction of a building or an addition to a building, or reconstruction of an existing building or addition is proposed within the SP-O zone district, the following standards shall apply:

1. The building or addition shall be located at least 50 ft. from the right-of-way of Skyline Parkway, or as close to that distance as is reasonably possible without violating required side or rear setbacks;

Exhibit 50-18.4-6:
Measurement of Long Axis

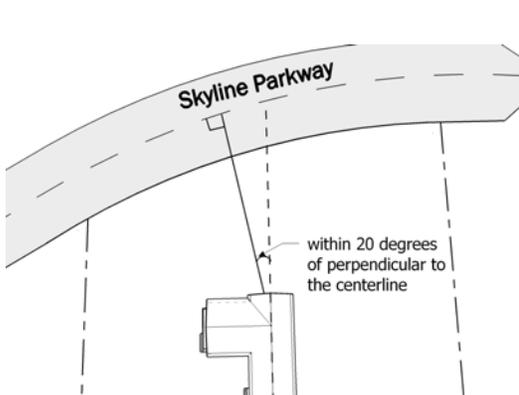
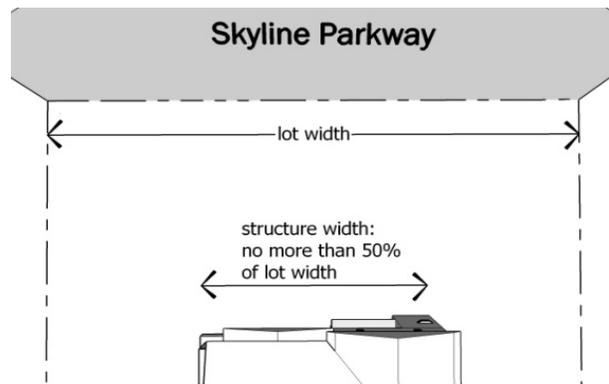


Exhibit 50-18.4-7:
Measurement of 50% of Lot Width



2. The long axis of a new structure shall be located within 20 degrees of perpendicular to the right-of-way line of Skyline Parkway at the midpoint of the front property line, or if that is not possible due to site or engineering constraints, then as close to that number as is reasonably possible;
3. The width of a new primary structure closest to Skyline Parkway shall not exceed 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way. For purposes of this paragraph, the width shall include all portions of the structure, including attached garages or enclosed porches;
4. Where an addition to an existing structure is proposed, the location of that addition shall not result in the width of structure and addition, taken together, exceeding 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way;
5. The provisions of subsections 18.4.D.1 through 4 above shall not apply to any structure located and designed so that no part of the structure (other than chimneys) extends taller than three ft. above the elevation of Skyline Parkway closest to the structure;

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6. No wall located within 50 ft. of horizontal distance from the property line along Skyline Parkway shall exceed a height of 3 ft. above the elevation of the centerline of Skyline Parkway;
7. All portions of a fence located within 50 ft. of horizontal distance from the property line along Skyline Parkway and extending more than 3 ft. above the elevation of the centerline of Skyline Parkway shall be at least 75% transparent. No more than 25% of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials;
8. No landscaping located on the 50% of the lot width not occupied by the primary structure may be of a species that will have a height at maturity of more than 3 ft. above the elevation of the centerline of Skyline Parkway, and all installed landscaping in those areas shall be maintained so that its height does not exceed 3 ft. above the elevation of the centerline of Skyline Parkway.

Section 8. That Section 50-18.5 of Chapter 50 be created as follows:

50-18.5 Higher Education Overlay (HE-O).

A Purpose.

The purpose of this Section 50-18.5 is to minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the UMD and St. Scholastica campuses.

B Applicability.

This Section applies to land within the HE-O, shown in Exhibit 50-18.5-1, that (a) is zoned R-2 or MU-N; and (b) includes new development or redevelopment where the value of the redevelopment exceeds 75% of the market value of the land and buildings, as indicated by tax assessor's records; except for:

1. One-family or two-family dwellings
2. Any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for occupancy by those individuals and households protected by the federal Fair Housing Act amendments of 1988.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required unless exempt in the above applicability standards.

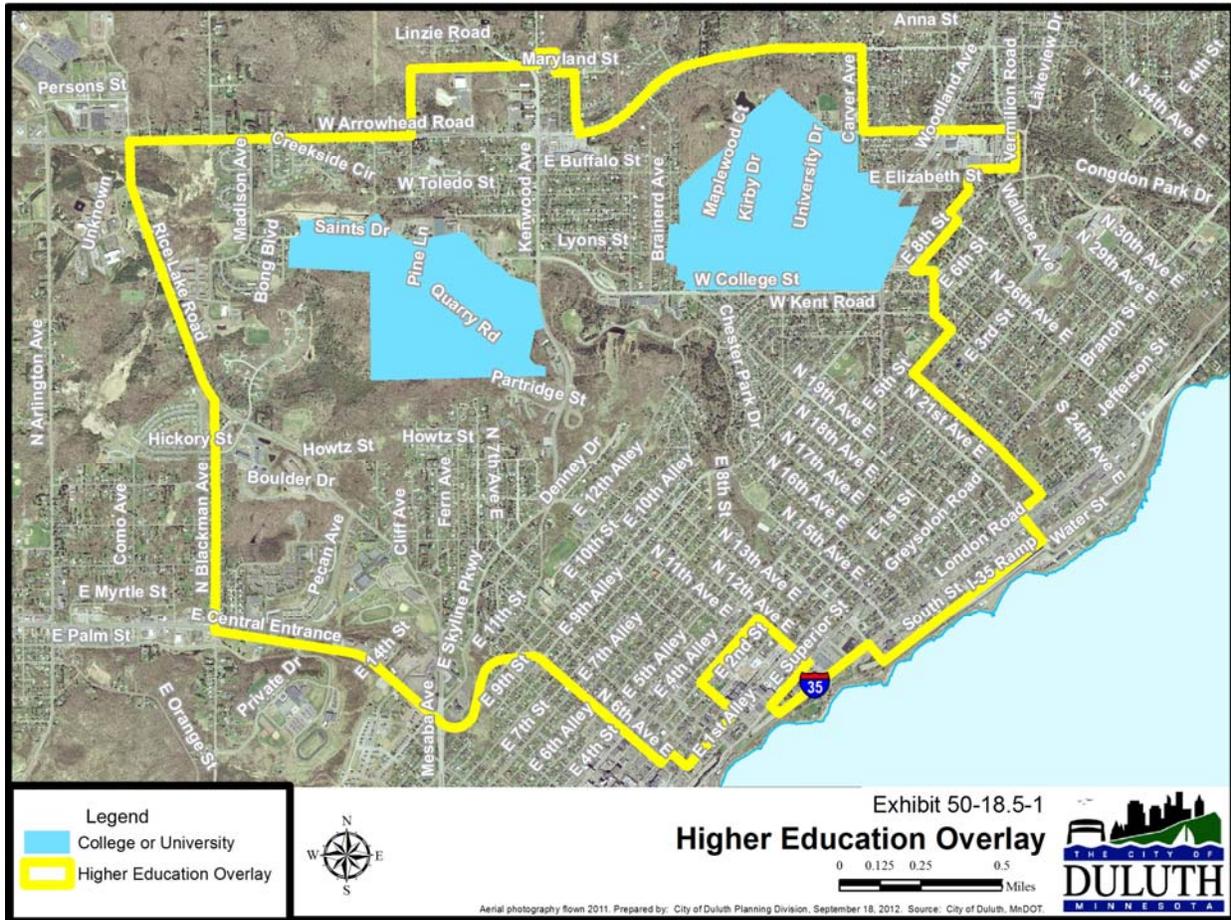
C Development standards.

1. General.
 - a. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts.
 - b. Primary buildings shall adhere to a build-to zone of 5 feet to 20 feet along primary streets. This requirement shall supersede building setbacks in Section 50-14.6 and 50-15.2. Alternatively, if the Land Use Supervisor determines that site conditions such as existing buildings or topography make this unfeasible, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:
 - Include pedestrian-scaled lighting.
 - Be raised or otherwise designed to encourage run-off and limit ponding during wet weather.

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- Be visually recognizable to both pedestrians and motorists.
 - Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4.
 - Be at least 5 feet wide.
 - Include well-marked crossings where the walkway intersects with private vehicle drives.
- c. Unless lighting meets exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet.
2. Residential.
- a. Required resident parking spaces shall be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit.
- b. Visitor parking spaces shall be provided at the rate of 15% of required resident parking spaces.
- c. At least one bicycle or motorized scooter parking space per five parking spaces shall be provided, which shall not be located in any required yard or between the principal dwelling and the street.
- d. A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking shall be granted a reduction in the off-street parking requirement of 5% if the shelter complies with the following standards:
- The enhanced shelter shall not be located in any required yard setback.
 - The enhanced shelter shall not be located between the principal building and a public street.
 - The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements.
 - The enhanced shelter shall utilize primary exterior materials that match the primary exterior materials of the principal structure.
- e. If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments.
- f. No residential balcony, patio, or deck shall be located on any side of the property facing and within 200 feet of an R-1 district.
3. Commercial
- a. Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic.

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Section 9. That Section 50-19.8 of Chapter 50 be amended as follows:

50-19.9 Permitted use table.

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Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
LAND USE CATEGORY																									
RESIDENTIAL USES																									
Household Living																									
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U				
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U				50-20.1.A
Dwelling, townhouse				S	P	P	P				P	P													50-20.1.B
Dwelling, multi-family					P	P	P	P	P		P	P	U	P	U	P	P	P	U	P	P				50-20.1.C
Dwelling, live-work						P	P	P	P		P	P	P	P	P	P	P	P		P	P				
Group Living																									
Co-housing facility				S	S	P	P					P													
Residential care facility/assisted living (6 or fewer)		P	P	P	P	P	P					P	U	P	U	P	P	U	U	P	P				50-20.1.D
Residential care facility/assisted living (7 or more)				S	P	P	P	P	P		P	P	U	P	U	P	P	U	U	P	P				50-20.1.D
Rooming house					S	P	P	P	P		P	P	U	P	U	P	P	U	U	P	P				50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Cemetery or mausoleum	S	S	S	S	S	P	S	S	S	S														S	
Club or lodge (private)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P					50-20.2.A
Government building or public safety facility		P	P	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library, or art gallery				S	S	P	P	P		S	P	P	P	P	P	P	P	P	P	P				S	
Park, playground, or forest reserve	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P				P	
Religious assembly		P	P	S	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P						50-20.2.C

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1				
LAND USE CATEGORY																												
Educational Facilities																												
Business, art, or vocational school							P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							
School, elementary		P	P	P	P	P	P	P				P	U	P	U	P	P	U	U	U							50-20.2.D	
School, middle or high		S	S	S	S	P	S	S				P	U	P	U	P	P	U	U	U							50-20.2.D	
University or college						I			P			P			U	P	P	U	U	U								
Health Care Facilities																												
Hospital									P																			
Medical or dental clinic					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							50-20.2.B	
Nursing home					P	P	P	P	P		P	P	P	P	P													
Other institutional support uses not listed in this table									P																			
COMMERCIAL USES																												
Agriculture and Animal-Related																												
Agriculture, general	P	P																									50-20.3.B	
Agriculture, urban		P	P	P	P	P						P																
Kennel	S	S					S	S	P			P																
Riding stable	S	S	S			P					S												S					
Veterinarian or animal hospital	S	S			P	P	P	P	P	P	P	P	P	P	P	P											50-20.3.U	
Food, Beverage, and Indoor Entertainment																												
Adult entertainment establishment																						P					50-20.3.A	
Convention or event center							P		P	P	P	P				P	P		P	P	P						50-20.3.H	
Indoor entertainment facility							P		P	P	P	P	P	P	P	P		P	P	P								

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
LAND USE CATEGORY																									
Restaurant (no drive-in/drive-through)					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				50-20.3.P
Restaurant (with drive-in/drive-through)								P		P		P		P		P									50-20.3.Q
Theater							P	P			P	P		P		P	P		P	P	P				
Lodging																									
Hotel or motel						P	P	P	P	P	P	P		P		P	P		P	P	P				
Bed and breakfast				S	P	P	P	P	P	P	P	P		P		P		P							50-20.3.F
Seasonal camp or cabin	P	P				P					P												S	50-20.3.S	
Vacation dwelling unit		I	I	I	I	I	I										I								50-20.3.V
Offices																									
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P	P	P				50-20.3.E
Office				S	P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				50-20.3.M
Data center							S	P	P	P	S	P	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																									
Golf course		S	S			P																		P	
Marina or yacht club											P											S	S		
Tourist or trailer camp	S	S	S								S												S		50-20.3.T
Other outdoor entertainment or recreation use not listed		S						S		S	S														50-20.3.N
Personal Services																									
Business park support activities										P	P														
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S				
Day care facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P				50-20.3.I

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
LAND USE CATEGORY																									
Day care facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S				50-20.3.I
Funeral home or crematorium					S		S	P	P	P	P											P			
Mini-storage facility										P												P	P		50-20.3.L
Personal service and repair, small						P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Personal service and repair, large						I	S	P	P	P	P		P		P		P		P			P			
Retail Sales																									
Adult book store																						P			Chapter 5
Building materials sales								S		P	P														50-20.3.G
Garden material sales		S						P			P				P										
Grocery store, small (less than 50,000 sq ft)						P	P	P			P	P	P	P	P	P	P	P	P	P	P				50-20.3.K
Grocery store, large (50,000 sq ft or more)								P			P														50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P				50-20.3.R
Retail store not listed, large (15,000 sq ft or more)								P			P	P	P	P	P		P	P							50-20.3.R
Vehicle-Related																									
Automobile and light vehicle repair and service							S	P		P	P		P	P	P	P						P			50-20.3.C
Automobile and light vehicle sales, rental, or storage								P		P												P			50-20.3.D
Filling station					S	P	P	P		P	P		P		P	P						P	P		50-20.3.J
Parking lot or parking structure (primary use)						I		P	P	P	P	S	S	S	S	S	S	S	S	S	S	P	P		50-20.3.O
Truck or heavy vehicle sales, rental, repair, or storage										P												P			
INDUSTRIAL USES																									

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1				
LAND USE CATEGORY																												
Industrial Service																												
Contractor's shop and storage yard										P	<u>P</u>					P								P	P		50-20.4.B	
Dry cleaning or laundry plant										P														P				
Research laboratories									P	P	<u>P</u>													P	P			
Industrial services										P														P	P			
Manufacturing and Mining																												
Manufacturing, light									P	P	<u>P</u>					P								P			50-20.4.F	
Manufacturing, heavy																								P				
Manufacturing, hazardous or special																								S			50-20.4.G	
Mining, extraction and storage																								S	S		50-20.4.H	
Water-dependent manufacturing, light or heavy																									P			
Transportation-Related																												
Airport and related facilities	S																							P			50-20.4.A	
Railroad yard or shipyard and related facilities																								P	P			
Truck freight or transfer terminal										P														P	P			
Utilities																												
Electric power or heat generation plant																								P	P			
Electric power transmission line or substation	S	S	S	S	S	P	S	S	S	S	<u>P</u>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C	
Major utility or wireless telecommunication facility	S	S	S	S	S	P	S	S	S	S	<u>P</u>	S	S	S	S	S	S	S	S	S	S	S	S	S	S		50-20.4.E	
Radio or television broadcasting tower		S								S														S	S		50-20.4.I	
Solar, geothermal, or biomass power facility (primary use)		S				P		S	S	P	<u>P</u>													P	S			

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Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1				
LAND USE CATEGORY																												
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																									P	P		
Wind power facility (primary use)		S							S	S															P	S		50-20.4.M
Waste and Salvage																												
Junk and salvage services																									S	S		50-20.4.D
Recycling collection point (primary use)								S	S	S															P	P		
Solid waste disposal or processing facility		S								S															S	S		50-20.4.J
Wholesale Distribution and Storage																												
Storage warehouse										P							P								P			50-20.4.K
Wholesaling										P							P								P			50-20.4.L
Bulk storage not listed elsewhere																									P			
Water-dependent bulk storage or wholesaling not listed elsewhere																										P		
ACCESSORY USES																												
Accessory agriculture roadside stand	A	A																									A	50-20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																	50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																	50-20.5.C
Accessory caretaker quarters										A															A	A	A	
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Accessory dwelling unit	A	A	A	A	A	A	A																					50-20.5.D
Accessory heliport	A								A		A														A			50-25.5.E

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
LAND USE CATEGORY																									
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A				50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			50-20.5.G	
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H	
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
Accessory vacation dwelling unit		I	I	I	I	I	I										I							50-20.5.L	
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
TEMPORARY USES																									
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.A	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		

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Section 10. That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3. Commercial uses.

A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this code.

B. Agriculture, general.

9. No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 ft. from any lot line.
10. All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 ft. from any lot line.

C. Automobile and light vehicle repair and service.

11. No displays or storage of merchandise, parts or refuse may be located closer than 20 ft. from any public right-of-way.
12. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district.
13. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.

D. Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 ft. from any R district.

E. Bank.

1. In the MU-N district, banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises.
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities.

F. Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events

hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to 6 days per year and shall be restricted to the period of October 15 through June 15;

7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days.

G. Building materials sales.

1. Outdoor storage is limited to 10% of the parcel's land area, and shall not be permitted in any required front yard area.
2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between 6 ft. and 8 ft. in height. The fence may exceed 8 ft. in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area.
3. A landscaped earth berm may be used instead or in combination with a required fence or wall.

H. Convention or event centers.

1. A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use.

I. Day care facility, small and large.

1. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20% of the lot or parcel area.

J. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than 10 ft. from any public right-of-way.
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district.

K. Grocery stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas.
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.

L. Mini-storage facility.

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;
2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. At least 50% of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

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5. Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
6. Signage shall be limited to one 40 sq. ft. illuminated pole and 20 sq. ft. of non-illuminated wall signage. Signs shall not be located closer than ten ft. to the front property line and no closer than 50 ft. to any side property line;
7. In the RR-1 district, there shall be a minimum of 50 ft. of landscaped or naturally vegetated buffer from all property lines;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines.

M. Office.

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted.
2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted.
3. In the F-6 district, offices may not have drive-through facilities.

N. Other outdoor entertainment or recreation use not listed.

1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 ft. of an R-C, RR-2 or R district.

O. Parking lot or parking structure (primary use).

1. In the MU-C district, any parking structure shall be located at least 50 ft. from any RC, RR or R district.
2. In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses.

P. Restaurant (no drive-in/ drive-through).

In the R-2 district, no use shall exceed 5,000 sq. ft. in gross floor area.

Q. Restaurant (with drive-in/drive-through).

Drive through lanes must be located at least 25 ft. from the boundary of any RR or R district and impacts along the boundary with those districts shall be buffered through the use of a dense urban screen.

R. Retail stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas.
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.
3. Retail stores limited to one drive-through window.
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.

S. Seasonal camp or cabin.

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 ft. from any R district.
2. In the R-C district, the design of the site shall preserve the rural character by:
 - a. Separating each camp or cabin site by at least 50 ft., measured from the closest points on each tent or cabin area;
 - b. Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

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- c. Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites.

T. Tourist or trailer camp.

When located in a flood plain, this use is limited to trailers without foundations that can be easily moved should flooding occur.

U. Veterinarian or animal hospital.

1. In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 ft. from any lot line.
2. In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation.

V. Vacation dwelling unit.

1. The minimum rental period shall not be less than five nights during the period from June 15 to September 15. The minimum rental period shall not be less than two nights during the rest of the year.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
 - a. 1-2 bedroom unit, 1 space
 - b. 3-4 bedroom unit, 2 spaces
 - c. 5+ bedroom unit, 3 spaces
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 11. That Section 50-20.5 of Chapter 50 be amended as follows:

50-20.5. Accessory uses.

A. Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 sq. ft. and that it is located not nearer than 25 ft. to any street or highway.

B. Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

1. Have no more than five habitable units;

2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;
9. May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection.

C. Accessory boat dock, residential.

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;
4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted.

D. Accessory dwelling unit.

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An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;
5. Accessory dwelling units shall contain no more than 800 sq. ft. of floor space and shall be consistent in character and design with the primary dwelling;
6. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building.

E. Accessory heliport.

1. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals.
2. In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use.

F. Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25% of the floor area of one story of the dwelling shall be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;
7. Only one sign not exceeding one sq. ft. in area is permitted, and that sign may only contain the name and title of the business or proprietor and may not be illuminated;
8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times.
10. No motor vehicle repair is permitted as an accessory home occupation.

G. Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12.

H. Accessory solar or geothermal power equipment.

In all districts, solar collection systems shall comply with the following requirements:

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1. Ground-mounted solar system:
 - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
 - (b) Solar collectors shall be located a minimum of 6 ft. from all property lines and other structures;
 - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 sq. ft., whichever is greater. The size of solar collector areas in all districts except Residential Districts shall not exceed one-half of the footprint of the principal structure;
 - (d) Solar collectors shall not exceed five feet in height.
2. Roof-mounted or wall-mounted solar system:
 - (a) A solar collection system shall be located a minimum of six ft. from all property lines and other structures except the structure on which it is mounted;
 - (b) Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat or shed roof.
 - (c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the parapet wall or roof surface, if not parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three (3) feet above the roof surface shall be exempt from this provision.
 - (d) A solar collection system may be located on an accessory structure;
 - (e) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.

3. Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system.

I. Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - (a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - (b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an

- amount sufficient to demolish such accessory structure be filed with the building official;
- (c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this section.
2. In the RR-2 district, business shall not be conducted from a garage.
 3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house.
 4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business.
 5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business.
 6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use.
 7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article 2 and Section 50-20.

J. Accessory wind power equipment.

In all districts, accessory wind power systems shall comply with the following requirements:

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;
2. Towers that are 50 ft. or less in height are permitted by right. Towers exceeding 50 ft. in height require approval of a special use permit, provided that in no case shall tower height exceed 130 ft.;

3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 ft. within any Migratory Bird Flight Path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 ft. as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing ft. pegs or rungs below 12 ft. of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

K. Minor utilities and accessory wireless antennas attached to existing structures.

The following standards apply to accessory wireless antennas that are attached to existing structures and to minor utilities regardless of whether they are attached to an existing structure:

1. A special use permit is required to allow any antenna to exceed 150 ft. in height;
2. All building-mounted antennas shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures;
3. The size, design and location of each attached antenna shall reduce visibility from surrounding buildings and from the public rights-of-way adjoining the property to the greatest extent feasible;
4. Building-mounted antennas or disguised antenna support structures shall be of a color identical to or closely compatible with the surface to which they are mounted;
5. Except when a support structure for a building-mounted antenna is an otherwise lawfully permitted sign, the placement of advertising on antennae is prohibited.

L. Accessory vacation dwelling unit.

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An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot.
2. No variances shall be granted for an accessory vacation dwelling unit.
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
5. The minimum rental period shall not be less than five nights during the period from June 15 to September 15. The minimum rental period shall not be less than two nights during the rest of the year.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
7. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, 1 space
 - (b) 3-4 bedroom unit, 2 spaces
 - (c) 5+ bedroom unit, 3 spaces
8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
9. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days.
10. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
11. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 12. That Section 50-35 of Chapter 50 be amended as follows:

50-35. Summary table.

TABLE 50-35-1: PROCEDURES SUMMARY TABLE								
Type of Application	Review, Decision, & Appeal Authority							
R = Review D = Decision A = Appeal <> = Hearing S = Sign Notice M = Mail Notice N = Newspaper Notice RES = Resolution ORD = Ordinance AL= Action Letter COA = Certificate of Appropriateness	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Historic Preservation Commission	Planning Commission	Council	Final Action
Comprehensive Land Use Plan	N			R		<R>	D	RES
UDC Text or Zoning Map Amendment								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S,	✓		R		<R>	D	ORD

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TABLE 50-35-1: PROCEDURES SUMMARY TABLE

Type of Application	Review, Decision, & Appeal Authority							
	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Historic Preservation Commission	Planning Commission	Council	Final Action
R = Review A = Appeal S = Sign Notice N = Newspaper Notice RES = Resolution AL= Action Letter COA = Certificate of Appropriateness								
D = Decision <> = Hearing M = Mail Notice ORD = Ordinance								
District Plan Adoption/Amendment	S	✓		R		<D>	<A>	
Subdivision Plat Approval								
Concept Plan		✓		R				**
Preliminary Plat	S			R		<D>		AL
Final Plat				R		<D>		AL***
Quick Plat/Registered Land Survey				R		D		AL
Vacation of Street	S, M	✓		R		<R>	D	RES
Concurrent Use of Streets Permit	S	✓		R		<R>	D	ORD
Historic Resource Designation	M				<R>	R	D	ORD
Variance	S, M		R			<D>	<A>	AL
Special Use Permit	S, M	✓		R		<D>	<A>	AL
Interim Use Permit	S, M	✓		R		<R>	D	RES
Planning Review								
General				D		<A>		AL
When required in R-2 and Mixed Use Districts	S, M	✓		R		<D>	<A>	AL
Temporary and Sidewalk Use Permit				D		<A>		AL
Zoning Permit****			D			<A>		AL
Historic Construction/Demolition Permit	S				<D>		<A>	COA
Wetland/WCA Permits			D			<A>		AL

* Mailed notice is required to affected property owners within 350 ft. when the amendment involves changes in district boundaries affecting an area of five acres or less.

** Planning staff will provide applicant with a pre-application verification.

*** Applicant must provide documentation that the final plat has been recorded with the county recorder.

**** This category includes shoreland permit, erosion and sediment control permit, sign permit, fence permit and airport environs permits. Appeals of airport environs permits related to Duluth International Airport are heard by the airport board of adjustment.

Section 13. That Section 50-37.1 of Chapter 50 be amended as follows:

50-37.1. Review and approval procedures.

A. Pre-application meetings.

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the historic preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;

7. Special use or interim use permit.

B. Authority to file applications.

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section 50-37.1.B or in Sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of Sections 50-37.2 through 16, the provisions of Sections 50-37.2 through 16 shall govern.
2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so.
3. Applications for designation of a historic resource are governed by Section 50-37.8.
4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site.

C. Application materials and fees.

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council.
2. The city may reject applications not meeting the requirements of this Chapter, the UDC Application Manual, or as required or authorized by MSA 15.99.
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city.
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the code, to defray estimated staff costs and expenses of processing applications.
5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section 50-37.1.D below, for the same proposed development.
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied.

D. Determination of completeness.

A determination of completeness shall be made for each application pursuant to MSA 15.99.

E. Inactive complete applications.

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99.

F. Withdrawal of applications.

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later

resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded.

G. Successive applications.

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months.

H. Public notice.

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

- (a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least 10 days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing.
- (b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least 10 days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 ft. from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of 5 acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 ft. of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this section has been made.
- (c) Sign notice means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonably possible to each street frontage on the applicant's property with the text between 3 and 5 ft. above grade level, with a title line reading "Zoning Notice" in letters at least 3 in. tall, and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

2. Content of notice.

Each required notice shall include the following information:

- (a) The name of the applicant;
- (b) The address of the property;
- (c) A narrative description of the project including the proposed land uses, size (in sq. ft.) and height (in ft. and stories) of any proposed buildings or building expansions;
- (d) The type of permit or approval being sought;
- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing.

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal.

I. Public hearings.

1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law.
2. Attendance shall be open to the public.
3. All hearing and decision timeframes shall comply with MSA 15.99.

J. Review criteria.

1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:
 - (a) The application is consistent with the adopted comprehensive land use plan, as that plan may have been amended after adoption;
 - (b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;
 - (c) The application complies with all additional approval criteria listed in Section 50-37.2 below.
2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or approve it with conditions to bring the application into conformance with the above criteria.
3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance.
4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter.

K. Conditions on approval.

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions

necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property.

2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services.
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter.
4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter.

L. Administrative adjustments.

Where an application concerns development or redevelopment of a lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways.

1. The front, side or rear setbacks of a new or modified structure are no more than 1 ft. smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than 2 ft. taller than the maximum required by this Chapter;
3. For properties where Section 50-24 requires more than 3 off-street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains 1 less parking space than is required.
4. Handicap accessibility structures can encroach into the yard setbacks.
5. For properties where 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50' in length may be granted if the Land Use Supervisor determines that further extension of the street is not anticipated due to topography, Comprehensive Land Use Plan, or utility availability.
6. For properties where 50-21.2 requires that not more than 30% of the rear yard be occupied by any one accessory structure, exceptions may be granted for an accessory structure to occupy up to 40% of the rear yard.
7. The area of a new or modified sign is no more than 10% larger than the maximum allowed by 50-27.

M. Modifications of approvals.

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1. Application.
An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable.
2. Minor Modifications
Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony.
3. Major Modifications
Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification.

N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50% of the land covered by the preliminary plat is submitted within 5 years of the preliminary plat approval;
2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within 90 days after approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

5. Erosion and Sediment Control Permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70% successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse 1 year after issuance unless construction has begun by that date.
7. The MS-4 Statement of Compliance and accompanying drainage report will be valid for 2 years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within 2 years, and extension of 1 year may be granted if a written request is submitted and approved by the City Engineer. The written request should document the reasons for the extension and the current state of completion of the project.

O. Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General Provisions for Appeal to Planning Commission
 - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal.
 - (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that airport zoning ordinance and this Chapter, the provisions of the airport zoning ordinance shall govern.
 - (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed.
 - (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal.
- (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I.
 - (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant.
 - (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence.
2. Exceptions.
- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I No Safety Obstructions, 50-27.1.L Attachment to Buildings, 50-27.1.M Wind Pressure Design, 50-27.1.N Electrical Wiring, or 50-27.1.O Certification of Structural Engineer must be taken to the state building official as provided in the State Building Code.
 - (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Chapter 10 of the code or to the state building official.
 - (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board.
 - (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this section, but may authorize variations to those standards, in accordance with the procedures in Article 5 of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor.
3. Powers of planning commission on appeal.
- (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application.
 - (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only

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- the power to affirm, reverse or modify the decision of the building official.
- (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district.
 - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below.
4. Appeals of planning commission decisions to council.
- (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council.
 - (b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal.
 - (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal.
 - (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal.
 - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located.
 - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied.
5. Appeal of planning commission decisions to the courts.
- (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission.
 - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission.
 - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01.
6. Appeals of historic preservation commission decisions to council.
- (a) Where applicable, Section of 50-37.1.O.4 shall apply of historic commission decisions, when appealable to City Council.

P. Security for improvements.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense.
2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110% of the estimated cost for the city to complete the improvements.
3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security may be made after construction or dedication of some but not all of the required improvements, but financial security equal to 110% of the estimated cost of for the city to complete the improvements shall be retained.
4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least 110% of the estimated cost for the city to complete the improvements.

Section 14. That Section 50-37.11 of Chapter 50 be amended as follows:

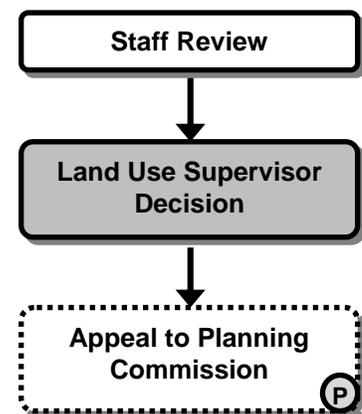
50-37.11 Planning review.

This Section applies to all development and redevelopment activities except for the construction, reconstruction or modification of one- and two-family residential structures that are located (a) on lots platted and zoned for residential development, and (b) outside of the R-C district and SP-O district.

A. Applications.

An application for a planning review shall be filed pursuant to Section 50-37.1.B.

Planning Review General



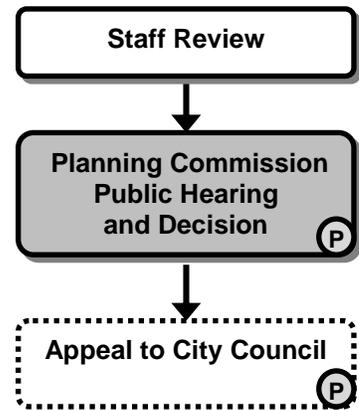
(P) Indicates Public Hearing Required

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

B. Procedure.

1. Building permit applications for certain types of development and redevelopment activities will trigger planning review for compliance with the standards of this Chapter. Except as stated in subsection 2 below, this planning review shall be conducted by the land use supervisor pursuant to the criteria in subsection 50-37.11.C.
2. For applications involving covered types of development and redevelopment activities in the MU-C, MU-I, MU-W, and HE-O zone districts, the planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection 50-37.11.C.
3. The land use supervisor or the planning commission may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection 50-37-11.C have been met.

**Planning Review in
MU-C, MU-I, MU-W, and
HE-O**



(P) Indicates Public Hearing Required

C. Criteria.

The land use supervisor or planning commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

Section 15. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 18, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10193

**AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.**

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2013 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. There will be levied for the support of the general fund the sum of \$12,072,000.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$7,161,500.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$207,500.

Section 5. That this ordinance shall take effect January 1, 2013.

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

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Passed December 17, 2012

Approved December 17, 2012

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 10194

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2013 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,391,900.

Section 3. That this ordinance shall take effect January 1, 2013.

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Passed December 17, 2012

Approved December 17, 2012

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 10195

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

beginning January 1 and ending December 31, 2013, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the chief administrative officer or their designee.

That use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$2,744,300 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,598,300 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$146,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, the account numbered 205 in the parks fund, and the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, and 505 in the parking division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 2013.

GENERAL FUND

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

110	Legislative and executive - total	\$2,443,000
121	Public administration - total	21,802,200
125	Finance - total	3,166,400
132	Planning and construction services - total	2,232,300
135	Business and economic development - total	724,800
150	Fire - total	13,766,500
160	Police - total	18,333,300
500	Public works - total	1,726,800
700	Transfers and other functions - total	9,777,700
	Total general fund	\$73,973,000
PARKS FUND		
130	Community Resources	\$2,682,500
PUBLIC ENTERPRISE		
503	Golf fund - total	\$2,076,250
505	Parking fund - total	\$4,799,300
PUBLIC UTILITIES		
510	Water fund - total	\$11,765,000
520	Gas fund - total	\$35,565,400
530 and 532	Sewer and clean water fund - total	\$18,604,500
535	Stormwater fund - total	\$4,368,900
540	Steam fund - total	\$8,295,442
550	Street lighting - total	\$1,739,400

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

continued.

Section 10. That this ordinance shall take effect January 1, 2013.

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

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Passed December 17, 2012

ATTEST:

Approved December 17, 2012

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 10196

AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH.)

The city of Duluth does ordain:

Section 1. That the legal description as made part of Ordinance No. 10162 is hereby replaced with the following:

That part of Central Entrance Division, Duluth Heights Fifth Division, Duluth Heights Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of the center line of Central Entrance (State Highway 194) and the northerly extension of the center line of the north/south alley in Block 3, Duluth Heights Fifth Division; Thence south along center line of said north/south alley of Block 3 its extension, to the center line of West Palm Street; Thence west along said center line of West Palm Street to the east line of Central Entrance Addition; Thence west along said extension of West Palm Street centerline to the northeast corner of Lot 28, Central Entrance Addition; Thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the center line of the platted pedestrian path between Lots 20 and 35, Central Entrance Addition; Thence north along said center line of the platted pedestrian path to the intersection of the center line of Anderson Road; Thence northeasterly along the center line of Anderson Road to the southeasterly extension of the center line of Apple Street, between Lots 4 and 5, Central Entrance Addition; Thence northwesterly along said center line of Apple Street to the south line of the Southeast Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West; Thence west along said south line of the Southeast Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southeast Quarter of the Northwest Quarter of Section 20; Thence north along the west line of said Southeast Quarter of the Northwest Quarter of Section 20 to the center line of Central Entrance (State Highway 194); Thence southeasterly along the center line of Central Entrance to the intersection of the center line of Myrtle Street; Thence northeasterly and easterly along the center line of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Heights Sixth Division; Thence south along said east line of Lot 3 and its extension to the center line of the east/west alley of said Block 31; Thence west along said center line of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31; Thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194); Thence east along center line of Central Entrance to the point of beginning.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: January 18, 2013)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 17, 2012

Approved December 17, 2012

DON NESS, Mayor