

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 5, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

11-1205-14 Grandma's Restaurant Company appeal of planning commission denial of a variance for an illuminated marquee. -- Committee 2 (planning and economic development)

11-1205-11 Tom Johns submitting communication regarding the proposed 2012 budget (11-062-O). -- Received

11-1205-13 Peter Stauber communication regarding the proposed ordinance amending Chapter 13 of the Duluth City Code relating to civil service (11-060-O). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

11-1205-10 Civil service board minutes of November 1, 2011, meeting. -- Received

11-1205-12 Community development committee minutes of October 11, 2011, meeting. -- Received

11-1205-01 Duluth transit authority: (a) Minutes of September 28, 2011, meeting; (b) August 2011 income statement. -- Received

11-1205-02 Library board minutes of October 25, 2011, meeting. -- Received

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At this time, 7:04 p.m., the public hearing regarding the 2012 budget was opened.

Dan D'Allaird, Edith Bogue and Richard Haney thanked the council for allowing the citizens to vote on a parks fund and to help get the information out that the future of the parks and libraries in Duluth was in the hands of the citizens.

No one else appeared who wished to be heard and the public hearing was closed at 7:14 p.m.

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At this time, 7:15 p.m., the public hearing regarding general obligation capital improvement bonds was opened.

No one appeared who wished to be heard and the public hearing was closed at 7:16 p.m.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer stated the voter ID system would maintain the integrity of elections by ensuring everyone who votes has a proper ID.

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Hugo Leider requested the city to review the no parking signs in his neighborhood as the neighborhood was misrepresented when the signs went up.

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Cheryl Skafte and Paul Manny, representing a group of students from the YMCA, explained they are a youth group interested in government and have traveled to the state

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capitol to debate and discuss different bills and would like to talk to councilors about local issues as well.

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UNFINISHED BUSINESS

Resolution 11-0649, by President Gardner and councilors Halberg and Hartman, amending the Standing Rules adding a new Rule 18 - use of the internet and electronic communications, was introduced for discussion.

Councilor Stauber reviewed that this issue was being pushed because of the concern for the open meeting law, but the open meeting law was intended to prevent councilors from discussing issues and deliberations when a quorum is present and nothing to do with councilors and how they get their information or whom they talk to for information. He continued saying that by requiring a councilor to announce what internet site, email or who they talked to during the meeting will prevent people from contacting their councilor for fear of their name being announced at the meeting and makes an additional administrative requirement which will be time consuming during a meeting. Councilor Stauber also stated that he has not had a complaint from the public on this issue since emails and the internet have become a research tool.

Councilor Hartman explained that the proposed amendment to the standing rules is a way to be transparent as a city body. He stated that if a councilor accesses the internet or receives an email during a discussion at a council meeting, and a councilor uses an important piece of information as part of the debate, the rest of the council should know where the information came from so it has some validity to it.

President Gardner explained that if a councilor opens an email during a council meeting and if it is not relevant to the discussion at the meeting, a councilor does not need to disclose the email, but if the email is pertinent to an issue the council is discussing and a councilor chooses to include that information in the discussion, then it would be appropriate to disclose the email to the council.

Resolution 11-0649 failed upon the following vote (Public Document No. 11-1205-03):

Yeas: Councilors Anderson, Boyle, Halberg, Hartman and President Gardner -- 5

Nays: Councilors Cuneo, Fedora, Fosle and Stauber -- 4

[Editor's note: Standing rule amendments need a 6/9ths vote to pass.]

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the 2012 tourism taxes of hotel-motel and food and beverages, as estimated, be distributed in the following manner:

	3% Hotel-Motel	1% Hotel-Motel	2.25% Food & Beverage	Add'l 2.5% Hotel-Motel	Total
DECC Amsoil Arena debt service	1,092,400		1,438,600		\$2,531,000

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	3% Hotel-Motel	1% Hotel-Motel	2.25% Food & Beverage	Add'l 2.5% Hotel-Motel	Total
Visit Duluth	588,200	196,100	631,700	184,000	\$1,600,000
Other promotional programs			6,000		\$6,000
Transfer to general fund	88,500	260,100	292,500	96,800	\$737,900
DECC expansion debt service			542,800		\$542,800
Lake Superior Zoo fund			413,800	106,200	\$520,000
Spirit Mountain debt/capital				500,000	\$500,000
Great Lakes Aquarium		16,800	184,000	99,200	\$300,000
Business improvement district			200,000		\$200,000
Lake Superior Center Debt service				149,700	\$149,700
Heritage and Arts Center		81,500	56,100	14,200	\$151,800
Capital projects			77,300	22,700	\$100,000
DECC - Bayfront Park		35,200	14,800		\$50,000
Undesignated fund balance			11,900	33,200	\$45,100
Rail alliance				30,900	\$30,900
Duluth public arts commission			20,000	10,000	\$30,000
Sister cities			10,000	10,000	\$20,000
TOTALS	1,769,100	589,700	3,899,500	1,256,900	\$7,515,200

FURTHER RESOLVED, that \$231,900 in additional funds be allocated to DECC expansion debt and Lake Superior Center debt service; this source coming from reserve for debt service, which is excess revenue from the dedicated five percent food and beverage tax and five percent hotel/motel tax.

Resolution 11-0637 was unanimously adopted.
 Approved December 5, 2011
 DON NESS, Mayor

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RESOLVED, that the operation budget for the fiscal year January 1, 2012, to December 31, 2012, in the amount of \$13,488,790 for the Duluth transit authority is hereby approved.

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

Resolution 11-0638 was unanimously adopted.
 Approved December 5, 2011
 DON NESS, Mayor

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RESOLVED, that the operation budget for the fiscal year January 1, 2012, to December 31, 2012, in the amount of \$4,167,000 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.

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Resolution 11-0639 was unanimously adopted.
Approved December 5, 2011
DON NESS, Mayor

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RESOLVED, that Resolution 11-0182 is amended by changing the date when the line of credit is to be repaid in full (to a zero balance) from October 31 to December 31 to better match the seasonal cash flow needs of the authority. The existing \$350,000 line of credit is available as needed to assist in the management of cash flow within the approved budget. Interest at a rate of four percent per annum is charged on drawn funds.

Resolution 11-0648 was unanimously adopted.
Approved December 5, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into a contract with Enventis Telecom, Inc., for the purchase and delivery of data equipment racks and related power equipment for the city's backup data center for a total of \$53,389.92 plus \$3,670.56 sales tax for a total amount of \$57,060.48, payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project CP 2009-0928B.

Resolution 11-0646 was unanimously adopted.
Approved December 5, 2011
DON NESS, Mayor

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WHEREAS, city entered into a loan agreement with Greater Minnesota housing fund ("GMHF") on October 3, 2006, ("original agreement") pursuant to which GMHF extended a \$200,000 loan to city ("funds") and city executed a promissory note ("note") in favor of GMHF with a maturity date of November 6, 2016, for the purpose of establishing a revolving maintenance fund to be used for city's tenant remedies action to help attain compliance with applicable housing and safety codes for affordable housing; and

WHEREAS, GMHF desires to change the structure of the loan so that funds are no longer held in the city's account but instead are held by GMHF in a revolving line of credit; and WHEREAS, in order to implement the loan structure change: (i) city and GMHF will terminate the original agreement; (ii) city will return the loan funds held in the city account to GMHF; (iii) upon receipt of the loan funds, GMHF will provide a loan repayment receipt to the city; (iv) city and GMHF will enter into a new loan agreement establishing a \$200,000 revolving line of credit to be used for the city's tenant remedies actions; and (v) city will enter into a new promissory note evidencing such loan.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to enter into a termination of loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1205-04, with Greater Minnesota Housing Fund pursuant to which the city will return the loan funds held in the city's account to GMHF, payable from Fund 230 GMHF revolving fund.

FURTHER RESOLVED, that the proper city officials are authorized to enter into a loan agreement and execute the promissory note attached thereto as Exhibit A, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1205-04, with Greater Minnesota housing fund in the amount of \$200,000 for the purpose of establishing a revolving line of credit to be used for the city's tenant remedies action to help attain compliance

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with applicable housing and safety codes for affordable housing, monies received from the line of credit payable into Fund 230 GMHF revolving fund.

Resolution 11-0650 was unanimously adopted.

Approved December 5, 2011

DON NESS, Mayor

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RESOLVED, that the city of Duluth ("city") act as the legal sponsor for the intermodal improvements and rehabilitation of the Skyline Parkway project as contained in the grant program application to be submitted prior to December 19, 2011, and that the mayor and clerk are hereby authorized to apply to the U.S. department of transportation, federal highway administration, for a grant in the amount of \$1,160,000 for funding of this project.

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

FURTHER RESOLVED, that the city hereby commits to provide no less than \$290,000 (or 20 percent of the \$1,450,000 project cost) in a qualified match contribution to be provided by the city of Duluth.

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

FURTHER RESOLVED, that upon approval of its application by the state, the mayor and clerk may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Permanent Improvement Fund 411, Department 035 (capital project accounts), Object 4210-01 (pass-through federal grants - capital), and that the city certifies that it will comply with all applicable laws and regulations.

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

Resolution 11-0652 was unanimously adopted.

Approved December 5, 2011

DON NESS, Mayor

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RESOLVED, that the city of Duluth ("city") act as the legal sponsor for the Safety, shoulder and rehabilitation improvements to North Shore Scenic Drive as contained in the grant program application to be submitted prior to December 19, 2011, and that the mayor and clerk are hereby authorized to apply to the U.S. department of transportation, federal highway administration, for a grant in the amount of \$2,360,000 for funding of this project.

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

FURTHER RESOLVED, that the city hereby commits to provide no less than \$590,000 (or 20 percent of the \$2,950,000 project cost) in a qualified match contribution to be provided by the city of Duluth.

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

FURTHER RESOLVED, that upon approval of its application by the state, the mayor and clerk may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Permanent Improvement Fund 411,

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Department 035 (capital project accounts), Object 4210-01 (pass-through federal grants - capital), and that the city certifies that it will comply with all applicable laws and regulations.

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

Resolution 11-0653 was unanimously adopted.

Approved December 5, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a three-year agreement with an option for two additional three-year terms with the Arrowhead Zoological Society, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 11-1205-05, to continue the management and operations of the Lake Superior Zoological Gardens; payment by the city will be made from Fund 200-130-5310, (zoo, community resources, contract services).

Resolution 11-0623 was unanimously adopted.

Approved December 5, 2011

DON NESS, Mayor

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The following resolutions were also considered:

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 2012 in an amount up to \$4,598,000 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 \$152,000.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 11-1205-06), which list of equipment is hereby approved for purchase in 2012.

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 11-0640 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Approved December 5, 2011

DON NESS, Mayor

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

Section 1. Note Purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation bonds or notes to provide funds for the payment of costs of improvements to the municipal sewer utility, which bonds or notes shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment. The city has applied for and received a commitment from the Minnesota public facilities authority (the "PFA") for a loan for the Project, as hereinafter defined.

1.02 The city council has, by Ordinance No. 10110 adopted September 26, 2011 (the "ordinance"), ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the maximum amount of \$1,505,000 of the city for three projects, one of which is the following project: Lift Station No. 45 pumping and forcemain improvements in an estimated amount of \$452,300 (the "project") as identified in the city's application to the PFA, and for the payment of part of the interest cost of the bond or note.

1.03 The city has applied for and received a grant from the state of Minnesota's wastewater infrastructure fund in the amount of \$1,130,480 to pay a portion of the costs of the project. The general obligation sewer utility revenue note to be issued under the ordinance for the project shall be issued in the principal amount of \$282,620 (the "note") to pay the portion of the costs of the project, not paid by such grant funds.

1.04 The council hereby determines that the project is a project for the purpose of designing, constructing, repairing or replacing structures or facilities, including sanitary sewage overflow storage and for the purpose of attaining compliance with federal or state inflow and infiltration standards, within the meaning of City Code Section 43-11.1(7), and thus the costs of the project and debt service of the note which paid costs of the project are eligible costs to be paid from the clean water fund created under City Code Section 43-11.1 (the "clean water fund").

1.05 The city hereby authorizes the issuance and sale of the note, in substantially the form on file in the office of the clerk as Public Document No. 11-1205-07, for the project to the PFA pursuant to a Minnesota public facilities authority bond purchase and project loan agreement dated November 16, 2011, between the PFA and the city, in substantially the form presented to the council and on file in the office of the clerk (the "loan agreement"), as Public Document No. 11-1205-07 which is hereby authorized, ratified and approved.

Section 2. Execution and delivery of note and loan agreement.

2.01 The Note to be issued hereunder shall be dated as of the date of delivery to PFA, shall be issued in the principal amount of \$282,620, in fully registered form and lettered and numbered R-1. Interest on the note shall be at the rate of 1.00% per annum. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the note, subject to adjustment as provided in the loan agreement. If the principal and interest payments are paid by check and mailed to the registered holder of the note, such payment shall be mailed by the city at least five business days prior to the payment date.

2.02 The note shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the mayor and attested by the manual signature of the clerk. In case any officer whose signature shall appear on the note shall cease to be an officer before delivery of the note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

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All actions of the officers of the city regarding the loan agreement, including but not limited to, the officers of the city executing the loan agreement, are ratified, confirmed and approved as of the date of the loan agreement.

2.03. The city will cause to be kept at its offices a register in which, subject to such reasonable regulations as the city may prescribe, the city shall provide for the registration of transfers of ownership of the note. The note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly authorized in writing, upon surrender of the note, together with a written instrument of transfer satisfactory to the clerk, duly executed by the PFA or its duly authorized agent.

2.04. Delivery of the note shall be made at a place mutually satisfactory to the city and the PFA. The note shall be furnished by the city without cost to the PFA. The note, when prepared in accordance with this resolution and executed, shall be delivered to the PFA by and under the direction of the treasurer. Disbursement of the proceeds of the note shall be made pursuant to the loan agreement.

2.05. In the event of an inconsistency between a provision of this resolution and a provision of the loan agreement, the provision of the loan agreement shall govern.

Section 3. Revenues, accounts and covenants.

3.01 The city council covenants and agrees with the PFA and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the note and on all other bonds and notes heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

The city will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate sewer utility operating account within the public utility sewer fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the proper city official shall determine to be necessary from time to time in accordance with policies established by the city council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds or notes when due.

3.02 The city hereby creates a separate construction account (the "2011D construction account") within the public utility sewer fund to which there shall be credited the proceeds of the note as received, together with investment income thereon, all grant funds for the project and any additional funds which may be available and are appropriated for improvements to the project. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the project and costs of the issuance of the note.

3.03 Until the note issued hereunder is fully paid or duly called for redemption, or otherwise discharged, the city will also maintain a separate debt service account (the "sewer debt service fund") in the public utility sewer fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the note and

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on any other bonds or notes which have been or may be issued and made payable from said net revenues of the sewer utility. The council further authorizes the use of monies on deposit in the clean water fund to pay the principal of and interest on the note. All investment income on funds in the sewer debt service fund are pledged to payment of the note and other bonds and notes payable from the sewer debt service fund. The treasurer shall transfer from the sewer utility operating account and the clean water fund to the sewer debt service fund amounts of the net revenues and monies from the clean water fund sufficient for the payment of all interest and principal then due on the note. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

3.04 Surplus utility revenues from time to time received in the Sewer utility operating account, in excess of payments due from and reserves required to be maintained in the sewer utility operating account and in the sewer debt service fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds or notes constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05 A. In the event the monies and payments appropriated to the Sewer debt service fund are insufficient to pay principal of and interest on the note and the other bonds and notes payable from such fund as the same become due, the city is required by law and by contract with the holders of the note and such bonds and notes and hereby obligates itself to levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal of and interest on the note.

B. The full faith and credit and taxing powers of the city are irrevocably pledged for the prompt and full payment of the principal of and interest on the note, as such principal and interest respectively become due. However, the net revenues of the sewer utility appropriated to the sewer debt service fund are estimated to be not less than five percent in excess of the principal of and interest on the note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

3.06 Monies on deposit in the 2011D construction account and the sewer debt service fund may, at the discretion of the city, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the project costs and/or the principal and interest on the note and bonds or notes payable from the sewer debt service fund when due, as applicable.

Section 4. Tax covenants; miscellaneous.

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

4.02 A. No portion of the proceeds of the note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such

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proceeds are needed for the purpose for which the note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the note or \$100,000. To this effect, any proceeds of the note and any sums from time to time held in the sewer debt service fund (or any other city account which will be used to pay principal and interest to become due on the note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the note and money in the sewer debt service fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "code").

C. The city hereby covenants not to use the proceeds of the note, or to cause or permit them to be used, in such a manner as to cause the note to be a "private activity bond" within the meaning of sections 103 and 141 through 150 of the code.

4.03 If the city determines that the note does not qualify for exemption from the federal arbitrage rebate requirements under Section 148(f) of the code, the city agrees to cause the calculations and payments to the United States to be made pursuant to Section 148 of the code and treasury regulations relating thereto.

Section 5. Certificate of proceedings.

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

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

Resolution 11-0641 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved December 5, 2011

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 2012 through 2016 which has been presented to the council in the section entitled "capital

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improvement bond summary” in the document entitled “2012-2016 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 5, 2011, 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 5, 2011, 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 \$1,475,000 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 \$1,475,000 (the “bonds”), for the purpose of providing funds for the following capital improvements under the plan: improvements to the city hall, libraries, public safety facilities and public works facilities, citywide, including masonry repair and facility needs priorities; improvements to city hall including cooling of new switch closets (elevators), modernization/remodeling and window replacement; and improvements to the library, including an upgrade of the mechanical system; and for the payment of costs of issuance of the bonds;

(d) If, within 30 days after December 5, 2011, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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 \$11,905,000 general obligation capital improvement bonds (build America bonds - direct pay), Series 2009C, dated December 17, 2009 (the "Series 2009 bonds"). Up to \$2,500,000 of the proceeds from the Series 2009 bonds allocated to the new law enforcement center shall be reallocated to improvements to City Hall, including remodeling of the former law enforcement space;

(b) The council also held a public hearing on December 5, 2011, after notice of public hearing required by the act, on the city's reallocation of proceeds of the Series 2009 bonds. All persons who desired to speak at the public hearing were heard and written comments were considered;

(c) The city will reallocate up to \$2,500,000 of the proceeds of the Series 2009 bonds if no petition requesting a vote on the reallocation of the Series 2009 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(b) of this resolution.

Resolution 11-0642 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Approved December 5, 2011

DON NESS, Mayor

- - -

Resolution 11-0647, establishing annual bonding plan for 2012, was introduced by Councilor Fedora for discussion.

Councilor Stauber stated he could not support this resolution as it reduces the capital investment trust (CIT) fund once again. He continued saying that the trust fund has been depleted so much that the interest alone cannot support the street improvement program which is why the fund was set up.

Resolution 11-0647 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 2012:

General obligation bonds and notes to be issued in 2012	\$10,973,000
General obligation bonds and notes to be retired in 2012	
Scheduled general obligation bonds anticipated to mature and be retired	\$16,216,805
General obligation bonds anticipated to be called and retired with CIT funds	<u> \$ 0</u>
Total anticipated general obligation bond retirements for 2012	<u>\$16,216,805</u>
Net anticipated increase (decrease) in general obligation bonding for 2012	<u><u>(\$5,243,805)</u></u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Resolution 11-0647 was adopted upon the following vote:

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

Nays: Councilors Fosle and Stauber -- 2

Approved December 5, 2011

DON NESS, Mayor

- - -

RESOLVED, that the DEDA operating fund, debt service fund, capital project fund, storefront loan funds and NWA maintenance facility fund budgets on file in the office of the city clerk as Public Document No. 11-1205-08 are hereby approved.

Resolution 11-0645 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 5, 2011

DON NESS, Mayor

- - -

Resolutions 11-0643 and 11-0644, affirming and reversing, respectively, the decision of the planning commission to grant in part the application for a variance from sign regulations by Grandma's Sports Bar & Grill, Inc., were introduced by Councilor Stauber.

Resolution 11-0643, affirming the planning commission decision, failed upon a unanimous vote (Public Document No. 11-1205-09).

- - -

Resolution 11-0644, reversing the planning commission decision, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that the city council finds as follows:

(a) On September 21, 2011, Grandma's Sports Bar & Grill, Inc., submitted an application for a variance from the city's sign regulations. The applicant's place of business is located in the Canal Park district of Duluth and its address is 425 Lake Avenue South;

(b) The applicant seeks to install an illuminated marquee sign, which is an allowable sign in the Canal Park district; however, it seeks a variance from the restrictions applicable to the marquee sign. The type of relief requested is:

(1) A variance to allow installation of a marquee sign with lettering that would project above the marquee's fascia; and

(2) A variance to allow lettering height to exceed the ten inch height restriction as follows:

(A) The word "Grandmas" in 36 inch letters;

(B) The word "Sports" in 24 inch lettering;

(C) The word "Garden" in 24 inch lettering; and

(D) The phrase "Event Center" in 12 inch lettering;

(c) Pursuant to Minnesota Statutes Section 15.99 the deadline for the city's decision is January 19, 2012;

(d) A public hearing was held by the planning commission during its November 8, 2011, meeting. The commission considered the recommendation of the city's planning staff. The planning staff recommendation included the following conclusions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

(1) Section 50-27.4.C of the City Code provides the standards applicable to a marquee sign and requires that:

(A) The sign be structurally integrated into the fascia of a marquee and prohibits projection beyond the fascia; and

(B) Limited lettering height to ten inches;

(2) Section 50-37.9.C of the City Code provides the standards that must be satisfied to support the granting of a variance and in relevant part mandates that:

(A) The applicant demonstrate that exceptional conditions related to the property exist, and that strict application of the Code “would result in peculiar and exceptional practical difficulties or exceptional or undue hardship to the property owner”;

(B) “The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant”;

(C) “The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity”;

(D) “The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant”;

(E) “The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city”;

(F) “The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map”;

(7) “The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27”;

(3) Two other marquee signs are located in the Canal Park district. The Adventure Zone sign contains lettering that is 48 inches in height, but the lettering does not project beyond the fascia. The Waterfront Plaza sign has lettering that projects above the fascia, but the lettering is 24 inches in height and is not illuminated;

(4) The applicant’s request for illuminated sign lettering height up to 36 inches, which projecting beyond the fascia, exceeds the size and exposure of existing marquee signs in the Canal Park district;

(5) Limiting any variance in lettering height to 24 inches and either non-illuminated if projected beyond the fascia, or illuminated if not projected would be consistent with the character of the other marquee signs in the district;

(6) Granting the applicant’s variance would encourage other businesses in Canal Park to seek larger signs to compete with the applicant’s sign;

(7) The applicant’s proposed sign, given its size, location and illumination would impact the visibility of other signs in the district and detract from the goal of creating an attractive business environment;

(8) The applicant’s proposal does not meet the variance standards provided in Section 50-37.9.C because the proposed sign is out of scale with existing marquee signs in the Canal Park district and is not consistent with the intent of the UDC;

(9) The ten inch height restriction for lettering does present an exceptional practical difficulty for the applicant because it would limit the site visibility due to the proximity of other businesses and the applicant’s location near the edge of the district;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

(e) Based upon their conclusions, the planning staff made the following recommendations:

(1) That the applicant be granted an alternative variance that authorizes lettering up to 24 inches in height;

(2) Non-illuminated letters may project beyond the fascia;

(3) All letters projecting beyond the fascia must be unilluminated;

(f) The planning commission granted the applicant a variance from the sign regulations authorizing the installation of a marquee sign with the following restrictions:

(1) Lettering height limited to 24 inches;

(2) Letters may project beyond the fascia;

(3) All letters projecting beyond the fascia must be unilluminated;

(g) On November 17, 2011, the applicant filed an appeal of the planning commission action. The applicant asserts that it has met the standard for a variance as requested for the following reasons:

(1) The Teatro Zuccone and Zinema Theater, located in the adjacent Downtown district have similar signage;

(2) The size of the building facade of the Sport's Garden and Event Center requires a strong attention-getting focal point to identify the entrance;

(3) The signage needs to be identifiable from many distant view corridors;

(4) Canal Park is an entertainment district and an appropriate place to locate the proposed sign.

RESOLVED FURTHER, based upon the record before the council, the decision of the planning commission is reversed on the following grounds:

(a) The planning commission's conclusion that a hardship exists is supported by the record;

(b) The sign proposed by the applicant is necessary to preserve the applicant's need for visibility;

(c) The sign proposed by the applicant would not have an adverse impact on the Canal Park district.

RESOLVED FURTHER, the applicant's request for a variance as applied for is granted.

Resolution 11-0644 was unanimously adopted.

Approved December 5, 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 FEDORA

11-061 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2012.

- - -

INTRODUCED BY COUNCILOR FEDORA

11-062 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2012 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

INTRODUCED BY COUNCILOR FEDORA

11-063 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2012.

- - -

The following entitled ordinances were read for the second 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.

Erik Simonson, president of the firefighters' union, David Leonzal, second chair of AFSCME, and Tom Maida, president of police union, expressed concerns with the ordinance for the reasons of: this ordinance goes far deeper than it needs to go; each union will have to have attorneys look over the ordinance to determine the repercussions, which will be expensive, since there is no line-in line-out version to compare the proposed code with the current one and they requested that the ordinance be sent back to the administration so that the unions and the civil service board can study and report on the proposed changes.

Councilor Boyle moved to table the ordinance for the civil service board to review it at their next meeting, which motion was seconded.

Chief Administrative Officer David Montgomery stated that the administration replaced the current Civil Service Chapter using the same procedure as it did with the Unified Development Chapter and that line-by-line changes will be provided in the near future.

Councilor Boyle's amendment carried upon the following vote:

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

Nays: Councilor Fedora -- 1

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INTRODUCED BY COUNCILOR HARTMAN

11-059 (10127) - 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.

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

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INTRODUCED BY COUNCILOR FOSLE

11-054 (10128) - 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.

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

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

Nays: Councilor Fosle -- 1

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

The meeting was adjourned at 8:13 p.m.

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

- - -

ORDINANCE NO. 10127

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.

The city of Duluth does ordain:

Section 1. That Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended to add a new Article XIII which reads as follows:

Article XIII Damage to Underground Utilities.

Sec. 48-224. Definitions.

For the purposes of this Article, the following terms and phrases shall have the meanings hereinafter ascribed to them:

(a) Damage to utilities: shall mean an event which results in any damage to or destruction of any facilities of the utility which may include but does not necessarily include escape of any quantity of water, natural gas, sewage or storm water from the utility;

(b) Excavation: shall mean any activity that moves, removes or otherwise disturbs any earthen material of any kind, including but not limited to an "excavation" as defined in Minnesota Statutes Section 216D.01, Subd. 5;

(c) Person: shall mean any individual, partnership, corporation, company, association, and any governmental entity of any kind or level, any other business, organization and public entity of any kind whatsoever and a trustee, receiver, assignee or personal representative of any of them;

(d) State one-call statute: shall mean the provisions of Minnesota Statutes Chapter 216D, and as the same may from time to time be amended or renumbered;

(e) Utility: shall mean any pipe of any kind or size owned by the city and connected to the city's water, natural gas, sanitary sewer and storm sewer utilities and used by the city's water, natural gas, sanitary sewer and storm sewer utilities for the conveyance of water, natural gas, sanitary sewage or storm water as part of the city's water distribution system or the city's natural gas distribution system or the collection of sanitary sewage or storm water as part of the city's sewer systems, and any equipment, machinery any facilities of any kind whatsoever used by the city to facilitate the distribution of water or natural gas through said distribution systems or the collection of sanitary sewage or storm water as part of the city's sewer systems, whether or not located on public or private property or easements.

Sec. 48-225. Excavations causing damage to utilities.

No person shall cause or allow any excavation to be made which results in damage to utilities, whether intentional or unintentional, in violation of any of the following provisions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

(a) Such person fails to request identification of the physical locations of all elements of the utility in the vicinity of the excavation in conformance with the requirements of the state one-call statute;

(b) Damage to the utility results from failing to exercise the necessary level of care when excavating in close proximity to any element of the utility, the location of which is properly identified as provided for in the state one-call statute;

(c) The manner in which such excavation is performed violates the provisions of Section 48-25 of this Code.

Sec. 48-226. Damages.

City shall be entitled to collect damages flowing from any violation of this Article from any person violating said provisions which shall include but not be limited to the following:

(a) Costs of repairing the damage to the utility, including direct and indirect labor costs, equipment costs, cost of materials, cost of supervision and other overhead, legal costs, attorney's fees and any other costs attributable to the damage to the utility. Such costs shall be the higher of actual, out-of-pocket cost or attributable costs based on reasonable market value;

(b) Value of water or natural gas which escaped from the utility as a result of the damage to the utility;

(c) The value of any damage to any real or personal property owned or controlled by the city or for which the city is responsible;

(d) Any costs incurred by city as a result of claims of third parties alleging that they were damaged as a direct or indirect result of the damage to the utility;

(e) The amount of any fines, penalties or other charges assessed against the city by any governmental or regulatory agency resulting from the escape of any water or natural gas;

(f) Any other loss or cost incurred by city as a result of the damage to the utility.

Sec. 48-227. Penalties.

In addition to damages as described in Section 48-226 above and other remedies as described in Section 48-228 below, any person violating the provisions of this Article shall be subject to the issuance of a citation for such violation under Chapter 12 of this Code, subject to the following:

(a) The city engineer and his or her designees are authorized to issue citations for violation of this Article;

(b) The penalty to be assessed to the violator for violation of the provisions of this Article shall be established by the city council by resolution;

(c) The provisions of 12-3(b) shall not be deemed to limit the city's rights to enforce the provisions of Section 48-226 or of Section 48-228.

Sec. 48-228. Other enforcement.

In addition to the provisions of Section 48-226 and 48-27 above, in the event that a person has violated the term of this Article more than twice in the immediately preceding twelve month period:

(a) The city engineer may refuse to issue an excavation or obstruction permit under Article II of Chapter 45 of this Code to such person and for any project where such person is identified as a contractor or subcontractor or with regard to which such person is reasonably anticipated to perform any excavation;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

(b) The city purchasing agent may reject the bid of such person to perform any work for the city or of any other person where the violating person is identified as the bidder or a contractor or subcontractor of the bidder or with regard to which the violating person is reasonably anticipated to perform any excavation.

Sec. 48-229. Vicarious liability.

Any person responsible for the supervision of any person violating the requirements of this Article or contracting with such violating person to perform the excavation which gives rise to the damage to utilities shall be jointly and severally liable for such violation and for all penalties, damages and consequences flowing therefrom as set forth in this Article.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: January 7, 2012)

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

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

Nays: None -- 0

Passed December 5, 2011
Approved December 5, 2011
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10128

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 city of Duluth does ordain:

Section 1. That Chapter 33, Article VI, of the Duluth City Code, 1959, as amended, is hereby repealed and replaced as follows:

Article VI. Duluth Parking Commission.

Sec. 33-74. Establishment.

There is hereby established a commission which shall be known as the Duluth parking commission.

Sec. 33-75. Membership.

(a) The commission shall consist of seven members. No member shall serve more than two consecutive full three year terms on the commission plus any partial term pursuant to the provisions of this Article VI;

(1) One member shall be a city councilor appointed to a three year term, provided, however that such councilor shall serve only as long as they continue to hold such office or, unless removed from membership on the commission by the affirmative vote of a majority of the city councilors then serving on the city council, excluding the subject councilor;

(2) Of the remaining six members, two shall be appointed for a one year term, two shall be appointed for a two year term, and two shall be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

appointed to a three year term. Thereafter, all commissioners shall be appointed for three year terms;

(b) All members shall be residents of Duluth, shall be appointed by the mayor subject to council approval, except the councilor member who shall be appointed by the council president subject to council approval, and shall be chosen on the basis of their broad based ability to understand the variety of parking issues in the city and provide appropriate solutions;

(c) When a vacancy occurs on the commission for any reason, such vacancy shall be filled for the unexpired term;

(d) If a commissioner shall be found to have failed or neglected to perform the duties of a commissioner, the mayor, with the approval of the city council, may remove such commissioner from office and the vacancy created shall be filled for the unexpired term;

(e) Commissioners shall serve without compensation.

Sec. 33-76. Commission organization.

(a) Within 30 days after all commissioners have been appointed, the commission shall meet and elect from among their membership a president and vice president. Thereafter, the commission shall meet at stated intervals fixed by resolution of the commission or at the call of any three members of the commission;

(b) The commissioners shall organize and adopt, and thereafter may amend, such bylaws, rules and regulations for the conduct and operation of the commission as the commission shall deem to be in the public interest and most likely to enhance, foster and promote the purposes of this Article VI. Five commissioners shall constitute a quorum for the transaction of business of the commission;

(c) The parking manager shall serve as an ex-officio non-voting member of the commission and shall act as secretary of the commission.

Sec. 33-77. Powers and duties.

The Duluth parking commission shall have the following powers and duties:

(a) To provide strategic oversight and guidance to the operations of the city's parking operations and functions;

(b) To investigate and study on and off street parking problems of broad significance occurring in the city of Duluth and to make recommendations to the administration and city council concerning the solution of such problems;

(c) To facilitate the implementation of recommendations of earlier parking problem study groups if such recommendations have not been implemented but remain valid and desirable after the parking commission is formed;

(d) To establish rates to be charged for parking meters and for city owned parking lots and ramps;

(e) To establish the following parking rates and regulations for parking meters and for city owned parking lots and ramps:

- (1) Parking times and limits;
- (2) Parking meter locations;
- (3) Establishment of no parking, loading or drop-off zones;
- (4) Establishment of seasonal parking regulations and times;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

(f) To perform any functions, duties and/or studies concerning parking problems that it is requested to perform by the administration or the city council;

(g) Work toward improving the availability, ease and perception of parking throughout the city;

(h) To review and recommend to city administration the annual budgets for the city's parking operations.

Sec. 33-78. City council review and veto.

Before any parking rates or parking regulations approved by the Duluth parking commission pursuant to Section 33-77 above shall take effect, a full, true and correct copy of the commission's resolution approving such rates or regulations shall be filed in the office of the city clerk and remain on file as a public document for at least one week before the holding of a regular meeting of the city council. It is hereby made the duty of the city clerk to report to the council at any regular meeting thereof concerning the filing of said resolution. The city council may, by resolution adopted by a majority vote of the council, veto the rates or regulations proposed by the Duluth parking commission. If the council votes to veto the proposed rates or regulations, the last approved shall continue in force and effect until modified in accordance with the provisions of this Article. If such proposal is not vetoed, the commission's proposed rates or regulations shall go into effect on the date specified in the commission's resolution or the date after such council meeting, whichever is later.

Section 2. That Section 33-101 of the Duluth City Code, 1959, as amended is hereby amended as follows:

Sec. 33-101. Definitions.

For the purpose of this Division, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Fee. The payment in the amount established by the Duluth parking commission by resolution, subject to city council veto as set forth in Section 33-78, for the privilege of parking in a parking meter space and paid by means of lawful currency or coinage of the United States, by a token or tokens purchased from the city for that purpose or by means of a credit or debit card recognized by a parking meter for the purpose.

Operator. Every individual who shall operate a vehicle as the owner thereof, as the agent, employee or permittee of the owner or who is in actual physical control of a vehicle.

Parking monitor. A person authorized by the city to issue traffic summons for parking violations.

Park or parking. The standing of a vehicle, whether occupied or not, upon a street, other than temporarily for purpose of and while actually engaged in receiving or discharging passengers, loading or unloading merchandise, in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle and the standing of any vehicle in any public parking lot.

Parking meter. Any device, not inconsistent with this Division, placed or erected for the authorization of and regulation of parking in any parking meter zone in exchange for the fee by authority of this Division.

Parking meter space. Any space within a parking meter zone which is duly designated for the parking of a single vehicle.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Parking meter zone. Any area on a street or in a public parking lot designated as such by resolution of the Duluth parking commission whereupon vehicular parking is authorized by a means of a parking meter.

Public parking lot. Any property in the city owned or operated by the city or any political subdivision of the state of Minnesota held out for use as vehicular parking upon the payment of fee.

Street. Any public street, avenue, road, alley, highway, lane, path or other public place located in the city and established for the use of vehicles.

Vehicle. Any device in, upon or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks.

Section 3. That Section 33-108 of the Duluth City Code, 1959, as amended is hereby amended as follows:

Sec. 33-108. Parking meter zones.

The Duluth parking commission may, by resolution subject to city council veto as set forth in Section 33-78, designate certain streets or public parking lots or portions thereof as parking meter zones and may establish time limits and rates for such parking meter zones, and the parking or standing of vehicles in parking meter spaces within such zones shall be lawful at the rates established.

Section 4. That Section 33-110 of the Duluth City Code, 1959, as amended is hereby amended as follows:

Sec. 33-110. Hours of operation.

Parking meters shall regulate parking in parking meter spaces and persons parking vehicles in parking meter spaces shall be required to pay the appropriate fee therefore on such days and during such hours as the Duluth parking commission shall establish by resolution, subject to city council veto as set forth in Section 33-78, for each parking meter zone.

Section 5. That Section 33-111.1 of the Duluth City Code, 1959, as amended is hereby amended as follows:

Sec. 33-111.1. Exemption of taxicabs from regulations in certain zones.

The Duluth parking commission may, by resolution subject to city council veto as set forth in Section 33-78, exempt taxicabs from the parking meter regulations of this Division in certain zones of the city while such taxicabs are occupied by the licensed operators of such taxicabs and are available for business. Notwithstanding the provisions of Section 47-35 of the City Code, a taxicab is permitted to stand or park in a metered parking space while in service in a zone where taxicabs are exempt from parking meter regulations.

Section 6. That Section 33-221 of the Duluth City Code, 1959, as amended is hereby amended as follows:

Sec. 33-221. Authority to designate.

The Duluth parking commission may from time to time, by resolution subject to city council veto as set forth in Section 33-78, designate and set aside property owned or leased by the city for off street parking.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Section 7. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 7, 2012)

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

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

Nays: Councilor Fosle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 5, 2011
Approved December 5, 2011
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 15, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was 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.

Chief Administrative Officer David Montgomery reviewed in detail, the changes that the administration agreed to at the request of the civil service board and the unions.

- - -

Councilor Stauber left the meeting at this time.

- - -

Councilor Boyle moved to suspend the rules to hear speakers on the ordinance, which motion was second and unanimously carried.

Erik Simonson, Pete Johnson, Tom Maida, Tim Helwig and Deb Strom noted that: while the administration has had this before them for six months, the unions have had less than a month to review a massive change like this; time is needed to review the material and meeting with union attorneys and revisions keep coming, so it is difficult to keep up on the changes.

Councilors felt that while there is general support for the concepts proposed in the ordinance, more discussion needs to happen and this should be tabled.

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The meeting was adjourned at 8:10 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 19, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

11-1219-06 The following communications regarding the proposed ordinance amending Chapter 13 of the Duluth City Code relating to civil service (11-060-O): (a) Carrie Brown; (b) Valerie Clark; (c) Thomas Constantini; (d) Frank Holappa; (e) Fletcher Koos; (f) Edie Michalski; (g) Kimberly Nerhaugen. -- Received

11-1219-22 The following communications regarding the proposed recognition of marriage constitutional amendment (11-0689R): (a) Kay Allen; (b) Gary J. Boelhower; (c) Bernadette Burnham; (d) Cynthia Coffin-Langdon; (e) Janice Crede; (f) Barbara Crow; (g) Bill DeRoche; (h) Gregory Frahm; (i) Dan Hass; (j) Sandy Maturi; (k) Pamela Mittlefehldt; (l) Jessica Nemecek; (m) Patty Sampson; (n) Mary Ann Starus; (o) Greg and JoEllen Travis; (p) DaneYoungblom; (q) Lynn Youngblom. -- Received

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REPORTS FROM OTHER OFFICERS

11-1219-01 Clerk application for exempt permit to the Minnesota gambling control board from Lake Superior Marine Museum Association for raffle on November 3, 2012. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

11-1219-19 Commission on disabilities minutes of November 2, 2011, meeting. -- Received

11-1219-20 Duluth public utilities commission minutes of November 9, 2011, meeting. -- Received

11-1219-21 Entertainment and convention center authority minutes of: (a) August 30; (b) September 27; (c) October 25; (d) November 29, 2011, meetings. -- Received

11-1219-02 Spirit Mountain recreation area authority minutes of November 17, 2011, meeting. -- Received

- - -

At this time, 7: 08 p.m., President Gardner announced that the public hearing on business subsidy policy would begin.

Dan O'Neill, president of the Duluth AFL-CIO Central Labor Body and representing the Duluth Building Trades, expressed support for a strong prevailing wage policy, with no exceptions or loopholes.

At this time, 7:10 p.m., President Gardner declared the public hearing closed and the regular council meeting resumed.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses and other charges listed in Public Document No. 11-1219-03 are hereby established as those set forth in said public document, effective as of January 1, 2012.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said Public Document are hereby superseded as of January 1, 2012, and of no future effect.

Resolution 11-0632 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with the city of Duluth Supervisory Association, substantially the same as that on file in the office of the city clerk as Public Document No. 11-1219-04, which sets forth the terms and conditions of employment for the individual appointed as a grant funded assistant city attorney (community prosecutor), for the purpose of the grant funded project entitled *Blight and Nuisance Crimes, A Project to Improve Public Safety* (supplemental grant approved by Resolution 11-0213).

Resolution 11-0687 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that an increase not to exceed \$23,000 is hereby approved for the city's proprietary contract with All Computer Service for consulting services in mainframe operations and support through December 31, 2011, payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5319 (other professional services).

Resolution 11-0666 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Evolving Solutions, Inc., for the purchase and delivery of NetApp storage equipment/devices in accordance with city-approved specifications and the vendor's low bid of \$138,189.06 plus \$8,210.32 sales tax (includes tax on 20 percent of five year maintenance) for a total amount of \$146,399.38, terms net 30, FOB destination, and payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project #CP2009-0928B.

Resolution 11-0671 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 11-1219-05, with the Northeast Minnesota Cooperative for the construction, installation and maintenance of fiber optic cable connections between city facilities in the monthly estimated amount of \$9,762 and a one-time installation cost of \$120,172, \$63,434 of which shall be payable from Fund 250-015-2010-5580 CE250-E1004 (capital equipment, administrative services, 2010) and the remainder of which shall be payable from Fund 110-117-1107-5319 (general, management information services, MIS).

Resolution 11-0688 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the appointment to the Duluth airport authority by Mayor Ness of Kenneth J. Stromquist, replacing Roy Niemi, for term expiring on July 1, 2013, is confirmed.

Resolution 11-0657 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Erica Erickson (commission on disabilities representative) for a term expiring on March 31, 2012, replacing Patti Nadeau who resigned, is confirmed.

Resolution 11-0674 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that an increase of \$20,000 in year 2011 to Agreement No. 21296 with Duluth Clinic, Ltd., is hereby approved, for administering a variety of occupational medical tests and services for city employees, payable from General Fund 110, Department/Agency 700 (transfers and other functions), Organization 1431 (benefits administration/citywide HR), Object 5310 (contract services).

Resolution 11-0683 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-07, which allows DEDA to participate in the city's self insurance fund program during 2012; DEDA funds in the amount of \$6,500 to be deposited into self insurance fund Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 11-0655 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby authorize reimbursement to the Duluth economic development authority (DEDA) for a professional services agreement with Bay West, Inc., related to supplemental Phase II subsurface assessment at Bayfront in an amount not to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

exceed \$70,000, payable from Fund 255 (economic development), Agency 020 (planning), Organization 5319 (other professional services) the source of which are two U. S. environmental protection agency assessment grants.

Resolution 11-0660 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

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

(a) That Resolution 11-0040 was approved by the city contingent upon the relocation of utilities and dedication of an alley easement connecting the remaining portion of the alley to East Second Street near 11th Avenue East to provide for vehicular and pedestrian circulation; and

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

(c) The city council of the city of Duluth accepts, on behalf of the general public, the dedication of those easements described in Public Document No. 11-1219-08.

FURTHER RESOLVED, that the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 11-1219-08 showing access purpose and utility easements retained.

Resolution 11-0670 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city planning division requesting the vacation of an unimproved portion of South Tenth Avenue West south of Railroad Street; 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 (PL11-124) 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 December 13, 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 street and depicted on Public Document No. 11-1219-09;

South 10th Avenue West adjacent to said Blocks 13, 14, 15 and 16 south of the southeasterly line of Railroad Street in the recorded plat of Bayfront Division of Duluth, First Re-Arrangement, Saint Louis County, Minnesota.

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. 11-1219-09 showing the rights-of-way to be vacated.

Resolution 11-0675 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

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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 a utility and pedestrian easement of the following:

(1) That part of vacated Eighth Avenue East and vacated East 11th Street, all in LAKE VIEW DIVISION of Duluth Minnesota described as follows:

Beginning at the most southerly corner of Lot 1, Block 30, said LAKE VIEW DIVISION; thence south 48°21'17" east, assumed bearing along the southwesterly line of said Lot 1, a distance of 21.50 feet; thence north 41°37'07" east 150.21 feet; thence south 48°21'24" east 15.00 feet; thence south 41°37'07" west 150.21 feet; thence south 48°21'17" east 76.81 feet along the northeasterly line of vacated Eighth Avenue East; thence south 41°38'43" west 66.00 feet to the southwesterly line of said vacated Eighth Avenue East; thence north 48°21'17" west 169.12 feet along the southwesterly line of said vacated Eighth Avenue East; thence north 53°01'36" east 67.32 feet to the southwesterly line of said Lot 1, Block 30; thence south 48°21'17" east 42.53 feet along the southwesterly line of said Lot 1 to the point of beginning;

(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 (PL11-024) and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petition to vacate and accept the utility and pedestrian easements preserve the intent of pedestrian movement and access to buried city infrastructure;

(c) The city has received the following grants of easement, in trust for the general public, from the following persons and entities: an easement for utility and pedestrian purposes from Independent School District 709:

(1) That part of Lots 14, 15, 16, Block 26, that part of Lots 1, 2, 3, Block 30, and that part of vacated East 11th Street, all in LAKE VIEW DIVISION of Duluth Minnesota described as follows: commencing at the most southerly corner of said Lot 1, Block 30; thence north 48°21'17" west, assumed bearing along the southwesterly line of said Lot 1, a distance of 42.53 feet; thence north 00°23'04" east 3.75 feet along the east line of Kenwood Avenue to the point of beginning of the tract to be described; thence continuing north 00°23'04" east 53.10 feet along the east line of said Kenwood Avenue; thence north 41°37'07" east 65.27 feet; thence S. 48°21'17" E. 88.00 feet; thence north 41°37'07" east 42.21 feet; thence south 48°21'17" east 20.00 feet; thence south 09°11'39" west 50.03 feet; thence south 48°21'17" east 30.93 feet; thence south 11°41'46" west 124.64 feet to the southwesterly line of said Lot 16, Block 26; thence north 48°21'17" west 34.62 feet along the southwesterly line of said Lot 16; thence north 11°41'46" east 84.25 feet; thence north 48°21'17" west 116.28 feet; thence south 41°37'07" west 70.18 feet to the point of beginning;

(d) The city planning commission, at its December 13, 2011, regular meeting, recommended approval of the vacation and acceptance of easements petition;

(e) The city council of the city of Duluth approves the vacation and acceptance of the following-described utility and pedestrian easements and depicted on Public Documents No. 11-1219-10(a) and No. 11-1219-10(b).

RESOLVED FURTHER, that the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document Nos. 12-1219-10(a) and 12-1219-10(b) showing the portions

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

of utility and pedestrian easements to be vacated and the acceptance of dedication of new easements, all as authorized hereunder.

Resolution 11-0677 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, That the proper city officials are authorized to make the following fund transfers within the 2007, 2008 and 2010 CDBG programs thereby increasing the Federal Program Fund 262, Agency 020, Object 5434, 2012 HUD-funded community development account by \$343,659 from accounts as set forth below:

2007 CDBG Program – Fund 262 – Project CD07CD

Sub-project	Activity	Project	Amount	New Grant	Difference
PFAC	PF-01	Central Hillside accessibility	\$113,083	\$98,684	(\$14,399)

2008 CDBG Program – Fund 262 – Project CD08CD

Sub-project	Activity	Project	Amount	New Grant	Difference
ECDV	2412	SOAR Duluth@Work	\$150,000	\$144,000	(\$6,000)
ECDV	1244	CHUM employ. svcs	\$112,500	\$103,000	(\$9,500)

2010 CDBG Program – Fund 262 – Project CD10CD

Sub-project	Activity	Project	Amount	New Grant	Difference
ADMC		Contingency account	\$10,698	\$0	(\$10,698)
Balance Sheet #2220		Program income	\$213,062	\$0	(\$213,062)

Fund 263 – Economic Development RLF

Sub-project	Activity	Project	Amount	New Grant	Difference
		Program income	\$90,000	\$0	(\$90,000)

Resolution 11-0679 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a consultant agreement with Camiros, Ltd., substantially the same as that on file with the city clerk as Public Document No. 11-1219-11, for professional services in comprehensively rewriting the city’s Sign Code and creating new sign standards for the planning division in accordance with the consultants proposal dated November 4, 2011, for a total amount not to exceed \$45,000, payable from General Fund 110, Department/Agency 132 (planning and construction services), Division 1301 (planning and development), Object 5319 (other professional services).

Resolution 11-0685 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into agreements, substantially in the form of those agreements on file in the office of the city clerk as Public Document Nos. 11-1219-12(a) and 11-1219-12(b), with Kurtis and Yonhui Martin and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Scott Solem respectively pursuant to which said parties will convey the existing private sewer line serving their properties and easements necessary thereto to the city at no cost and in addition, pay to the city the amounts set forth below which shall be payable to Fund No. 410-038-5530 (special assessment fund, special assessment contracts, improvements other than buildings) and the city will cause said private main to be replaced with a public sewer main serving said properties:

Kurtis and Yonhui Martin	\$17,500;
Scott Solem	\$12,500.

Resolution 11-0658 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to State Farm Insurance, as subrogee of Jason and Amanda Easty, the sum of \$25,495.43 in full and final settlement of the claim which arose out of a failure of a city sanitary sewer main occurring near 5012 Colorado Street on June 8, 2010; payment to be made from the Self Insurance Fund 610-036-1653-5841 (self insurance-liabilities, insurance accounts, insurance - sewer).

Resolution 11-0662 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services related to the design of the Skyline Parkway Bridge at Stewart Creek, Bridge No. L6007, rehabilitation and Snively Memorial reconstruction in an amount not to exceed \$89,862, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than Buildings), City Project No. 1016, S.P. 118-090-010, Requisition No. 11-0592.

Resolution 11-0663 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that Resolution 11-0221 awarding a contract to NPL Construction Company for construction of high pressure gas mains and services in various locations be amended to increase the amount by \$220,000 for a new total of \$680,739.82, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 0904GS.

Resolution 11-0678 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that Purchase Order 2011-00000552 awarding a contract to Hanco Utilities, Inc., for supplemental construction of gas mains and services at various locations be amended to increase the amount by \$11,532.37 for a new total of \$52,301.37, payable out of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (Capital), Object 5533 (capital improvements - revenue), City Project No. 1059.

Resolution 11-0682 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-13, with Lexipol, LLC, for a three-year subscription to the Lexipol Knowledge Management System, which will provide the Duluth police department with access to policy manuals, daily on-line training bulletins, on-line training and testing of officers and updates, payment to be made from Fund 110-160-1640-2232-5441 (general, police, police special accounts, auction proceeds, other services and charges).

Resolution 11-0636 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

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

In front of 1827 East Tenth Street;

In front of 924 East Eighth Street;

In front of 605 North 11th Avenue East.

Resolution 11-0654 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with L-3 Communications Mobile Vision, Inc., for the tax exempt purchase and delivery of eight Flashback 2 in-car camera video systems for the Duluth police department in accordance with Minnesota State Contract No. 443021, Release I-57(5), specifications and pricing in the amount of \$78,039.10, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year - 2011), Object 5580 (capital equipment), Project No. CE250-V1102.

Resolution 11-0664 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a \$2,500 Met Life Award awarded to the Duluth police department in recognition of the police department's outstanding work on community policing and city-wide crime prevention meetings, funds to be deposited in Fund 110-160-1610-4660 (general, police, administration and investigation, gifts and donations).

Resolution 11-0665 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

RESOLVED, that pursuant to Section 33-82 of the Duluth City Code, 1959, as amended, the no parking restriction in the cul-de-sac on the north end of Butternut Avenue be removed.

FURTHER RESOLVED, that all other parking restrictions previously established by the city council which pertain to any part of the street described above shall remain in effect.

Resolution 11-0667 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 33-97.8 of the Duluth City Code, 1959, as amended, the alternate side parking restriction on 23rd Avenue West between Superior Street and First Street be changed to alternate side parking from 1:00 AM to 7:00 AM.

FURTHER RESOLVED, that all other parking restrictions previously established by the city council which pertain to any part of the street described above shall remain in effect.

Resolution 11-0673 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that an increase to the city's contract with Viele Contracting, Inc., for the demolition of six structures at various locations is hereby approved for a total amount of \$6,000, payable from General Fund 110, Department/Agency 132 (planning and construction services), Organization 1304 (construction services and inspection), Object 5441 (other services and charges).

Resolution 11-0680 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a grant agreement with St. Louis County, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-14, for the joint occupancy, maintenance and use of the new public safety building by the city's police department along with the St. Louis County sheriff's department, with the city's share of costs therefore to be payable from Fund 110-160-1610-5460 (general, police, administration and investigation).

Resolution 11-0684 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-15, with the Duluth economic development authority (DEDA), to provide additional available dates for police training in emergency vehicle operations on the ramp of the northwest airlines airbus maintenance base.

Resolution 11-0686 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Document No. 11-1219-16, with the Minnesota Children's Museum which provides for the city to host a traveling exhibit at the main library in October and November of 2012 which is entitled *Storyland: A Trip through Childhood Favorites*, the cost of procuring insurance to cover the exhibition in an amount not to exceed \$1,500, payable from Fund 240-300-50-5319 (library special gifts, library, Friends of the Library).

Resolution 11-0659 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to the Violation Processing Service Agreement 20732 with Complus Data Innovations, Inc, (Complus) substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-17, for the continued use of Complus software and hardware to process, track and collect parking and administrative fines, with said funds to be deposited into and paid from General Fund 110, Finance Department 125, Auditors Office 1214, Administrative Fines 4472.

Resolution 11-0669 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

At this time, Councilor Boyle moved to suspend the rules to consider Ordinance 11-060, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR BOYLE

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

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

Marshall Stenersen, incoming chair for 2012 of the civil service board, David Leonzal and David Wiezen expressed concerns of: that this has just been before the council since before Thanksgiving; the Civil Service Code needs to be updated, but it needs to be done thoughtfully; all parties need to work together and the civil service board needs to stay in place with these changes.

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

- - -

The following resolutions were also considered:

Resolution 11-0651, transferring \$750,000 from the community investment trust fund for the 2012 pothole reduction program, was introduced by Councilor Fedora for discussion.

Councilor Stauber reviewed in detail the amounts of proceeds and investment earnings added and the depletion of funds to the trust, noting his concerns that shortly the one time balance of over \$70,000,000 would be going to below \$20,000,000.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Chief Administrative Officer David Montgomery reviewed the specific projects that have been funded by doing those projects through the community investment trust fund and how interest rates overall have been very low.

Resolution 11-0651 was adopted as follows:

WHEREAS, the city of Duluth, Minnesota (the city), annually establishes a street reconstruction, preservation and maintenance program; and

WHEREAS, the purpose of the resolution is to transfer monies for the 2012 pothole reduction program from the community investment trust fund (Fund 256) (the CIT fund).

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city, as follows:

The city council hereby transfers \$750,000 from the CIT fund (fund 256) to the general fund (Fund 110) to provide monies for the 2012 pothole reduction program. The transfers authorized in Section 1 above shall be made quarterly over 2012 but in no event later than needed to pay program costs.

Resolution 11-0651 was adopted upon the following vote:

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

Nays: Councilor Stauber - 1

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of parking manager, which were approved by the civil service board on July 5, 2011, and which are filed with the city clerk as Public Document No. 11-1219-18, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1095 - 1100. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 11-0661 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

- - -

Resolution 11-0690, by Councilor Boyle, appointing _____ to the Duluth public utilities commission, was introduced for discussion.

Councilor Boyle moved to amend the resolution by inserting the name Robert Prusak, which motion was seconded and discussed.

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

Tom Karas reviewed that he submitted his application before the position was advertised for and expressed the concern of how a sanitary sewer board member could be considered for this position.

The amendment carried unanimously.

Resolution 11-0690, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby appoints Robert Prusak (at large), replacing Jennifer Julsrud, to the Duluth public utilities commission for a term expiring on March 31,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

2012.

Resolution 11-0690, as amended, was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

- - -

Resolution 11-0668, adopting business subsidy policy, was introduced by Councilor Stauber for discussion.

Councilor Anderson moved to return this resolution to the administration for more discussion with the Duluth economic development authority, which motion was seconded and unanimously carried.

- - -

At this time, Councilor Fedora moved suspend the rules to consider resolutions 11-0689 and 11-0691 to the end of the agenda after the consideration of ordinances, which motion was seconded and unanimously carried.

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Resolution 11-0681, authorizing the city to enter into a joint powers agreement with Independent School District 709, Duluth Public Schools, to provide for community education and recreation programs through collaboration and coordination of resources, was introduced by Councilor Halberg.

Councilor Halberg moved table the resolution until there is a joint meeting with the school board, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FEDORA

11-061 (10129) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2012.

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

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

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INTRODUCED BY COUNCILOR FEDORA

11-062 (10130) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2012 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

INTRODUCED BY COUNCILOR FEDORA

11-063 (10131) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2012.

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

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At this time, Councilor Fosle left his seat.

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MOTIONS AND RESOLUTIONS

Resolution 11-0689, by President Gardner and Councilor Anderson, in opposition to proposed "recognition of marriage" constitutional amendment, was introduced for discussion.

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

Karen Lewis, Gary Boelhower, Lynn Youngblom, Rev. Kathy Nelson, Dane Youngblom, Andrea Gelb, Scott Yeazle, chair of the Duluth human rights commission, and Jesse Peterson expressed support for the resolution for reasons of: that government has no business on interfering on this issue; symbolic actions by cities are needed; this would deny a basic right given to others; all persons in Duluth need to be respected; Duluth should be shown as a welcoming community; Peace United Church of Christ congregation council supports this resolution; GLBT Duluthians are valuable members of our community; this constitutional amendment is a form of bullying; Temple Israel supports this resolution; the Duluth human rights commission opposes this constitutional amendment; this amendment, if passed, would take away freedoms and businesses have denied health benefits based on this proposed constitutional amendment.

Councilors Anderson, Boyle, Cuneo, Halberg and President Gardner spoke at length noting their reasons for support.

Resolution 11-0689 was adopted as follows:

BY PRESIDENT GARDNER AND COUNCILOR ANDERSON:

WHEREAS, in 2011 the Minnesota State Legislature voted to include the following question on the election ballot in November 2012: "Shall the Minnesota Constitution be amended to provide that only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota?"; and

WHEREAS, the proposed amendment would add a new Section 13 to the Minnesota Constitution stating: "Only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota."; and

WHEREAS, in 2009 the Duluth City Council recognized the importance of equality for all citizens by passing the state of Minnesota's second Domestic Partnership Registry; and

WHEREAS, a broad coalition of organizations, community and business leaders; faith, labor, progressive and nonpartisan organizations; communities of color; and current and former elected officials have all joined to defeat this amendment.

THEREFORE, BE IT RESOLVED, that the Duluth City Council joins the broad coalition of organizations stated above in supporting Minnesota's United for All Families and hereby opposes the proposed constitutional amendment entitled "Recognition of Marriage Solely Between One Man and One Woman," and urges Minnesota citizens to vote "No" on Tuesday, November 6, 2012.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Resolution 11-0689 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora and Stauber -- 2

Absent: Councilor Fosle -- 1

Approved December 19, 2011

DON NESS, Mayor

- - -

Resolution 11-0691, by Councilor Anderson, in opposition to the United States Supreme Court decision in *Citizens United* related to constitutional rights for corporate entities, was introduced for discussion.

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

Michael Linn and Jesse Peterson expressed support for the resolution for reasons of: corporations are not people; citizens are important and need a voice and by allowing this for corporate entities, it makes them a fictitious person, who cannot be prosecuted.

Councilor Anderson and President Gardner cited at length their reasons for support this resolution.

Resolution 11-0691 was adopted as follows:

BY COUNCILOR ANDERSON:

WHEREAS, there are several movements, both nationally and within the state of Minnesota to amend the respective Constitutions of each body relating to corporate personhood; and

WHEREAS, the Duluth City Council believes that the rights protected by the Constitution of the United States and the Constitution of the state of Minnesota are rights of natural persons only; and

WHEREAS, artificial entities such as corporations, limited liability companies, and other entities established by the laws of any State, the United States, or any foreign state are subject to regulation by the people through federal, state or local law; and

WHEREAS, the privileges of artificial entities should be determined by the people and should not be construed to be inherent or inalienable; and

WHEREAS, federal, state or local government should regulate, limit, or prohibit contributions and expenditures of candidates for public office, including a candidate's own contributions and expenditures, to prohibit the influencing of an election of any candidate for public office or any ballot measure; and

WHEREAS, government should require that any permissible contributions and expenditures be publicly disclosed; and

WHEREAS, the judiciary should not construe the spending of money to influence elections to be speech under the First Amendment.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby supports the efforts to reject the United States Supreme Court ruling in *Citizens United v. Federal Election Commission* (130 S.Ct. 876 (2010)), and expresses its support to amend our state and national Constitutions to firmly establish that money is not speech, that human beings, not corporations, are persons entitled to constitutional rights, and that whenever the word "person" is used in the constitution it means a natural person.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Resolution 11-0691 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora and Stauber -- 2

Absent: Councilor Fosle -- 1

Approved December 19, 2011

DON NESS, Mayor

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Hartman stated that it is his intent to run for city council president in 2012.

Councilor Boyle stated that it is his intent to run for city council vice president in 2012.

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Councilors Anderson, Cuneo, Fedora and Halberg thanked their fellow councilors for working with them as councilors, as this was their last meeting.

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The meeting was adjourned at 8:46 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10129

**AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2012.**

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2012 for general operations is hereby determined to be the sum of \$18,804,700 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. There will be levied for the support of the general fund the sum of \$12,057,700.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$6,604,900.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$142,100.

Section 5. That this ordinance shall take effect January 1, 2012.

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

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

Passed December 19, 2011

Approved December 19, 2011

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

ORDINANCE NO. 10130

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2012 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2012, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the chief administrative officer or their designee.

That use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$3,046,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,900,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$146,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, and the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, and 505 in the parking division.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 2012.

GENERAL FUND		
110	Legislative and executive - total	\$3,589,200
117	Management information systems - total	2,571,600
121	Public administration - total	17,880,900
125	Finance - total	3,443,900
132	Planning and construction services - total	2,138,600
135	Business and development resources - total	692,000
150	Fire - total	13,107,600
160	Police - total	18,544,800
500	Public works - total	1,744,500
700	Transfers and other functions - total	11,116,900
	Total general fund	\$74,830,000
PUBLIC ENTERPRISE		
503	Golf fund - total	\$2,094,700
505	Parking fund - total	3,416,100
PUBLIC UTILITIES		
510	Water fund - total	\$11,691,800
520	Gas fund - total	44,107,500
530 and 532	Sewer and clean water fund - total	18,567,900
535	Stormwater fund - total	4,617,500
540	Steam fund - total	7,749,022
550	Street lighting - total	1,994,500

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2012.

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

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Passed December 19, 2011
Approved December 19, 2011
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10131

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2012.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2012 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,316,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,316,900.

Section 3. That this ordinance shall take effect January 1, 2012.

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

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

Nays: None -- 0

Passed December 19, 2011
Approved December 19, 2011
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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