

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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### OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 3, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1203-01 Todd Johnson communication regarding the proposed amendments to the sign code (12-070-O). -- Received

12-1203-07 The following communications regarding the proposed design request for a permanent street in and around Joshua Avenue (12-0546R): (a) Horace Kahlbaugh; (b) Matt Oman; (c) Sandy Purcell; (d) Carol Reimer. -- Received

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### REPORTS FROM OTHER OFFICERS

12-1203-02 Chief engineer of transportation report on the request by the city council to review the feasibility of creating a four way stop and/or installing stop lights at the intersection of 75th Avenue West and Grand Avenue/Highway 23 (11-0367R). -- Received

12-1203-03 Clerk application for exempt permit (raffle) to the Minnesota gambling control board from Lake Superior Chapter of Muskies, Inc., on March 9, 2012. -- Received

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### REPORTS OF BOARDS AND COMMISSIONS

12-1203-04 Duluth public utilities commission minutes of October 16, 2012, meeting. -- Received

12-1203-05 Duluth transit authority: (a) Minutes of August 29, 2012, meeting; (b) Income statement of September 2012. -- Received

12-1203-06 Parks and recreation commission minutes of November 14, 2012, meeting. -- Received

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At this time, 7:03 p.m., the public hearing on the 2013 budget and levy was opened.

Paul King voiced opposition to the budget and levy increases, noting: that it is not helpful for poor people and hurts them the worst; his taxes went up 22 percent; the city squanders money; if the money was used in a good way the city would not need to raise taxes; this is hurting businesses by increasing fees, water rates, and now property taxes and there is no good use for the money the city is going to take.

Ron Kope noted that his taxes went up 38.3 percent and he objected to the increase in his valuation.

Andy Strom, business owner, said his taxes are over \$14,000 for lots that do not have any buildings on them.

Tim Carter stated that he purchased tax forfeited property next to his home after moving up from Minneapolis because of more affordable housing. He claimed that his taxes have kept rising ten years in a row, and for a total of 72.5 percent, which he cannot afford.

At this time, 7:15 p.m., this public hearing was declared closed.

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At this time, 7:15 p.m., the public hearing on the capital improvement plan (CIP) for 2013-2017; the intent to issue CIP bonds and the reallocation of previously issued CIP bonds was declared opened. No one appeared who wished to be heard and the public hearing was declared closed at 7:16 p.m.

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### RESOLUTION TABLED

Councilor Julsrud moved to remove Resolution 12-0546, requesting design for a permanent street in and around Joshua Avenue from Maple Grove Road to Arrowhead Road, from the table, which motion was seconded and unanimously carried.

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

Matthew Eckman, Andy Brunette and Dave Skolasinski felt that: there is a positive alternative of a nature park with trails; the city should develop the pond that is there, use the green space for environmental purposes, preserve the wetlands, develop hiking, biking and cross country ski trails; this plan would still not stop the Eklund cut through traffic; the traffic data is outdated; the route selected by consensus was not the best decision; there has been a large amount of money spent with the negative outweighing the positive; there is a perception that this solves a problem, but at what costs; this proposal is an ill-conceived project and the last thing we need to do is spend large amounts of money to provide a minor convenience to the public while other roads are available to access the mall area.

Horace Kahlbaugh felt that: the city should utilize the allocated funds to complete the engineering for this project; all councilors run for office saying that the city needs jobs and labor supports this; not doing the project would be wasting the federal and state monies and sending the money back to them and Eklund Avenue is badly deteriorating.

Ron DeGrio felt that: individuals on the committee spent a lot of time reviewing this issue; the committee urged the administration to look at alternatives, but the mayor wanted the committee to look at this area; the committee voted on a plan with the condition that property acquisitions would have to be done before the project would be started; the plan presented here brings devastation to the seven property owners directly affected. He further requested that the council make the decision on what was sent to them by the committee and not the plan that was changed by the administration and added that the homeowners do not want to have the street go through while waiting for the city to get the money to buy their houses.

Councilors Julsrud, Krug, Stauber, Larson and Gardner felt that: the issue is where the city should spend the money for streets; Joshua Avenue does not come to the top of priorities with the other streets that need attention; to receive federal money for municipal design is difficult but it is the responsibility of the council to make wise use of taxpayers' money and allocate the local funds to other streets; the resolution is for design work and not to order the road in; this is not a jobs bill as there is no funding for this project; without funding on the horizon, one cannot support this bill; the streets are in bad shape all over the city and they cannot support spending more money on this project and it is drastically changing a landscape in the neighborhood as it is a new road.

Councilor Krause felt that: roads and the infrastructure below the street are deteriorating in Duluth Heights because the traffic is too high for the type of road that was built; the plan was to keep the green space and preserve the wetlands, with trails and walkways and the Duluth-Superior Metropolitan Interstate Council approved this plan.

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Resolution 12-0546 failed upon the following vote (Public Document No. 12-1203-08):

Yeas: Councilor Krause -- 1

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

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### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

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

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

RESOLVED, that the operation budget for the fiscal year January 1, 2013, to December 31, 2013, in the amount of \$4,585,200 for the Duluth Airport Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 12-0597 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

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The city council finds:

(a) The city is required to submit a pay equity implementation report to the state every three years; and

(b) The city submitted its pay equity implementation report to the Minnesota management and budget pay equity division for 2011; and

(c) The city received a "notice of noncompliance" from the state, citing failure to pass the exceptional service pay test based on employee longevity awards; and

(d) The city is submitting a reconsideration request, including an updated pay equity report based on payroll records effective November 7, 2011, and a second updated pay equity report which adjusts the way pay structures are reported to include longevity awards in the salary scale; and

(e) Such reconsideration request and reports require approval by the Duluth City Council.

THEREFORE, BE IT RESOLVED, that the city's pay equity implementation report(s) and reconsideration request, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1203-09, is hereby approved.

Resolution 12-0596 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

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WHEREAS, city and DEDA entered into an agreement on or about April 26, 2012, related to each party's rights and responsibilities under the parking management agreement with the Interstate Parking Company of Minnesota, LLC ("Interstate") (City Contract No. 21605); and

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WHEREAS, DEDA sold one of its parking lots known as the Phoenix Lot resulting in the need to amend the agreement to remove the Phoenix Lot and to reduce DEDA's management fee accordingly.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1203-10, reducing DEDA's management fee payable thereunder and providing for DEDA to add or delete DEDA parking facilities and approve the corresponding adjustment in DEDA's portion of the parking management fee paid to Interstate Parking.

Resolution 12-0590 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC, in the amount of \$202,827 for removal of a flood damaged bridge and construction of a box culvert at Greene Street over Keene Creek, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1128, S.A.P. 118-080-044, Flood Site No. 135, Requisition No. 12-0628.

Resolution 12-0602 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 12-0593, establishing annual bonding plan for 2013, was introduced by Councilor Krug for discussion.

Councilor Stauber felt that this is going to be retiring \$14,000,000 of bonds and at the same time borrowing \$21,000,000 more to do the extra things and the city would be going \$6,000,000 further into debt with this vote.

Chief Administrative Officer David Montgomery explained the details of this financial transaction.

Resolution 12-0593 was adopted as follows:

RESOLVED, that, pursuant to Section 20-33 of the Duluth City Code, 1959, as amended, the following is hereby established as the annual, ordinary course general obligation bonding plan for the city of Duluth for the year 2013:

General obligation bonds and notes to be issued in 2013	\$21,400,000
General obligation bonds and notes scheduled to be retired in 2013	<u>\$14,523,001</u>
Net anticipated increase (decrease) in general obligation bonding for 2013	<u>\$ 6,876,999</u>

Resolution 12-0593 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0594, of the city of Duluth, Minnesota, stating the intent to issue general obligation capital equipment notes, Series 2013, and approving the capital equipment list associated with the notes in the approximate amount of \$4,600,000, was introduced by Councilor Krug for discussion.

Councilor Krause commented that the city should be tightening up its budget.

Mr. Montgomery reported that if this unit works as well as hoped there could be a future reduction of staff.

Resolution 12-0594 was adopted as follows:

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

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, the city is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

Section 2. The council declares the intent of the city to issue capital equipment notes in 2013 in an amount up to \$4,419,300 to finance the purchase of capital equipment authorized by the act, together with an additional amount to pay costs of issuance of the capital equipment notes and discount in an amount estimated to be not more than \$180,700.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 12-1203-11), which list of equipment is hereby approved for purchase in 2013.

Section 4. The terms and conditions of the capital equipment notes and the sale thereof shall be established by further resolution of the council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to acquire all or a portion of the capital equipment prior to the issuance of the capital equipment notes and to reimburse expenditures incurred with respect to such capital equipment purchase program with the proceeds of the capital equipment notes.

Resolution 12-0594 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0598, approving the fiscal year January 1, 2013, to December 31, 2013, operation budget of the Duluth transit authority (DTA), was introduced by Councilor Krug for discussion.

Councilors Stauber and Krause opposed the resolution because this is a budget increase and thus is creating a tax increase; money sources are flat and an increase is hard for the citizens and the DTA has already stated what they would do if they do not get the increase.

Resolution 12-0598 was adopted as follows:

RESOLVED, that the operation budget for the fiscal year January 1, 2013, to December 31, 2013, in the amount of \$14,017,215 for the Duluth Transit Authority is hereby approved.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 15 of each year.

Resolution 12-0598 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

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

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the "act"), the council has authorized preparation of a capital improvement plan for the years 2013 through 2017 which has been presented to the council in the section entitled "Capital Improvement Bond Summary" in the document entitled "2013-2017 Capital Improvement Plan-Capital Budget and Plan" (the "plan");

(b) A notice of public hearings has been published in accordance with the act, and the council has held on December 3, 2012, a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The council has considered the following for each project discussed in the plan and for the overall plan:

(1) The condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the city;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the plan and Section 1.01(c) hereof, the council finds that the Plan is desirable and beneficial to the city and its residents;

(b) The council finds that the proposed improvements under the plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The plan is approved.

Section 2. (a) Under and pursuant to the authority contained in the act and Minnesota Statutes, Chapter 475, the city is authorized to issue capital improvement bonds to provide funds for capital improvements pursuant to the plan;

(b) The council also held a public hearing on December 3, 2012, after notice of public hearing required by the act, on the city's intention to issue general obligation capital improvement bonds, in an amount not to exceed \$1,900,000 for the purposes set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were considered;

(c) The council hereby finds and determines that it is necessary, expedient and in the best interests of the city's residents that the city issue, sell and deliver general obligation capital improvement bonds in the maximum amount of \$1,900,000 (the

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“bonds”), for the purpose of providing funds for the following capital improvements under the plan: improvements to eligible facilities (City Hall, libraries, public safety facilities and public works facilities) under the act throughout the city, including furnace replacements and masonry repair, modernization/remodeling, roof replacements, ADA compliance, overhead door replacements, energy conservation measures, Firehall #1 remodeling, Firehall #10 apparatus bay floor and upgrade, firehall overhead doors, firehall structural access approaches, firehall ventilation, Firehall #10 and #6 remodeling, steps and tuckpointing and stone repair at City Hall, and carpet at west library building, and for the payment of costs of issuance of the bonds;

(d) If, within 30 days after December 3, 2012, a valid petition is filed with the city clerk calling for a vote on the proposition of issuing the bonds, signed by voters residing within the boundaries of the city equal to five percent of the votes cast in the city in the last general election, the bonds shall not be issued until the question of their issuance has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question;

(e) This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to acquire or construct all or a portion of the capital improvements prior to the issuance of the capital improvement bonds and to reimburse expenditures incurred with respect to such capital improvement program with the proceeds of the capital improvement bonds.

Section 3. (a) The city previously issued its \$1,240,000 general obligation capital improvement bonds, Series 2007C, dated December 13, 2007 (the “Series 2007 bonds”). Up to \$50,000 of the proceeds from the Series 2007 bonds allocated to the capital improvement project described in the bond resolution for the Series 2007 bonds shall be reallocated to improvements to City Hall, including MIS upgrades;

(b) The city has also previously issued its \$1,600,000 general obligation capital improvement bonds, Series 2008D, dated December 9, 2008 (the “Series 2008 bonds”). Up to \$360,000 of proceeds from the Series 2008 bonds allocated to capital improvement projects described in the bond resolution for the Series 2008 bonds shall be reallocated to improvements to City Hall, including MIS upgrades, acquisition and construction of a public safety facility, including a communications tower for police and fire departments, and a facility needs project for a new public works facility;

(c) The council also held a public hearing on December 3, 2012, after notice of public hearing required by the act, on the city’s reallocation of proceeds of the Series 2007 bonds and the Series 2008 bonds. All persons who desired to speak at the public hearing were heard and written comments were considered;

(d) The city will reallocate up to \$50,000 of the proceeds of the Series 2007 bonds and up to \$360,000 of the proceeds of the Series 2008 bonds if no petition requesting a vote on the reallocation of the Series 2007 bonds or the Series 2008 bonds signed by voters equal to five percent of votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 3(c) of this resolution.

Resolution 12-0603 was adopted upon the following vote:

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

Nays: Councilors Fosle and Stauber -- 2

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0584, authorizing change order one to Construction Contract 21763 with Hunt Electric Corporation for the installation of new Type A and Type B light fixtures at Enger Park, an increase of \$43,313, and a new contract total of \$167,414, was introduced by Councilor Krause for discussion.

Councilor Krause felt that this additional expenditure of money could be better spent on existing community clubs that are desperately in need of repairs.

Resolution 12-0584 was adopted as follows:

RESOLVED, that the proper city officials are authorized to execute Change Order One with Hunt Electric Corporation for the installation of new Type A and Type B light fixtures at Enger Park, per the original proposal dated September 27, 2012, thereby increasing Contract No. 21763 by \$43,313, for a new contract total of \$167,414; with the increase of \$43,313 payable from the Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5220 (buildings and structures), Project No. CM205-engtr.

Resolution 12-0584 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 3, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1203-12, with Moran, Stahl & Boyer-FL, LLC, for development of an economic development plan for the city of Duluth and Duluth economic development authority, for an amount up to \$100,000: \$50,000 payable from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1407 (miscellaneous), Object 5441 (other services and charges); and a matching amount of no more than \$50,000 from the Duluth Economic Development Authority (DEDA) Fund 860-860-8640-5319 (other professional services).

Resolution 12-0595 was unanimously adopted.

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0601, setting legislative initiatives for the 2013 legislative session, was introduced by President Hartman for discussion.

Councilors Krause and Stauber expressed concerns and that since the items listed are in no particular order, projects such as the Norshor may get funded versus a higher priority listed on the resolution.

Resolution 12-0601 was adopted as follows:

The city council finds as follows:

- (a) The city desires to establish a clear set of legislative initiatives which the city supports in the 2013 legislative session;
- (b) The city has devoted meeting time and discussion to the legislative initiatives;
- (c) The city supports legislative initiatives that are of vital interest to the community.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth expresses support for the following projects of regional significance:

- **Flood recovery and relief projects;**

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- **Restoring previous cuts in local government aid;**
- **The enactment of a comprehensive jobs bill;**
- **Public infrastructure funding, including street construction, bridge construction, wastewater and drinking water;**
- Other legislative priorities, in no particular order:
  - Support for programs to construct or rehabilitate affordable housing units;
  - Support for state bond funding to conduct the pre-design for Duluth's municipal baseball stadium (Wade Stadium);
  - Support for state bond funding for public infrastructure elements of the NorShor Theatre renovation;
  - Support for bonding requests by the Spirit Mountain recreation area authority for a water supply project;
  - Support for state programs and projects that impact the Duluth community, including but not limited to, port development, public transit funding and tax increment financing options.

Resolution 12-0601 was adopted upon the following vote:

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

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0599, granting approval and implementation of the Washington Square mini-master plan, was introduced by Councilor Larson for discussion.

Councilor Krause and President Hartman expressed concerns that the existing community clubs need attention before any new areas are added; there is a need for open spaces and historic land use should be considered.

Resolution 12-0599 was adopted as follows:

RESOLVED, that the city council hereby approves the Washington Square mini-master plan and authorizes implementation of the plan as funding becomes available.

Resolution 12-0599 was adopted upon the following vote:

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

Nays: Councilor Krause and President Hartman -- 2

Approved December 3, 2012

DON NESS, Mayor

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Resolution 12-0600, granting approval and execution of a lease agreement with the Duluth Area Family YMCA for shared use of the upper level of the Woodland Community Center, was introduced by Councilor Larson for discussion.

Councilor Krause expressed concerns that there should have been a fair and open process to bid on this because there is no compensation to the city.

Resolution 12-0600 was adopted as follows:

RESOLVED, that the city council hereby grants approval for acceptance and execution of a lease agreement (Public Document No. 12-1203-13) with the Duluth Area Family YMCA. The agreement for shared use of the upper level of the Woodland Community Center building is to commence on January 1, 2013, and continue through December 31, 2014, with a one time automatic renewal for an additional two year period.

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Resolution 12-0600 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved December 3, 2012

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-073 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.

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INTRODUCED BY COUNCILOR KRUG

12-074 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

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INTRODUCED BY COUNCILOR KRUG

12-076 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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INTRODUCED BY COUNCILOR STAUBER

12-075 - AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH).

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-068 (10189) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-2 TO R-P THE PROPERTY LOCATED AT THE NORTHERN SHORES TOWNHOMES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-069 (10190) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-070 - AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-27, 50-35, 50-37.1, 50-37.11, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE.

Councilor Stauber moved that the ordinance be split as to address the sign regulations section separately from the vacation rental section, which motion was seconded and carried unanimously.

Councilor Stauber moved to table the ordinances, which motion was seconded and unanimously carried.

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INTRODUCED BY COUNCILOR STAUBER

12-071 (10191) - AN ORDINANCE GRANTING TO RITCH MAKOWSKY A CONCURRENT USE PERMIT FOR CONSTRUCTION OF AN ACCESSIBLE RAMP TO PROJECT INTO THE NORTH 29TH AVENUE WEST RIGHT-OF-WAY.

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

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The meeting was adjourned at 8:45 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10189**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-2 TO R-P THE PROPERTY LOCATED AT THE NORTHERN SHORES TOWNHOMES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 16 acres of the Northern Shores Townhomes low density planned development property located on the north side of Congdon Boulevard and as more particularly described as follows:

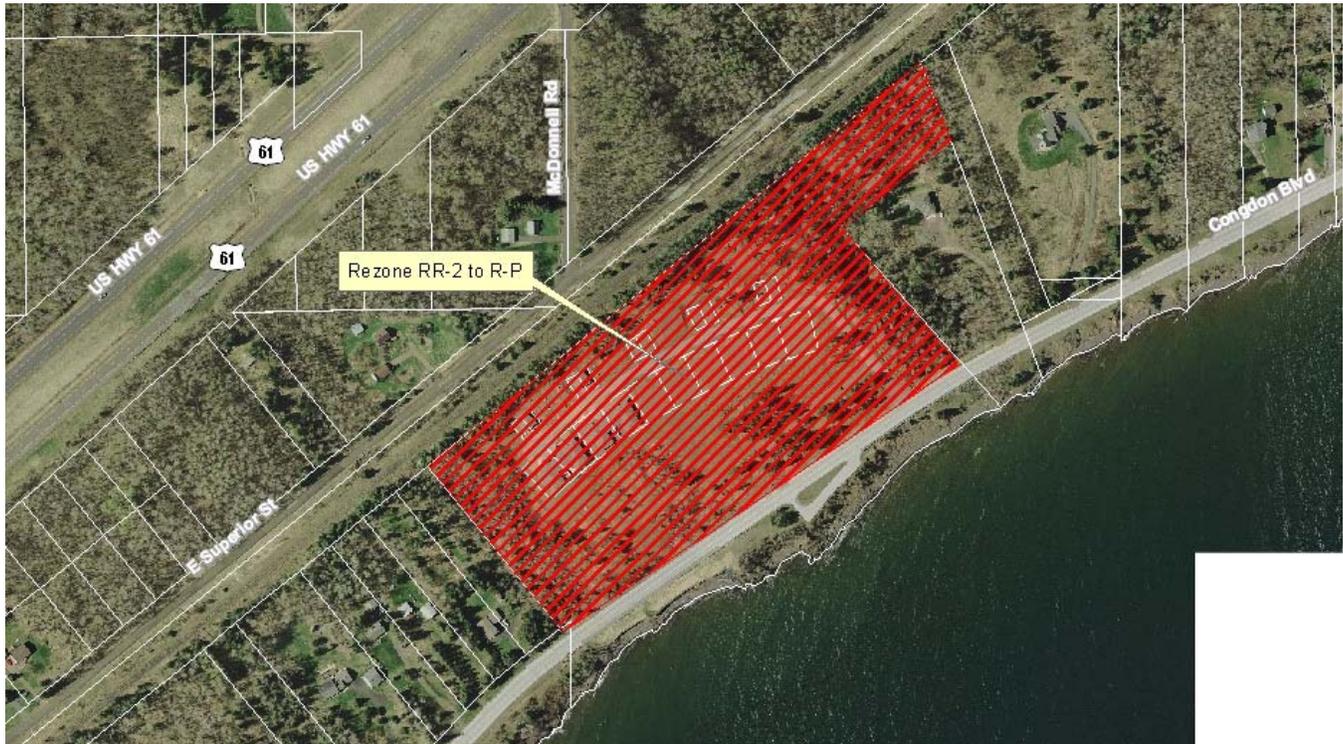
Lots 32, 33 and 34, Block 3, Hyde Park and that part of Government Lot 2, Section 26, Township 51 North, Range 13 West, Saint Louis County, Minnesota, described as follows:

Commencing at the point of intersection of the southerly right-of-way line of the Saint Louis and Lake County Railroad authority right-of-way (f.k.a. D.M.&I.R. Railroad) and the east line of said Government Lot 2; thence south 51 degrees 26 minutes 36 seconds west, along said southerly right-of-way line a distance of 1,037.71 feet to the point of beginning; thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 422.90 feet; thence south 20 degrees 33 minutes 24 seconds east a distance of 199.79 feet; thence south 51 degrees 26 minutes 36 seconds west a distance of 348.37 feet to the point of intersection with a line that bears south 42 degrees 20 minutes 11 seconds east from the point of beginning; thence south 42 degrees 20 minutes 11 seconds east a distance of 446.0 feet to the northerly right-of-way line of Congdon Boulevard (Scenic Highway 61); thence westerly, along said northerly right-of-way line a distance of 1,162.0 feet to the west line of said Government Lot 2; thence northerly, along said west line a distance of 655.0 feet to the southerly right-of-way line of the Saint Louis and Lake County Railroad

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

authority right-of-way (f.k.a. D.M.&I.R. Railroad); thence north 51 degrees 26 minutes 36 seconds east, along said southerly right-of-way line a distance of 679.0 feet to the point of beginning. Subject to and together with any valid easements, restrictions and reservations, if any;

be reclassified from Rural-Residential (RR-2) and Residential-Traditional 2 (R-1), to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-159)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 3, 2012  
Approved December 3, 2012  
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10190

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE BLUFFS RIDGE ESTATES LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 10.07 acres of the Bluffs Ridge Estates low density planned development property located at the southwest corner of Como Avenue and Hickory Street and as more particularly described as follows:

The southwest quarter of the southwest quarter of the southwest quarter, Section 16, Township 50 North, Range 14 West; be reclassified from Residential-Traditional (R-1) to Residential-Planned (R-P), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-162)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 3, 2012  
Approved December 3, 2012  
DON NESS, Mayor

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**ORDINANCE NO. 10191**

AN ORDINANCE GRANTING TO RITCH MAKOWSKY A CONCURRENT USE PERMIT FOR CONSTRUCTION OF AN ACCESSIBLE RAMP TO PROJECT INTO THE NORTH 29TH AVENUE WEST RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Ritch Makowsky and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following: an accessible ramp structure located four-and-one-half feet from the property line, as shown in Public Document No. 12-1203-14.

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

- (a) Homeowners liability insurance in an amount not less than \$300,000; and
- (b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and
- (c) The insurance policy shall be approved by the city attorney; and
- (d) The policy shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and
- (e) The city of Duluth shall be named as an additional insured; and
- (f) The certificate shall also reference this ordinance by its ordinance number.

Permittee shall cause a current version of the required insurance certificate to be filed with the city clerk while permission granted by this ordinance is exercised.

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

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

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

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act

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or omission of the permittee, its agents, representatives, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engage in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

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

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

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

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 12-1203-14; and

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

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

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

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

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

Section 10. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 3, 2013)

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

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

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 3, 2012  
Approved December 3, 2012  
DON NESS, Mayor