

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 28, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Boyle, Cuneo, Fedora, Fosle, Hartman, Stauber and President Gardner -- 8

Absent: Councilor Halberg -- 1

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

11-1128-01 The following communications regarding the proposed AT&T cell tower on 2120 Jean Duluth Road (11-0530R and 11-0531R): (a) Jon Bollman; (b) Jerry Fryberger; (c) Gary W. Jones; (d) Deb La Fleur; (e) Brad Rauzi; (f) Roy Tollefson. -- Received

11-1128-02 The following communications regarding the proposed new East High School resident permit parking zone (11-0624R): (a) Amy Bennett; (b) Luke Boynton; (c) Tim and Lori Bradshaw; (d) Barbara and Ed Buchanan; (e) Sharon Dawson; (f) Sue Finstick and Dale Smith; (g) Barbara and Paul Gustad; (h) Natalie Hanson; (i) Karl and Lynne Howg; (j) Marilyn Krueger; (k) Beatrice Larson; (l) Steve and Gail Marshik; (m) Matt Maurer; (n) Deb Musick; (o) Virginia Pfau; (p) Larry and Lynn Rappana; (q) Kathy and Jim Skoog; (r) Kristi Slick; (s) Lynn Slordal; (t) Joetta Snow; (u) Ann Wasson. -- Received

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## REPORTS FROM OTHER OFFICERS

11-1128-03 Assessor submitting reassessment of canceled assessment for delinquent garbage (Contract Nos. 2011020 and 2011420; reassessment amount \$264,638.87). -- Received

11-1128-18 Attorney decision on retiree health insurance by the Minnesota Supreme Court. -- Received

11-1128-17 Clerk recount waiver of Todd Fedora regarding the recount of votes for the First Council District, pursuant to Minnesota Statutes 204C.36, subd. 2(b). -- Received

11-1128-04 Engineer acceptance of local improvements by private parties, pursuant to Section 45-89 of the Duluth City Code, in:

- (a) Technology Drive (City Project No. 0693);
- (b) 45th Avenue West (City Project No. 0951);
- (c) DECC Amsoil Arena sanitary sewer (City Project No. 0776SN);
- (d) Oneota Business Park (City Project No. 0963SN);
- (e) Summit Ridge Development (City Project No. 0213SN). - Received

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## REPORTS OF BOARDS AND COMMISSIONS

11-1128-05 Duluth economic development authority minutes of October 26, 2011, meeting. -- Received

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At this time, 7:05 p.m., the public hearing regarding the proposed East High School resident permit parking zone was called to order.

Betty Greene, Sue Finstick and Craig Ward voiced support for the expanded parking zone as there are no sidewalks along 40th Avenue East; the street is narrow with parked cars on one side; there are no outlets in Rockview Court or controlled intersections on 40th Avenue

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East and with increased traffic there is a safety issue with parked cars on 40th Avenue East and also small children getting onto buses.

Karen Pagel stated that the new zone going as far east as Gladstone is too far and kids would not walk that far to school.

Don Michels spoke against expanding the zone by explaining that by making the east side of 40th no parking all year round and allowing parking on the west side only, it would solve the problem without expanding the area. He also suggested that the Duluth Transit Authority should give free rides to high school students like it does for the University of Minnesota-Duluth.

Brian Ronstrom questioned why the school district, which put the high school on this site and caused the problem, is not finding safe, secure parking on the site instead of the surrounding residents having to pay for parking permits.

Laurie Korich stated that the school board pushed the new school through in such a rush and now the residents have to be the ones to solve the problem and pay to park on the street.

Byron Johnson stated the parking zone at Denfeld is very small compared to East and it should not be the residents' responsibility to pay for the parking permits. He further stated that the school district should solve the problem and be responsible for the signage and permits instead of passing the cost on to the residents.

At this time, 7:18 p.m., the public hearing was closed and the regular order of business was resumed.

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafter stated that the Fond du Luth Casino benefits from the city's infrastructure but does not want to pay for it, so the city should impose a toll on all streets and sidewalks that lead to the casino.

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### RESOLUTIONS TABLED

Councilor Stauber moved to remove resolutions 11-0530 and 11-0531, affirming and reversing, respectively, the decision of the planning commission to grant the application for a special use permit by AT&T/New Cingular Wireless for a wireless telecommunications facility, from the table, which motion was seconded and unanimously carried.

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

Anne Seppo urged the council to support the placement of the tower on her property as it will be set back far on her property, it is not in the bird migration path, most neighbors will not be able to see the tower and a tower in the Morningside Pit area would be a detriment to the city as it is a wildlife area.

John Bollman, Evelyn Frasier, Gary Jones, Roy Tollefson, Sandy Smith and Brad Rauzi requested the council support the appeal and move the tower to the Morningside Pit for the following reasons: concerned about the aesthetics and quality of property; reduced property value of the neighborhood; public perception is that no one wants the tower in their yard; the planning commission failed to correctly apply the provisions of the unified development chapter (UDC) to the application; it will take away from the green space and invade the environment; concern about the diesel generator running all the time as a backup and better coverage will come from the Morningside Pit site.

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Ken Butler urged passage of the permit and explained that the stealth tower height will not be intrusive to the neighborhood and AT&T has spent some time getting through the city planning process. He also stated that without backup information on the property values, it cannot be a consideration for denial of the permit.

John Koralia favored support of the cell tower at the proposed location as this location would have the least obtrusive view of the cell tower and the planning commission has looked at the issue and followed the process according to City Code.

City Attorney Gunnar Johnson reviewed with the council that they can only affirm or reverse the decision of the planning commission and that they cannot decide on a site for the cell tower. He stated that the decision is whether AT&T complied with the requirements of the City Code regulating the issuance of a special use permit for the Seppo site. Mr. Johnson continued saying that if the council reverses the decision, they need to have found substantial evidence that the location of the tower will harm health, safety and the welfare of the city and its inhabitants and in the resolution set the evidence it is using for the basis of its reversal.

Resolution 11-0530, affirming the planning commission decision, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) On July 12, 2011, AT&T/New Cingular Wireless (applicant) applied for a special use permit to construct a telecommunications facility consisting in principal part of a 75 foot monopole for cellular antennas and a 12 foot by 28 foot ground equipment shelter;

(b) Pursuant to Minnesota Statutes Section 15.99 the applicant waived the final action deadline mandated by the statute;

(c) The proposed facility will be located at 2120 Jean Duluth Road. This location is zoned RR-1 and presently includes residential and commercial use. The commercial use is the Amity Valley Kennels;

(d) A public hearing was held by the planning commission at its September 13, 2011, meeting. The commission voted to approve the location of a 70 foot tower at the site rather than the 75 foot applied for and concluded that the applicant had satisfied the use specific standards provided in Section 50-20.4.E of the City Code. In reaching its decision the planning commission reviewed the city consultant's report. The consultant reviewed the application pursuant to Section 50-20.4.E.5 of the City Code. The consultant issued a report dated September 1, 2011, a copy of which is on file with the city clerk as Public Document No. 11-1128-06;

(e) On September 23, 2011, Brad Rauzi (Rauzi) filed an appeal of the planning commission action to the city council pursuant to Section 50-37.1.O.4 of the City Code. The appeal asserts four objections to the planning commission action. They are:

(1) The applicant did not satisfy the location priority standards of Section 50-20.4.E.3(e) of the City Code;

(2) The subject parcel is partly designated preservation land in the comprehensive plan;

(3) Placement of the tower, a commercial venture, will have a negative effect on the nature and character of the neighborhood and on the area of wildlife; and

(4) The applicant has not established a need for the facility at the proposed location;

(f) The appeal was heard at the October 10, 2011, meeting of the planning and economic development committee, and the matter was considered at the city council's October 10, 2011, meeting.

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RESOLVED FURTHER, that the decision of the planning commission to approve the application for special use permit is affirmed on the following grounds:

(a) The consultant's report contained the following information that is relevant to the four grounds asserted as the basis for this appeal:

(1) Location priority. Rauzi objects to the use of the subject site and asserts that the proposal does not meet the standard provided for in Section 50-20.4E-3(e);

(A) The site location is a lowest priority site as provided in Section 50-20.4.E.3(a). The consultant identified an alternative city-owned site that would satisfy the applicant's operational needs; however, the city rejected the proposal to locate the facility at the city location. The Code does not require the city to allow placement of a wireless telecommunications facility on a city-owned site. The applicant provided sufficient information that no other site with a higher priority and located within their search ring was available;

(B) Pursuant to 47 U.S.C. §332(c)(7)(B)(iii), "any decision by a state or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record." No evidence has been offered that satisfies the substantial evidence standard mandated by the federal law and demonstrates that the location of the telecommunications facility at the proposed location will harm the health, safety and welfare of the city and its inhabitants and will have a deleterious effect on the nature and character of the community and neighborhood;

(C) Pursuant to 47 U.S.C. §332(c)(7)(B)(iv), "[n]o state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the commission's regulation concerning such emissions." Rauzi has not identified the nature of the health effects allegedly negatively impacted by the proposed facility;

(b) Compliance with the comprehensive plan. Planning staff concluded in the report to the planning commission that the proposed use was consistent with the comprehensive land use plan. Pursuant to Duluth City Code Section 50-19.8 (permitted use table) a telecommunications facility is an allowable special use in the RR-1 zone. Zoning of land takes priority over the provisions of a comprehensive plan;

(c) Negative neighborhood effects. No evidence has been offered that satisfies the substantial evidence standard and demonstrates that the location of the telecommunications facility at the proposed location, presently used, in part, for commercial activity, will have a negative effect on the neighborhood or the area wildlife;

(d) Demonstration of need. The consultant reviewed the applicant's proof of need and reported to the planning commission that the applicant provided sufficient propagation studies indicating a loss of coverage of critical areas that will be targeted by the proposed site. No evidence has been offered that satisfies the substantial evidence standard and demonstrates that the consultant's evaluation of the propagation studies is inaccurate.

Resolution 11-0530 was adopted upon the following vote:

Yeas: Councilors Cuneo, Fedora, Fosle, Hartman, Stauber and President Gardner -- 6

Nays: Councilors Anderson and Boyle -- 2

Absent: Councilor Halberg -- 1

Approved November 28, 2011

DON NESS, Mayor

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Resolution 11-0531, reversing the planning commission decision, failed upon the following vote (Public Document No. 11-1128-19):

Yeas: Councilors Anderson and Boyle -- 2

Nays: Councilors Cuneo, Fedora, Fosle, Hartman, Stauber and President Gardner -- 6

Absent: Councilor Halberg -- 1

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### MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time, pursuant to City Council Stand Rule No. 15:

BY PRESIDENT GARDNER AND COUNCILORS HALBERG AND HARTMAN  
11-0649 - RESOLUTION AMENDING THE STANDING RULES ADDING A NEW RULE 18 -  
USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS.

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### 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.

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September 7, 2011, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Super One Liquor, LLC, d/b/a Super One Liquor, 210 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 11-1128-07;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on November 28, 2011, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 11-1128-07 regarding any suspension, revocation and/or civil penalty relating to the off sale intoxicating liquor license of Super One Liquor, LLC, d/b/a Super One Liquor, 210 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: that the city council impose a \$500 civil penalty payable within 30 days of final council action, and payment of \$250 of the penalty by stayed for a period of one year on the condition that the licensee have no same or similar violations.

Resolution 11-0612 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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WHEREAS, the city and state services for the blind, business enterprises program entered into an agreement on or about November 29, 2010, (the "original agreement") under which a legally blind program participant operates coin operated vending machines for the retail sale of various products in City Hall; and

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WHEREAS, due to certain economic conditions, state services for the blind has requested modifications to the original agreement; and

WHEREAS, the city and state services for the blind desire to terminate the original agreement and enter into an amended and restated agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an amended and restated agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1128-08, with the state services for the blind, business enterprises program, to authorize operation of vending machines in City Hall by a program participant.

Resolution 11-0613 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the original purchase order to MacQueen Equipment, Inc., for the purchase and delivery of OEM (original equipment manufacturer) replacement parts for Elgin and Vactor equipment is hereby approved and increased by \$16,000, terms net 30, discount ten percent current price list, FOB destination, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair supplies).

Resolution 11-0619 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the increase to contract 20352 with Inter-City Oil Company, Inc., for both bulk and service station fuels as needed in 2011 is hereby approved for the amount \$40,000 (delivered bulk fuels) plus \$300,000 (service station fuels) for a total amount of \$340,000, payable from the Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

Resolution 11-0620 was unanimously adopted.

Approved November 28, 2011

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 St. John's Church 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 11-0628 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of police records and technology manager, which were approved by the civil service board on October 4, 2011 and which are filed with the city clerk as Public Document No.11-1128-09, are approved; this classification shall remain subject to the city's collective bargaining agreement

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with its supervisory unit employees and compensated at pay ranges 1075-1090.  
Resolution 11-0622 was unanimously adopted.  
Approved November 28, 2011  
DON NESS, Mayor

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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:

Scott Smith, of the city of Duluth, Minnesota, whose term shall commence upon the first business day of January, 2012 and shall expire on the first business day of January, 2015.

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 terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions 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 11-0631 was unanimously adopted.  
Approved November 28, 2011  
DON NESS, Mayor

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RESOLVED, that the city of Duluth's appointments by Mayor Ness to the St. Louis County homeless leadership council of the following individuals are confirmed:

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NAME	TERM EXPIRATION DATE
Lynn Gerlach-Collard (affordable housing coalition representative)	3/31/2013
Deborah Wagner (at large representative)	3/31/2015

Resolution 11-0634 was unanimously adopted.  
 Approved November 28, 2011  
 DON NESS, Mayor

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RESOLVED, that the Duluth city council hereby expresses its support for One Roof Community Housing’s (formerly NHS of Duluth and Northern Communities Land Trust) request for funding to the Minnesota housing finance agency for funding from the rental rehabilitation deferred loan program (RRDL).

Resolution 11-0630 was unanimously adopted.  
 Approved November 28, 2011  
 DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city planning division requesting the vacation of two segments of 129th Avenue West located near First Street in Fond du Lac; 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 (PL11-121) 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 streets are useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its November 8, 2011, 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 streets and depicted on Public Document No. 11-1128-10:

That part of 129th Avenue West in the recorded plat of Fond du Lac, Saint Louis County, Minnesota, lying southerly of the southerly of Second Street (formerly known as Cherokee) and northerly of the northerly line of First Street (formerly known as Miles); and

That part of 129th Avenue West in the recorded plat of Fond du Lac, Saint Louis County, Minnesota, lying southerly of the southerly line of First Street (formerly known as Miles) and northerly of the northerly line of Itasca 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, is 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. 11-1128-10 showing the rights-of-way to be vacated.

Resolution 11-0635 was unanimously adopted.  
 Approved November 28, 2011  
 DON NESS, Mayor

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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

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clerk as Public Document No. 11-1128-11; payment by the city will be made from the General Fund 110, Agency 700, Organization 1407, Object 5407.

Resolution 11-0629 was unanimously adopted.

Approved November 28, 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. 11-1128-12, with Duluth-Superior Public Access Community Television, Inc., (PACT) for providing cablecasting, training and production and administrative services in 2012 relating to public access television in the net amount of \$162,000, to be paid from 110-700-1414-5441 (general, transfers and other functions, public access television).

Resolution 11-0627 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a consultant agreement with SAIC Energy, Environment & Infrastructure, LLC, substantially the same as that on file with the city clerk as Public Document No. 11-1128-13, for professional services in conducting a cost of service study and rate design for the city's public works and utilities department in accordance with the consultant's statement of qualifications and proposal both dated October 31, 2011, for a total amount not to exceed \$44,800, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1915 (utility general expense), Object 5319 (other professional services).

Resolution 11-0615 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC, for Lift Station No. 45 Pumping and forcemain improvements in the amount of \$1,192,000, payable from Clean Water Fund 532, Department 500 (public works and utilities), Object 5532 (capital improvements - bond), and of these costs, \$953,600 will be reimbursed with WIF grant and principal forgiveness monies administered by the PFA; City Project No. 0892SN.

Resolution 11-0616 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that Resolution 10-0423 awarding a contract for professional engineering services to Salo Engineering, Inc., be amended by an amount of \$14,136.58 for a new total of \$143,848.09. The increase will be payable from Street Improvement Fund 440, Department 038 (special assessment), Object 5530 (improvements other than buildings), City Project No. 0356TR.

Resolution 11-0618 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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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.

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 65' radius (-0.02 superelevation) curve at the intersection of Livingston Avenue and Glenwood Street, and a 90' radius (-0.02 superelevation) curve at the intersection of East Oxford Street and Roslyn Avenue, in lieu of 215' radius (0.06 superelevation) horizontal curves, and further agrees to indemnify, save, and hold harmless the causes of action arising out of or by reason of the reconstruction of East Oxford Street, Livingston Avenue and Glenwood 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 of this variance.

Resolution 11-0633 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept funds from the United States marshals service (USMS), pursuant to the terms of the regional fugitive task force agreement between the USMS and the city of Duluth approved by the city council on August 16, 2010 (Contract Number 21199), for reimbursement of expenses incurred in support of the regional fugitive task force, said funds to be deposited in Fund 110-160-1610-4209-02 (general fund, police department, administration and investigation, direct federal grants operating).

Resolution 11-0608 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement with the Duluth Public Arts Fund, Inc., for the placement of a bronze sculpture entitled "Cooperation, Safety, Honor" at the new public safety building adjacent to the St. Louis County sheriff's department.

Resolution 11-0611 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with St. Louis County, the University of Minnesota-Duluth police department, the

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city of Hermantown, the city of Proctor and the city of Floodwood, substantially the same as that on file in the office clerk as Public Document No. 11-1128-14, for services provided under 2012 toward zero deaths law enforcement grant from the Minnesota department of public safety, all reimbursement payments pursuant to the agreement shall be paid from Fund 215-200-2292-5447 (Duluth police grant program, police, 2010 pilot enforcement project, payment to other government agencies).

Resolution 11-0614 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 11-1128-15, with the city of Superior to participate in the 2011 child sexual predator program and to accept grant monies in the amount of \$103,000 to be used to support the work of the Lake Superior forensic technology and Internet crimes against children task force, funds to be deposited in Fund 215-200-2203-4210-02 (Duluth police grant programs, police, sexual predator program grant).

Resolution 11-0621 was unanimously adopted.

Approved November 28, 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:

One accessible space in front of 344 Leicester Avenue;

One accessible space in front of 422 North 13th Avenue East.

Resolution 11-0625 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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RESOLVED, that in accordance with Section 45-25 of the Duluth City Code, 1959, as amended, Lincoln Park Drive shall be closed between Fifth Street and Tenth Street, and access to Lincoln Park Drive will be blocked on Seventh Street. The closure will be from November 1 through April 15 each year.

Resolution 11-0626 was unanimously adopted.

Approved November 28, 2011

DON NESS, Mayor

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The following resolution was also considered:

Resolution 11-0624, to expand the existing resident permit parking zone around East High School, was introduced by Councilor Fosle for discussion.

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

Betty Greene stated that until the school district finds a better long term solution, an extension of the zone is necessary.

Byron Johnson questioned if there was a lack of planning when the new zone goes 13 blocks north to 43rd Avenue East and Dodge Street but only goes six blocks east to 45th Avenue East and Regent Street.

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Brian Rohstrom voiced concern that the football stadium increased its seating which took away parking for the students.

Councilor Hartman moved to amend the resolution's public document to eliminate Dodge Street from 43rd to 44th avenues East, which motion was seconded and unanimously carried.

Councilor Fosle stated the question is how far away from the school are the students willing to park and walk to school. He suggested that parking restrictions be implemented one street at a time to see if the students will keep moving above the zone to park.

Councilor Fosle moved to amend the resolution to post one street at a time, one week at a time, which motion failed for lack of a second.

Resolution 11-0624, as amended, was adopted as follows:

RESOLVED, that pursuant to Section 33-125 of the Duluth City Code, 1959, as amended, the area lying within that portion of the city shown on that map on file in the office of the city clerk as Public Document No. 11-1128-16 is hereby designated as a resident permit parking zone during each period from and including September 1 of any year to June 15 of the following year between the times of 8:00 AM and 4:00 PM, on any Monday through Friday therein.

FURTHER RESOLVED, that all no parking zones and other parking restrictions previously established by the city council within the resident permit parking zone established by this resolution shall remain in effect.

Resolution 11-0624, as amended, was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Absent: Councilor Halberg -- 1

Approved November 28, 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 BOYLE

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

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

David Leonzal, representing the AFSCME union, Eric Simonson, representing the fire union, and Tom Maida, representing the police union, urged the council to send the ordinance back to the administration for the following reasons: the unions need time to review the ordinance with the proposed changes; the ordinance strips the power from the civil service board and gives it to the human resources director, which eliminates the checks and balances of the hiring process; the Civil Service Code needs to be updated but does not need to be overhauled and thrown out; recommendations from the task force which did meet with the unions are not implemented in the new ordinance and the council should hear from the civil service board to get their opinion on the ordinance.

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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INTRODUCED BY COUNCILOR HARTMAN

11-059 - AN ORDINANCE PROHIBITING WORK WHICH DAMAGES CITY UTILITIES AND PROVIDING FOR PENALTIES FOR VIOLATION THEREOF, AMENDING CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY ADDING A NEW ARTICLE XIII THERETO.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR CUNEO

11-055 (10123) - AN ORDINANCE AMENDING SECTION 8-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE ALCOHOLIC BEVERAGE CODE.

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

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INTRODUCED BY COUNCILOR STAUBER

11-056 (10124) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE WEST DULUTH/ SPIRIT VALLEY AREA TO DEDA FOR \$1,126.

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

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INTRODUCED BY COUNCILOR FOSLE

11-054 - AN ORDINANCE REPEALING AND REPLACING CHAPTER 33, ARTICLE VI, AND AMENDING SECTIONS 33-101, 33-108, 33-110, 33-111.1 AND 33-221 OF THE DULUTH CITY CODE, 1959, AS AMENDED, CREATING A NEW DULUTH PARKING COMMISSION.

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

John Simpson, Bill Bennett and Rick Heimbach urged support of the new parking commission ordinance as it is a good step forward to give the parking commission other duties, the council will value their input and it will help change the community and business environment for the better.

Kristi Stokes, representing the Greater Downtown Council, stated they are pleased to partner with the city for improving the parking in the Downtown and revising the parking commission is a good first step. She further stated that the parking study that was completed has a broad vision and strategic, proactive approach which will help both customers and businesses Downtown.

President Gardner moved to amend Section 33-75(b) of the ordinance as follows:

(a) Insert after the phrase "subject to council approval," the phrase "except the councilor member who shall be appointed by the council president subject to council approval";

(b) Delete the phrase "innovative and open minded,"

which motion was seconded and unanimously carried.

Mr. Johnson stated that the amendment to the ordinance is substantial so the ordinance would need a second reading at the next council meeting.

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INTRODUCED BY COUNCILOR FOSLE

11-057 (10125) - AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE BUILDING APPEAL BOARD.

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

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

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INTRODUCED BY COUNCILOR FOSLE

11-058 (10126) - AN ORDINANCE AMENDING SECTIONS 40-4 AND 40-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO ABANDONED PROPERTY.

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.

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

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**ORDINANCE NO. 10123**

AN ORDINANCE AMENDING SECTION 8-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE ALCOHOLIC BEVERAGE CODE.

The city of Duluth does ordain:

Section 1. That Section 8-40 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-40. Dancing and late hours entertainment licenses for liquor establishments.

(a) No person licensed to sell alcoholic or 3.2 malt liquor beverages on sale shall allow dancing participated in by the public or late hours entertainment on the licensed premises unless a license has been issued pursuant to this Section;

(b) A dance license, whether an annual, seasonal or a one day license, shall entitle the on sale licensee to have dancing participated in by the public on the licensed premises;

(1) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open only to members and bona fide guests of members may have dancing participated in by members and guests, without securing a dance license;

(2) The term of the annual dance license shall be the same as the term of the on sale license. The term of the seasonal license is limited to the months of May through August;

(3) The fee for any dance license shall be set in accordance with Section 8-56(d). The fee for the annual license shall be prorated in the same manner as on sale licenses;

(4) The procedures and standards applicable to the issuance of the late hours entertainment license, where applicable, shall apply to the issuance of the annual or seasonal dance license;

(5) The city clerk is authorized to issue the one day dance license. The following procedures and standards are applicable to the issuance of the one day dance license:

(A) No license shall be issued unless an application for the license is received by the city clerk at least 60 days prior to the event date;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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(B) The license is subject to approval by the police and fire departments. Such approval is subject to, but not limited to, the following standards:

1. No license shall be issued in an area or under circumstances that would result in the disturbance of adjoining properties or the surrounding neighborhood;

2. The police and fire departments shall apply the same considerations applicable to the late hours entertainment license;

3. The license may contain conditions and limitations concerning security for the event and the hours during which the dancing event may be held; however, the license shall not authorize dancing after the time authorized for the sale of alcohol;

4. The city clerk shall notify the licensee in writing of the action taken on the application by any reasonable means, including but not limited to, the United States mail or electronic transmission. The licensee may appeal the action of the city clerk to the alcohol, gambling and tobacco commission. The appeal is subject to the following procedures:

(i) The appeal shall be made in writing within seven days after written notice of the action is issued, on a form provided by the city clerk, and filed with the city clerk. The appeal shall be accompanied by an appeal fee which shall be established by the city council pursuant to Section 31-6(a). The issues on appeal shall be limited to the issues presented in the written appeal;

(ii) In deciding the appeal the commission shall apply the same criteria required of the city clerk;

(iii) The decision of the commission shall be the final decision of the city subject to appeal to the Minnesota Court of Appeals pursuant to Minnesota Statutes Section 606.01;

(iv) The failure of the applicant to submit an application sufficiently in advance of the proposed dance event to allow for an appeal is the sole responsibility of the applicant;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, late hours entertainment licenses may be issued to establishments holding on sale alcoholic beverage licenses or 3.2 malt liquor beverages if they meet the criteria set forth in Section 8-40(d). The late hours entertainment license shall allow the establishment to have music and entertainment, including dancing by patrons, after the hours when sales of alcoholic beverages are required to cease. The fee for such license shall be set in accordance with Section 8-56(d);

(d) The annual and seasonal dance license and the late hours entertainment license shall be subject to the following procedures and standards:

(1) Every application shall be investigated by the police and fire departments and alcohol, gambling and tobacco commission;

(2) No license shall be issued in an area or under circumstances where the dancing or late hours entertainment would disturb adjoining properties or the surrounding neighborhood;

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

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(3) In their investigation and recommendations, the police and fire departments and the alcohol, gambling and tobacco commission shall consider, without limitation:

(A) The proximity of the establishment to residences and residentially zoned property;

(B) The character of the neighborhood surrounding the establishment;

(C) Parking facilities at the establishment;

(D) The acoustic properties of the building housing the establishment;

(E) The past record of the establishment; and

(F) Any past complaints from adjoining property owners;

(4) The license may contain conditions and limitations concerning types of entertainment and hours of entertainment or dancing;

(5) No entertainment or dancing shall be allowed after 3:00 a.m.;

(6) All establishments allowing late hours dancing must have a dancing license as required by paragraphs (a) and (d) of this Section;

(7) During all times when dancing or late hours entertainment is conducted on the licensed premise the licensee shall provide adequate security personnel. The chief of police shall approve the security personnel plan. The licensee is responsible for all fees or expenses of such security personnel.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 31, 2011)

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

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

Nays: None -- 0

Absent: Councilor Halberg -- 1

Passed November 28, 2011  
Approved November 28, 2011  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10124**

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE WEST DULUTH/SPIRIT VALLEY AREA TO DEDA FOR \$1,126.

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 \$1,126;

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

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(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 2 of the Code;

(d) As per Section 2-177.3 of the Code, the property described in section 2 below is being conveyed to the Duluth economic development authority (DEDA) at market value for the purpose of being conveyed to Irving School, LLC, in order to ameliorate conformity issues with UDC requirements, to foster the availability of multi-family housing in the neighborhood and because Irving School, LLC, is the only entity that can make practical use of this property.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property, by quit claim deed, to DEDA, for the amount of \$1,126 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:

All that part of the following described lot:

Lot 9, Block 25, West Duluth First 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;

which lies northeasterly of the following described line:

beginning at a point on the east line of said Lot 9, distant 15 feet south of the northeast corner thereof, thence run northwesterly to a point on the north line of said Lot 9, distant 75 feet west of the northeast corner thereof and there terminating.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 31, 2011)

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

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

Nays: None -- 0

Absent: Councilor Halberg -- 1

Passed November 28, 2011  
Approved November 28, 2011  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10125**

AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO THE BUILDING APPEAL BOARD.

The city of Duluth does ordain:

Section 1. That Section 10-5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-5. Building appeal board.

(a) There is hereby established a building appeal board, which shall hear and determine appeals under the state building and fire codes and Duluth Housing Code. Such board shall consist of 12 members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief and building official shall be appointed as ex officio members of the board. The building official shall have no

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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vote on any matter before the board and shall act as secretary of the board. One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction; one member shall be engaged in the business of commercial building construction; one member shall work in the area of building materials supply; one member shall be a member of a building trade union; one member shall be a realtor or real estate manager; and two members shall be appointed from the general citizenry of the city of Duluth. Of the first persons appointed for membership on the board, four shall be appointed for three years, four shall be appointed for two years, and three shall be appointed for one year. Thereafter, all appointments shall be for a term of three years, except that vacancies caused by death, resignation or otherwise may be filled for the remaining unexpired term;

(b) Within 30 days after the initial appointments, the board shall meet and elect a chairman and vice chairman. Thereafter, the board shall meet at stated intervals fixed by resolution of the board, or at the call of the chairman or of any three members of the board. The board may adopt reasonable rules and regulations for conducting its investigations and hearings;

(c) The board shall have jurisdiction to perform the following functions:

(1) To hear appeals from decisions made by the building official interpreting the State Building Code where such interpretation involves points not clearly covered by said Code, the appropriateness of alternate methods of construction, or the appropriateness of the use of alternate materials;

(2) To hear appeals from decisions made by the building official in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;

(3) To hear appeals from decisions of the fire chief which arise under Chapter 21 of the Duluth City Code;

(4) To hear appeals from an order of the building official which applies Article II or III of Chapter 10 of Duluth City Code, as amended, or its successor, which includes orders for demolition or other decisions under Article II or III of Chapter 10, Duluth City Code;

(d) Any owner or occupant who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the building official within 15 days after receiving notice of such decision and pay the appeal fee. The appeal fee shall be set in accordance with Section 31-6(a) of this Code. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a refusal to grant a permit authorizing the use of an alternate material or method of construction, the notice of appeal shall contain a guarantee of payment of all expenses of any tests made or ordered by the board. If the appeal is from a decision of the fire chief, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant withdraws his or her appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and arguments. After due deliberation, the board shall render its decision in writing and notify the appellant

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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of its decision by U.S. mail, electronic means or personal service. Decisions involving the State Building Code shall be mailed to the state building inspector within 15 days after they are rendered. The building official shall keep an indexed record of decisions of the board. If the board grants an appellant an extension of time to do an act, then, at the next meeting after expiration of that period of time, the matter shall be set on the meeting agenda for the board's review and action;

(e) In making its decisions, the board shall use the following criteria:

(1) Building code appeals. The board shall approve alternate materials or methods of construction only if reasonable proof is presented that such material or method is at least equivalent to State Building Code standards in quality, strength, effectiveness, durability, fire resistance and safety;

(2) Housing code appeals and appeals of demolition or other orders. The board may remedy any error it has found the building official has made in the interpretation of the housing code or of Article II or III of Chapter 10, Duluth City Code, or their successors. The board may also grant such relief as it deems reasonable from strict compliance with each provision of these parts of Duluth City Code, but no relief shall be granted unless it is found that:

(A) There is substantial compliance with the provisions of the Code;

(B) No detriment to public health or safety will result from granting such relief;

(C) The intent of the Code is not compromised;

(D) The relief granted will not result in increased cost expense to the city;

(3) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:

(A) There is substantial compliance with the provisions of the fire code;

(B) The safety of the building occupants and general public will not be jeopardized;

(C) Undue hardship will result to the applicant if relief is not granted;

(f) Any owner or occupant aggrieved by a decision of the board which involves a housing code matter, except a demolition matter under Section 10-3 of this Code, or its successor, may appeal such decision to the city council by filing a notice of appeal with the building official within 15 days after receiving notice of the board's decision. Such notice of appeal shall be addressed to the city council and shall state the grounds upon which the appeal is taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. The building official shall file all appeal notices with the city council. The city council shall hear the appeal within 30 days after the notice of appeal is filed and shall affirm, modify or reverse the decision of the board. The board's decision on demolition orders or any matter arising under Section 10-3 of this Code, or its successor, shall be appealed to the appellate courts pursuant to Minnesota Statutes Section 606.01.

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

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Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 31, 2011)

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

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

Nays: None -- 0

Absent: Councilor Halberg -- 1

Passed November 28, 2011  
Approved November 28, 2011  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10126**

AN ORDINANCE AMENDING SECTIONS 40-4 AND 40-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO ABANDONED PROPERTY.

The city of Duluth does ordain:

Section 1. That Section 40-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 40-4. Abandoned property defined.

For the purposes of this Article, property shall be deemed to be abandoned if it has been in the possession of the city or any officer or agent thereof or remains in a building condemned for demolition for more than 30 days from the date of the mailing of a written notice by the city to such owner to appear and present proof of his or her ownership.

Section 2. That Section 40-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 40-10. Definitions.

For the purpose of this Chapter, the terms defined in this Section shall have the meanings ascribed to them:

Nuisance event. An event requiring special security assignment in order to protect the public peace, health, safety and welfare. A nuisance event includes, but is not limited to, the following:

- (a) Unlawful sale, possession, storage, delivering, giving, manufacture, cultivation or use of controlled substance;
- (b) Prostitution or prostitution-related activity;
- (c) Illegal gambling or gambling-related activity;
- (d) Unlicensed sales of alcoholic beverages or unlawful sales or gifts of alcoholic beverages by an unlicensed person or underage consumption at a specific location;
- (e) Loud and boisterous conduct, noises and activities that disturb the peace;
- (f) Events between 11:00 p.m. and sunrise which disturb the peace and tranquility of the neighborhood;
- (g) Congregating in a tumultuous, noisy or rowdy crowd;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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- (h) Fighting or use of obscene or inflammatory language;
- (i) Loud music constituting a nuisance or disturbing the peace;
- (j) Activities causing excessive pedestrian or vehicular traffic and parking problems and congestion;
- (k) Indecent exposure or lewd conduct.

For the purposes of this Article, the term nuisance event shall not include an event of domestic abuse as that term is defined in Minnesota Statutes Section 518B.01 Subdivision 2(a).

Owner. A person or persons shown to be owner or owners of property on the property tax records of St. Louis County, Minnesota.

Personal service. Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

Police services fee. A fee imposed for law enforcement services associated with a special security assignment. Such fee shall be set in accordance with Section 31-6(a) of this Code and may be based on, but not limited to, salaries of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing city equipment and property and the cost of any medical treatment of injured police officers.

Responsible person. A person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will also be considered responsible persons.

Special security assignment. The assignment of police officers, services and/or equipment during a second or subsequent response to a nuisance event at a particular location after the service of a written notice to the responsible persons that a police services fee may be imposed for costs incurred by the city for any subsequent police response at such location.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 31, 2011)

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

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

Nays: None -- 0

Absent: Councilor Halberg -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 28, 2011  
Approved November 28, 2011  
DON NESS, Mayor

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