

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 24, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Boyle, Cuneo, Fedora, Fosle, Halberg, Hartman, Stauber and President Gardner -- 9

Absent: None -- 0

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The minutes of the council meeting held on August 29, 2011, were approved upon a unanimous vote.

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

11-1024-01 The following communications regarding the proposed improvements to Indian Point Campground (11-0522R): (a) Alison Clarke; (b) Friends of the St. Louis River, by Connie Moeller; (c) Richard and Charlene Harms; (d) Rachel Kostelic; (e) Jan and Larry Kraemer; (f) Ed and Linda Whitman. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

11-1024-02 Charter commission minutes of October 13, 2010, meeting. -- Received

11-1024-03 Duluth human rights commission minutes of: (a) August 10; (b) August 25, 2011, meetings. -- Received

11-1024-04 Duluth public utilities commission minutes of September 14, 2011, meeting. -- Received

11-1024-05 Library board minutes of August 23, 2011, meeting. -- Received

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## OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell expressed concerns about School District No. 709 of where he felt that: the red plan has led to a treacherous financial condition; Johnson Controls' involvement, if not against the law, was against the spirit of the law; citizens were denied the right to vote on the biggest investment in the history of Duluth; citizens' communications to the school board poured in and were not put in the public file and citizens wanting accountability were claimed as being against the children.

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Jennifer Cummings and Jesse Peterson, participants in the Occupy Duluth camp in the civic center, expressed concerns of: that there are many different ways changes can be made, due to the beauty of our system of checks and balances and processes; communities can be changed to function and thrive that work well for everyone; decisions made every day decide how well our communities function; these decisions need to be talked over to see that the decisions do not impair people from accessing a clean, happy and healthy environment; city councils can make decisions on how wealth is distributed and there are fair opportunities people can have to participate in their local economy and one percent make decisions affecting 99 percent of the population.

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**RESOLUTION TABLED**

Councilor Halberg moved to remove Resolution 11-0522, authorizing application for and acceptance of, if offered, a parks and trails legacy grant of \$500,000 for improvements to Indian Point Campground and committing the \$50,000 local share, from the table, which motion was seconded and unanimously carried.

Councilor Halberg moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Judy McGaffey, Barb Hegg, Rachel Kostelic, Bill Majewski and Julene Boe expressed concerns of: a campground like this in the city is unique - it's close to everything, brings in income and is quiet; it needs upgrades to the showers and bath, office, a camp store, dumpster location, road blacktopping, drainage and ground leveling for the tent area; in the second phase of the development the planning needs to be slowed down and studied in more detail; many other concerned entities have not been involved in the planning, nor seen the new versions; this grant is introducing non-campground activities on a too small campground already; campers are used to leaving their gear out and, with other non-campers there, it will not be secure and popular group camping will be removed under this plan.

Chief Administrative Officer David Montgomery reviewed in detail: the improvements scheduled in the first phase; the concerns that everyone is supportive of and while there are funds available now, there is no guarantee about next year. He also noted that other improvements will be discussed further.

Councilors and the administration discussed at length the concerns that were raised and the rush for this at this time.

Councilor Fosle suggested that councilors hold off and apply for this grant in 2012, that there be more planning and discussion first and to wait and see if the parks levy ballot question passes.

Councilor Fedora moved to amend the resolution by adding the following paragraph:

"FURTHER RESOLVED, that any grant proceeds received from the park legacy application will be used for the full reconstruction of the restroom facilities including compliance with the Americans with Disabilities Act,"

which motion was seconded and unanimously carried.

Resolution 11-0522, as amended, was adopted as follows:

RESOLVED, that city act as legal sponsor for the project contained in the park legacy application to be submitted on or before October 31, 2011, 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 MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1024-23 agreeing to the project and to provide the city's \$50,000 local share of the project cost payable from Fund 110-700-1420-5530 (general fund, transfers and other functions, capital program, improvements other than buildings).

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

FURTHER RESOLVED, that any grant proceeds received from the park legacy application will be used for the full reconstruction of the restroom facilities including compliance with the Americans with Disabilities Act.

Resolution 11-0522, as amended, was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Halberg, Hartman, Stauber and President Gardner -- 8

Nays: Councilor Fosle -- 1

Approved October 24, 2011

DON NESS, Mayor

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

RESOLVED, that Resolution 10-0579 adopting license, permit and fee charges for 2011 be amended by adding the following fees, pursuant to Section 31-6(a) of the Duluth City Code:

Clerk		2011 Fee
Liquor caterer		
Event permit - per event		\$50.00
Appeal to chief administrative officer		\$100.00
Registration permit - annual		\$100.00
Appeal to alcohol, gambling and tobacco commission		\$150.00

Resolution 11-0515 was unanimously adopted.

Approved October 24, 2011

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 \$3,215,000 general obligation gas utility revenue refunding bonds, Series 2011C (the "bonds"), pursuant to Minnesota Statutes, Chapter 475, and Section 55 of the Home Rule Charter of the city for the purpose of refunding a portion of the city's general obligation gas utility revenue bonds, Series 2003G, dated December 1, 2003;

(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. 11-1024-06. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011**

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(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 11-0549 was unanimously adopted.

Approved October 24, 2011

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 \$2,260,000 general obligation sewer utility revenue refunding bonds, Series 2011D (the "bonds"), pursuant to Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the purpose of refunding the 2014 through 2020 maturities of the city's general obligation sewer utility revenue bonds, Series 2004D, dated December 1, 2004;

(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. 11-1024-07. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(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 11-0550 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the assessment roll levied to defray the assessable portion of the sidewalk vault (Contract #5442, Fund 325) at 114 West Fourth Street (Plat 1000 Parcel 00440) is set. The total amount assessable is \$13,122.75 and this assessment roll is hereby confirmed.

Resolution 11-0551 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2012 currency exchange license to Pawn America Minnesota, LLC, 339 East Central Entrance.

Resolution 11-0534 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011**

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating dancing liquor license for the period ending August 31, 2012, subject to departmental approvals:

The Lake Effect Restaurant, Inc. (Lake Avenue Café), 394 Lake Avenue South.  
Resolution 11-0544 was unanimously adopted.  
Approved October 24, 2011  
DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to enter into a 48-month contract with Nordic Waste Services, Inc., for garbage/refuse removal and recycling pickup services in accordance with city-approved specifications and vendor fees, beginning November 1, 2011, at an estimated \$14,000 per month, for a total estimated amount of \$28,000 for year 2011, terms net 30, FOB job sites, and payable from various funds, agencies, organizations and objects.

Resolution 11-0560 was unanimously adopted.  
Approved October 24, 2011  
DON NESS, Mayor

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

Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, with Juan Banales Vasquez, president and 100 percent stockholder.  
Resolution 11-0562 was unanimously adopted.  
Approved October 24, 2011  
DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness of Zandra Zwiebel to the planning commission for a term expiring on March 31, 2014, replacing Rebecca Covington who resigned, is confirmed.

Resolution 11-0533 was unanimously adopted.  
Approved October 24, 2011  
DON NESS, Mayor

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RESOLVED, that the city of Duluth ("city") act as the legal sponsor for the Rohlfig distribution expansion project as contained in the contamination cleanup grant program application to be submitted on November 1, 2011, and that the mayor and clerk are hereby authorized to apply to the department of employment and economic development (DEED) for a grant in the amount of \$360,687 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 \$120,228 in a qualified match contribution, said match to be provided by Rohlfig of Duluth, Inc.

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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.

Resolution 11-0558 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officers are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 11-1024-08, with the state of Minnesota, department of natural resources, authorizing the city to perform certain maintenance for three consecutive years at the Clyde Avenue (Munger Access) and Rice's Point boat launch sites, in consideration of \$1,500 per summer for a total agreement amount of \$4,500 to be paid by the department of natural resources to the city. Reimbursements received shall be deposited into public administration department, maintenance operations division, General Fund 110, Department 121, Division 1217-2140, Revenue Source 4654-02.

Resolution 11-0542 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the city council approves settlement in the amount of \$5,000 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 Kristin Rae Shallow and Jeanne Marie Shallow*, File No. 69DU-CV-10-2358, 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 610-036-1651-4680 (self insurance fund, insurance general city, damages or losses recovered).

Resolution 11-0555 was unanimously adopted.

Approved October 24, 2011

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. 11-1024-09 with the National Guard Bureau on behalf of the Minnesota Air National Guard for the reconstruction/reclamation of Ridgeview Road from Rice Lake Road to the guard base. Ridgeview Road will serve as a secondary access road to the MnANG base at Duluth International Airport. This resolution authorizes receipt of payments of approximately \$1,440,000, to be deposited in 411-035-4210-01 (permanent improvement fund, capital projects accounts, pass-through federal grants capital), City Project No. 1055.

Resolution 11-0540 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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The city council finds:

(a) It is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L6007 and its approaches on West Skyline Parkway over Stewart Creek (City Project No. 1016) be rehabilitated; and

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(b) This project will not be eligible for state transportation funds unless it is constructed to state aid standards for new bridge, bridge replacement or bridge rehabilitation projects and approach roadways on rural or suburban undivided roadways that are not on the state-aid system for an existing average daily traffic count between 150 and 400 vehicles, or unless a variance is granted; and

(c) Practical limitations require tighter horizontal curves, narrower lane, shoulder and recovery area widths, and a steeper recovery area inslope than dictated by standards be used. This results in a 14 mph design speed in lieu of a 30 mph design speed which requires 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 8820.9922, whereby the minimum design standards for new bridge, bridge replacement or bridge rehabilitation projects and approach roadways on rural and suburban undivided roadways that are not on the state-aid system be reduced for this project, allowing for an 85' radius (-0.02 superelevation) curve at the south approach and a 195' radius (-0.02 superelevation) curve at the north approach in lieu of a 215' radius (0.06 superelevation) horizontal curve; a 10' lane and 1' shoulder in lieu of a 12' lane and 4' shoulder; and a 6' recovery area at 1:3 inslope in lieu of a 10' recovery area at 1:4 inslope; and further agrees to indemnify, save and hold harmless the state of Minnesota and agents and employees from any and all claims, demands, actions or causes of action arising out of or by reason of the rehabilitation of Minnesota Bridge Number L6007 on West Skyline Parkway over Stewart Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9922, 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 11-0545 was unanimously adopted.

Approved October 24, 2011

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 Riverside community utility and street improvements project. The working fund is Street Improvement Fund 440, with \$3,407,996.02 payable from Street Improvement Fund 440, Department 038 (special assessments), Object 5530 (improvements other than buildings), and of these costs \$557,460 will be assessed to benefitting properties; with \$1,424,972.05 payable from Sanitary Sewer Bond Fund 531, Department 500 (public works and utilities), Object 5532 (capital improvements - bond), and of these costs \$1,139,978 will be reimbursed with WIF grant and principal forgiveness monies administered by the PFA; with \$1,337,266.50 payable from Water Bond Fund 511, Department 500, Object 5532; with \$183,303 payable from Stormwater Fund 535, Department 500, Division 1905 (capital), Object 5533 (capital improvements - revenue); and with \$273,569.70 payable from Gas Fund 520, Department 500, Division 1905, Object 5533; City Project No. 0699SN/TR; Requisition No. 11-0512.

Resolution 11-0546 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that resolutions 10-0081 and 09-0471 awarding a contract to Salo Engineering, Inc., for professional engineering services for the reconstruction of Glenwood

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Street from 43rd Avenue East to 60th Avenue East be amended by an amount of \$50,540.77 for a new total of \$564,228.87, payable from Permanent Improvement Fund 411, Agency 038 (special assessments), Object 5530 (improvements other than buildings), City Project No. 0647TR.

Resolution 11-0554 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 11-1024-10, with the Duluth Seaway Port Authority for the placement of a SCADA antenna on authority property for use in conjunction with Sewer Lift Station No. 40 at no cost to city.

Resolution 11-0565 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 2 to City Contract No. 20454 (State Contract No. B02328) with the state of Minnesota through its commissioner of public safety, division of homeland security and emergency management, for providing services as a hazardous materials chemical assessment team extending the term thereof through June 30, 2012, and increasing the compensation payable to the city by an additional \$45,000, said sum to be payable to Fund 110-150-1505-4210-02 (general fund, fire, hazardous materials, pass through grant).

Resolution 11-0532 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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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. 11-1024-11, with the Duluth Airport Authority (DAA), to allow police training in emergency vehicle operations on Taxiway Bravo at the Duluth International Airport.

Resolution 11-0535 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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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 amount of \$143,313 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. 11-1024-12, for the purpose of supporting the operations of the Lake Superior drug and gang task force for the period beginning July 1, 2011, and ending December 31, 2011, 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 11-0536 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement with the state of Minnesota, department of public safety, bureau of criminal apprehension providing for the continued access by the city of Duluth police department to the Minnesota criminal justice data communications network systems and tools for a period of five years at a total cost of \$46,200. Said joint powers agreement to be substantially in the form of Public Document No. 11-1024-13 on file in the office of the city clerk and fees to be paid from Fund 110-160-1610-5404 (general, police, administration and investigation).

Resolution 11-0537 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1 to Grant Agreement No. 2008-PSGP-00799 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. 11-1024-14, extending the term of said grant through July 31, 2012.

Resolution 11-0538 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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

604 East 11th Street;

308 East Seventh Street;

26 East Fifth Street.

Resolution 11-0539 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a FY2011 Edward Byrne memorial justice assistance grant program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$55,239, to be used for state and local initiatives including the first witness program, St. Louis County drug and DUI court, 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 215-200-2298-4209-02 (police grants fund, police department, 2011 JAG, direct federal grants - operating) and expenses to be paid from Fund 215-200-2298-5241 (police grants fund, police department, 2011 JAG, small equipment).

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. 11-1024-15, 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 215-200-2298-5241 (police grants fund, police department, 2011 JAG, small equipment).

Resolution 11-0541 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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RESOLVED, that the proper city officials are hereby authorized to accept a supplemental grant, substantially the same as that on file with the city clerk as Public Document No. 11-1024-16, in the amount of \$389,085 from the U.S. department of justice, office on violence against women, to be used as part of that office's grants to encourage arrest policies and enforcement of protection orders program as set forth in a memorandum of understanding between the collaborative partners to the program (the Duluth police department, Program for Aid to Victims of Sexual Assault, Mending the Sacred Hoop, Inc., the St. Louis County attorney's office and the Domestic Abuse Intervention Project), increasing the total amount accepted thereunder to \$1,187,876 (less a five percent hold-back related to HIV testing) and extending the termination date to October 31, 2013, for the project entitled *Community Response to Co-occurrence of Sexual & Domestic Violence*, funds to be deposited into Fund No. 215-200-2280-4209-02 (Duluth police grant programs, police, Violence Against Women Act 07-09) and to execute grant documents in connection therewith.

Resolution 11-0553 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1024-17, with the organized crime drug enforcement task forces program, Great Lakes region, 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, 2011, through September 30, 2012, in an amount not to exceed \$25,000, funds received payable to Fund 110-160-1610-4209-02 (general, police, administration and investigation).

Resolution 11-0559 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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The following resolutions were also considered:

BY COUNCILOR FOSLE:

WHEREAS, the Duluth Angel of Hope group is working to bring an Angel of Hope memorial to the city of Duluth as a place for parents to memorialize the loss of a child; and

WHEREAS, the city has indicated that there is space available in Lake Place Park for the memorial; and

WHEREAS, the city council desires to express it's support for the Angel of Hope memorial.

THEREFORE, BE IT RESOLVED, that the city council hereby supports the Duluth Angel of Hope group and the desire to construct an Angel of Hope memorial, it further supports locating such memorial in Lake Place Park and requests that appropriate space be reserved for this purpose.

Resolution 11-0564 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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Resolution 11-0547, authorizing the issuance and providing for the sale of general obligation capital improvement bonds, Series 2011A, was introduced by Councilor Fedora for discussion.

Councilor Stauber raised his concerns that, even though the city can borrow at a lower rate, the city is still borrowing and that with the upcoming levy over 1/3 of it is for past debt.

Resolution 11-0547 was adopted as follows:

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

(a) Authorization of bonds. The city council adopted Resolution No. 11-0001 on January 10, 2011, declaring its intent to issue capital improvement bonds in 2011 in an amount not to exceed \$2,275,000. 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 improvement bonds, Series 2011A, in the approximate amount of \$1,855,000 (the "bonds"), pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing funds for capital improvements projects pursuant to an approved capital improvement plan;

(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. 11-1024-18. 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 11-0547 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Halberg, Hartman and President Gardner -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved October 24, 2011

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 notes. The city council adopted Resolution No. 10-0599 on December 6, 2010, declaring its intent to issue general obligation capital equipment notes in 2011 in an amount up to \$4,380,000 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 2011B, in the approximate amount of \$3,045,000 (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 funds to purchase capital equipment, as permitted by the act, having an expected useful life at least as long as the term of the notes;

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(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. 11-1024-19. 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 11-0548 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Halberg, Hartman and President Gardner -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved October 24, 2011

DON NESS, Mayor

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Resolution 11-0563, by President Gardner, authorizing additional software purchase to implement immediate internet access for city councilors in the Council Chamber, was introduced for discussion.

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

Joel Sipress expressed his opposition to the resolution because this amount is not currently in the budget, councilors should wait until next year and one of the obligations of leadership is to lead by example.

Councilors expressed their concerns that while this software is desired it is more important to send the message that this unbudgeted amount not be spent at this time.

Resolution 11-0563 failed unanimously (Public Document No. 11-1024-20).

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Resolution 11-0556, by President Gardner and councilors Hartman and Halberg, adopting guidelines for council member internet usage and use of electronic communications during council meetings, was introduced for discussion.

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

Joel Sipress expressed his concerns regarding the council having an internet council policy. He stated that the council should just use common sense and if you are in a professional setting, that you do not use the internet for anything not directly related to the business at hand.

Councilors expressed their opinions that: this has come about because of a perception that something wrong has been done, not because of the real reason, that technology has changed how meetings are conducted; that the attempt was only to set ethical guidelines and unless this is a rule versus a policy, it is not needed and that the intent was that the council be transparent on how the internet is used during council meetings.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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To councilor questions, Assistant City Attorney Joan Christensen stated that after researching this issue of city council internet use policy, it is a "cutting edge" issue that has very little definitive answers.

Councilor Hartman moved to table the resolution in order to address the concerns mentioned, which motion was seconded and carried upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Halberg, Hartman, Stauber and President Gardner -- 8

Nays: Councilor Fosle -- 1

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RESOLVED, that the proper city officials are hereby authorized to enter in an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 11-1024-21, with BP Canada Marketing Corporation 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 520-500-1900-4805 (gas fund, public works and utilities, public works director's office, reimbursements).

Resolution 11-0557 was unanimously adopted.

Approved October 24, 2011

DON NESS, Mayor

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Resolution 11-0552, adopting the parks and recreation trail and bikeway master plan, was introduced by Councilor Halberg for discussion.

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

Carol Burns and Judy Gordon expressed their concerns that: the plan should not commit the city to a course of action that could have serious negative effects on the environmental quality of the shoreline and the natural beauty; there needs to be discussion with the residents of Water Street on the issue of the Lakewalk connection between the Beacon Point termination to The Ledges natural surface trail and then to the eastward extension of the Lakewalk and bicycle/rollerblade use on Water Street is a safety issue with all the driveways and cars backing out.

Resolution 11-0552 was adopted as follows:

RESOLVED, that the trail and bikeway master plan is a plan of a comprehensive system of easily accessed and connected trails and bikeways and a plan for conserving key corridors for future sustainable trail and bikeway development.

FURTHER RESOLVED, the trail and bikeway master plan will help Duluth achieve its goal of becoming the top trail destination center in the Midwest.

FURTHER RESOLVED, that the city council finds the following:

- (a) It is in the best interest of the city to adopt the trail and bikeway master plan;
- (b) The city parks and recreation division along with other city staff, park and recreation commissioners and park planning consultants have developed, reviewed and recommended adoption of this trail and bikeway master plan;
- (c) The city parks and recreation division has, after due public notice, conducted public hearings about this trail and bikeway master plan on the following dates: September 14, 2011, September 19, 2011, and September 21, 2011;
- (d) The parks and recreation commission, at its October 12, 2011, regular meeting, did recommend, unanimously, to adopt the trail and bikeway master plan, on file with the city clerk as Public Document No. 11-1024-22.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011**

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THEREFORE, BE IT RESOLVED, that the document on file with the city clerk as Public Document No. 11-1024-22 is adopted as the trail and bikeway master plan for the city of Duluth.

Resolution 11-0552 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Halberg, Hartman, Stauber and President Gardner -- 8

Nays: Councilor Fosle -- 1

Approved October 24, 2011

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 CUNEO

11-050 - AN ORDINANCE AMENDING SECTION 47-17.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO IDENTIFICATION MEDALLIONS AND NUMBERS REGARDING TAXICAB LICENSES.

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INTRODUCED BY COUNCILOR CUNEO

11-052 - AN ORDINANCE AMENDING SECTION 8-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE ALCOHOLIC BEVERAGE CODE.

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INTRODUCED BY COUNCILOR STAUBER

11-051 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK AREA TO LINDA J. ZIMM FOR \$350.

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INTRODUCED BY COUNCILOR STAUBER

11-053 - AN ORDINANCE AMENDING ORDINANCE 10117 AMENDING ORDINANCE 10087 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO CORRECT THE LEGAL DESCRIPTION OF THE PLAZA AND LONDON ROAD FORM DISTRICTS.

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INTRODUCED BY COUNCILOR FOSLE

11-049 - AN ORDINANCE AMENDING ARTICLE IX, SECTION 6-97, AND ADDING A NEW SECTION 6-98, OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO DANGEROUS DOGS.

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The meeting was adjourned at 9:18 p.m.

JEFFREY J. COX, City Clerk