

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

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

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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

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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

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REPORTS OF BOARDS AND COMMISSIONS

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

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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.

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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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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

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

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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

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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

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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, 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

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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

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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

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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,

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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.

Approved February 27, 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 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

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

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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

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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

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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 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

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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

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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

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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 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

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 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

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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

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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.

Resolution 12-0098 was unanimously adopted.

Approved February 27, 2012

DON NESS, Mayor

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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.

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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 (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.

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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.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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.

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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 upon the following vote:

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

Nays: Councilors Julsrud, Krause and Krug -- 3

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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

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

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

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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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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