

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 2, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0702-01 Minnesota state auditor: (a) Audit report of the Duluth airport authority for the years ended December 31, 2011, December 31, 2010; (b) Management and compliance report for the Western Lake Superior Sanitary District for the year ended December 31, 2011. - - Received

12-0702-19 Daniel H. Mundt communication regarding the proposed ordinance to establish a citizen review board (12-030-O). -- Received

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REPORTS FROM OTHER OFFICERS

12-0702-02 Assessor assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2011, to June 1, 2012, for which the licensed collector has not been reimbursed. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0702-03 Duluth airport authority minutes of May 15, 2012, meeting. -- Received

12-0702-04 Duluth transit authority: (a) Income statement of March 2012; (b) Minutes of April 25, 2012, meeting. -- Received

12-0702-05 Housing and redevelopment authority audit report for the year ended September 30, 2011. -- Received

12-0702-06 Library board minutes of April 24, 2012, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that the escrow accounts of the school board have been reduced from \$28 to \$16 million and the red plan eliminated all schools in the central part of the city.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

WHEREAS, the governmental accounting standards board has recently issued a new accounting standard Statement #54, Fund Balance Reporting and Governmental Fund Type Definitions; and

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WHEREAS, one of the requirements under Statement #54 is that the governing body adopt a fund balance policy including fund balance classifications, minimum fund balance requirements, and restricted and committed funds; and

WHEREAS, a fund balance reporting and governmental fund type definitions policy, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-07, has been prepared that meets the disclosure requirements of Statement #54.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that the fund balance reporting and governmental fund type definitions policy is adopted.

Resolution 12-0317 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 12-0702-08, which is levied against property to collect delinquent property violation administrative penalty citations for the period of March 1, 2011, to March 1, 2012, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 12-0328 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 10-12, 2012, with the serving ceasing at 10:00 p.m. with Clark Coole, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 26-29, 2012, with Sue Seitz, manager.

Minnesota Craft Brewer's Guild (All Points North Summer Brew Fest 2012), Bayfront Park, for July 21, 2012, with Laura Mullen, fest coordinator.

Resolution 12-0283 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Johnson Wilson Constructors, Inc., for the completion of Duluth City Hall power upgrades and MIS server room modifications, data closet upgrades, air conditioning unit and humidification unit in accordance with specifications prepared by city consultant, Architectural Resources, Inc., and the contractor's combined low bid of \$603,800 (\$587,000 base bid (upgrades) and \$16,800 Alternate No. One (humidification unit)), payable as follows:

Amount	Fund	Department/ Agency	Fiscal Year - Object	Project No.
\$84,800	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2011-1112b

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Amount	Fund	Department/ Agency	Fiscal Year - Object	Project No.
\$40,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2011-1113b
\$200,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2012-1205b
\$110,000	Capital Improvements Fund 450	030 (finance)	5520 (buildings and structures)	CP 2012-1203b
\$169,000	Capital Equipment Fund 250	015 (administra- tive services)	2012 - 5580 (capital equip- ment)	CE 250-E1205

Resolution 12-0324 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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BE IT RESOLVED, that Resolution 12-0239 is hereby amended to read that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Lake Superior Brewing Company, LLC (Twin Ports Bridge Fest), Bayfront Park, for July 7 and 8, 2012, from noon until 10:00 p.m. with Dale Kleinschmidt, manager.

Resolution 12-0336 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of business developer, including a title change to senior business developer, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-09, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 142 to Pay Range 138. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0330 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant business developer, including a title change to business developer, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-10, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 135. The proper city officials are authorized to

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execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0331 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of bridge operator - electrical, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0702-11, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 28. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0335 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that, pursuant to the requirements of Section 3 of City Ordinance No. 8631, the Duluth City Council hereby consents to and authorizes the assignment of the concurrent use permit granted by said ordinance to Advance Acquisitions, LLC, subject to all terms and conditions thereof.

Resolution 12-0321 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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WHEREAS, the city is seeking grant funding through the state of Minnesota business development capital projects grant program for a large, private development project to be located in Downtown Duluth; and

WHEREAS, the city will be utilizing funding for the acquisition, demolition and construction of public infrastructure in support of this project; and

WHEREAS, the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its useful life; and

WHEREAS, all non-state funding is committed and available and meets or exceeds the requirement that the non-state match equal or exceed the state funding; and

WHEREAS, the city certifies it will comply with all applicable laws, regulations and rules of general obligation bond funds.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an application for a grant from the Minnesota department of employment and economic development as part of the business development capital projects grant program, in an amount up to \$10 million, for the above-referenced development project to be located in Downtown Duluth.

Resolution 12-0325 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

WHEREAS, the city is seeking grant funding through the state of Minnesota business development capital projects grant program for the Wade Stadium repairs and upgrades project; and

WHEREAS, this project is slated to renovate and upgrade Wade Stadium while maintaining and restoring the historic character of the facility; and

WHEREAS, the renovation of Wade Stadium was highlighted as a legislative initiative for the 2012 legislative session (Council Resolution 12-0031); and

WHEREAS, the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its useful life; and

WHEREAS, all non-state funding is committed and available and meets or exceeds the requirement that the non-state match equal or exceed the state funding; and

WHEREAS, the city certifies it will comply with all applicable laws, regulations, and rules of general obligation bond funds.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an application for a grant from the Minnesota department of employment and economic development as part of the business development capital projects grant program, in an amount up to \$5.8 million.

Resolution 12-0326 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the city council hereby authorizes the proper city officials to enter into a cooperative agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0702-12, with the Duluth economic development authority pertaining to a DEED grant for certain expenses relating to construction of infrastructure at the Atlas Industrial Park site in the amount of \$500,000, said funds to be paid from Fund 255-020-5434 (economic development fund, planning, grants and awards).

Resolution 12-0334 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the city council approves settlement in the amount of \$60,000 of all claims or causes of actions asserted by the city of Duluth in that matter venued in the District Court of Minnesota, Sixth Judicial District, and identified as City of Duluth v Expedia, Inc., File No.69DU-CV-11-1217, and further authorizes the proper city officials to execute all documents necessary to conclude this matter on a full, final and complete basis, funds to be deposited in Fund 258-030-4060-4062 (tourism taxes fund, hotel-motel taxes).

Resolution 12-0322 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-13, with the Duluth Steam Cooperative Association for the transition of

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operations of Duluth Steam District No. 1 from the association to Ever-Green Energy Duluth, LLC.

Resolution 12-0341 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the council hereby adopts the 2011 edition of the city of Duluth public works/utilities department engineering division standard construction specifications booklet and 2012 addendum, a copy of which is on file in the office of the city clerk as Public Document No. 12-0702-14, to be used for the construction, reconstruction and repair of all city streets and utilities.

Resolution 12-0329 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0702-15, for city participation in the PowerGrant pilot program 2012 offered by Minnesota Power; that the revenues received from the PowerGrant program are committed for energy efficiency projects and shall be deposited in Fund 257-015-4270 (energy management fund, administrative services, other grants); and the following account is hereby established as the dedicated account for project expenses: Fund 257-015-5461 (energy management fund, administrative services, energy efficiency projects).

Resolution 12-0333 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 12-0702-16, with the state of Minnesota through its commissioner of public safety, division of homeland security and emergency management, for providing services as a hazardous materials chemical assessment through September 30, 2012, in the amount of \$9,500, said sum to be payable to Fund 110-150-1505-4210-02 (general fund, fire, hazardous materials, pass through grant).

RESOLVED, that the proper city officials are authorized to apply to the state for a new agreement for chemical assessment team services through July 1, 2017.

Resolution 12-0340 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to execute and implement a four-year agreement with Spirit Mountain recreation area authority and Duluth Cross Country Ski Club for the use, operation and management of Spirit Mountain Nordic Center, substantially the same as that on file with the city clerk as Public Document No. 12-0702-17, at no cost to the city.

Resolution 12-0323 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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The following resolutions were also considered:

Resolution 12-0339, authorizing city officials to allocate \$75,000 from the tourism tax fund balance for flood-related response tourism advertising and marketing, was introduced by Councilor Krug for discussion.

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

Karen Pionk, general manager of Sheraton Duluth, and Tony Bronson, Grandma's Restaurants, commented that: the Twin Cities area is the biggest feeder market to Duluth tourism; there is a need to let tourists know that Duluth is open and functional; there is very critical need to do something quickly for our hospitality industry; summer is the time the city does its best; if the hospitality industry does well, so the does the city of Duluth sales tax revenues and the isolated pictures on the internet gave a false impression of the magnitude of the destruction.

Councilor Fosle expressed concerns that there should just be pictures on the internet showing that the major tourist areas have not been damaged.

Resolution 12-0339 was adopted as follows:

RESOLVED, that the appropriate city officials are hereby authorized to allocate \$75,000 from the undesignated fund balance in the tourism tax fund solely for city flood-related response tourism advertising and marketing.

Resolution 12-0339 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved July 2, 2012

DON NESS, Mayor

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BY PRESIDENT HARTMAN AND COUNCILOR LARSON:

WHEREAS, Chapter 27 of the Duluth City Code provides for regulation and licensing for peddlers and solicitors within city limits; and

WHEREAS, several street vendors have raised concerns that the requirement of having to continually move from place to place is overly burdensome and negatively impacts their business.

THEREFORE, BE IT RESOLVED, that the city council hereby requests city administration review current street vendor regulations, review best practices from other communities and provide the council options for facilitating more vending opportunities on public property.

Resolution 12-0338 was unanimously adopted.

Approved July 2, 2012, pursuant to Section 12 of the Duluth City Charter.

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BY COUNCILORS LARSON AND JULSRUD:

WHEREAS, the city of Duluth has sustained severe losses of major proportion, brought on by flood conditions which began on June 19, 2012; and

WHEREAS, the mayor declared a state of emergency on June 20, 2012; and

WHEREAS, the city of Duluth suffered significant damage to city roads, bridges and public infrastructure rendering many roads and bridges impassable and/or unsafe to travel; and

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WHEREAS, many residents suffered significant personal property damage including the loss of homes and businesses; and

WHEREAS, the council feels it is important to recognize this state of emergency.

THEREFORE, BE IT RESOLVED, that the city council hereby expresses recognition of the current state of emergency and pledges to help facilitate repair of damaged city roads, bridges and public infrastructure necessary to facilitate recovery and emergency aid efforts, to facilitate effective and timely delivery of emergency services, to facilitate safe travel for public, government, and business purposes; and to provide aid for all citizens of Duluth.

FURTHER RESOLVED, that the city council, for and behalf of the citizens of Duluth, hereby request the governor of the state of Minnesota to petition the president of the United States to declare the city of Duluth and surrounding area, to be a major disaster area.

FURTHER RESOLVED, that this request is for the public assistance (infrastructure support) program, as offered through P.L. 93-288 and 106.390; and the hazard mitigation program, as offered through P.L. 93-288 and 106.390.

Resolution 12-0337 was unanimously adopted.

Approved July 2, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR KRUG

12-038 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

12-040 (10161) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO RESIDENTIAL-URBAN (R-2) AND MIXED-USE NEIGHBORHOOD (MU-N), AT THE PROPERTIES LOCATED BETWEEN ST. MARIE STREET, WOODLAND AVENUE AND THE UMD CAMPUS (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-042 (10162) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES

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LOCATED ALONG CENTRAL ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-044 (10163) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6), FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR STAUBER

12-045 (10164) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES, INC.).

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

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INTRODUCED BY COUNCILOR GARDNER

12-041 (10165) - AN ORDINANCE AUTHORIZING AN AGREEMENT AUTHORIZING SALE OF SKYWALK EASEMENTS IN THE HOLIDAY MALL TO JMM LIMITED PARTNERSHIP.

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

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BY COUNCILORS GARDNER AND LARSON

12-030 (10166) - AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

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

Blair Moses, Ricky DeFoe, Dr. Bob Powless, Xavier Bell, Doug Bowen-Bailey and Jay Benson expressed support for the ordinance for reasons of: our community is unique and can adapt this to our specific needs; one or two board members are not going to be able to sway the board; there is a need to review and prevent police department mistakes from being made; the task force has worked on this because they love and care for the city; 32 percent of the police officers have reported that they want oversight of law enforcement; there has been police involvement on this from the beginning; the mayor will make good appointments; the police chief will provide positive training when this ordinance goes into effect; this dialogue has mistakenly boiled down to race and the experiences of one group versus another; there has been a lack of trust of those in power; this entity will be the forum to bring diverse voices together to be heard; this will be a positive entity for both the police and the community, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

there have been some really good experiences with the police and some that could have been better.

Tom Maide, president of the Duluth Police Union expressed concerns of: this is an unnecessary use of city resources and it does not foster trust nor build a relationship between police officers and the community.

Councilors Fosle moved that the ordinance require a background check of board appointees for any felony convictions before they be appointed, which motion was seconded and discussed.

Councilor Gardner moved to suspend the rules to hear speakers on the amendment, which motion was seconded and carried.

Ricky DeFoe, Xavier Bell, Andrea Gelb, Tyler Nord, Jay Benson, Lyn Clarke Pege and Blair Moses opposed the amendment because they felt: it is unbelievable; that there is a disproportionate number of individuals of color with felonies on their record, which makes them second-class citizens, who really need a citizen review board to guard their liberties; this is a racist amendment; white people are the highest percentage of individuals in poverty, with people of color there is a fear, so there needs to be an equity of representation on this board; this amendment is disturbing in how a "felony" is defined and how certain crimes are categorized; the mayor would take into consideration the qualities of the persons he nominates; it is unclear what constitutes a felony; this has just been introduced without any prior notice; someone who has been penalized with a prior felony may be a knowledgeable person to serve on this board and wants situations to be better with law enforcement; there should be a consistency of criteria across all boards and commissions; felons are not evil or demons; this targets a certain group of individuals and this does not foster unity.

Tom Maida supported the amendment because individuals appointed will receive training in police procedures, techniques, tactics and sensitive information.

Councilors opposing the amendment stated: that it demonstrates the need for the citizen review board; it assumes that individuals convicted of a felony are incapable of redemption; this is why the ordinance needs to be passed now and implemented; this ordinance is not about felons and the city council must confirm the appointments.

Councilor Fosle supported the amending because: at some time this board could be made stronger; there could be a different police chief and an arresting officer could be under this review and subject to a vendetta.

Councilor Fosle's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

Councilor Krause opposed the ordinance and stated that: a citizen review board should represent all citizens and this ordinance should be comparable to all the other boards and commissions; if this ordinance earmarks certain things, it is discriminatory and what is being reviewed should apply to all citizens.

Councilors supporting the ordinance stated the reasons of: because of the uniqueness of what this ordinance deals with, the language should be different from other boards; transparency is needed in this case; this is to address policy and procedures, not individual officers; this ordinance represents a great deal of compromise; the membership representation language is not mandatory, just suggested and this will build trust for the police department.

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Larson stated that she will be bringing a bee licensing ordinance before the council in a few weeks.

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The meeting was adjourned at 8:39 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10161

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-URBAN (R-2) AND MIXED-USE NEIGHBORHOOD (MU-N) AT THE PROPERTIES LOCATED BETWEEN ST. MARIE STREET, WOODLAND AVENUE AND THE UMD CAMPUS (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 19.9 acres of the subject property located generally between St. Marie Street, Woodland Avenue and the UMD Campus, and as more particularly described as follows:

Rezone from R-1 to R-2:

That part of Motor Line Division, according to the recorded plat thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the north quarter corner of Section 14, Township 50 North, Range 14 West, being on the centerline of St. Marie Street as platted in said Motor Line Division;

Thence south along the west line of said Motor Line Division to the centerline of the alley between Blocks 14 and 15 of said Motor Line Division;

Thence east and northeasterly along said alley centerline to the northwesterly extension of the southwest line of Lot 9 of said Block 15;

Thence southeasterly along said southwest line of Lot 9 and its extension to the centerline of Elizabeth Street;

Thence east along said centerline of Elizabeth Street to the southwesterly extension of the centerline of the alley between Blocks 10 and 11, Motor Line Division;

Thence northeasterly along centerline of said alley between Blocks 10 and 11 and its extension and continuing northeasterly along the centerline of the alley between Blocks 5 and 6 and its extension, Motor Line Division, to the centerline of said St. Marie Street;

Thence west along the said center line of St. Marie Street to the point of beginning.

Rezone from R-1 to MU-N:

That part of Motor Line Division, according to the recorded plat thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of the centerline of Elizabeth Street and the southwesterly extension of the centerline of the alley between Blocks 10 and 11, Motor Line Division;

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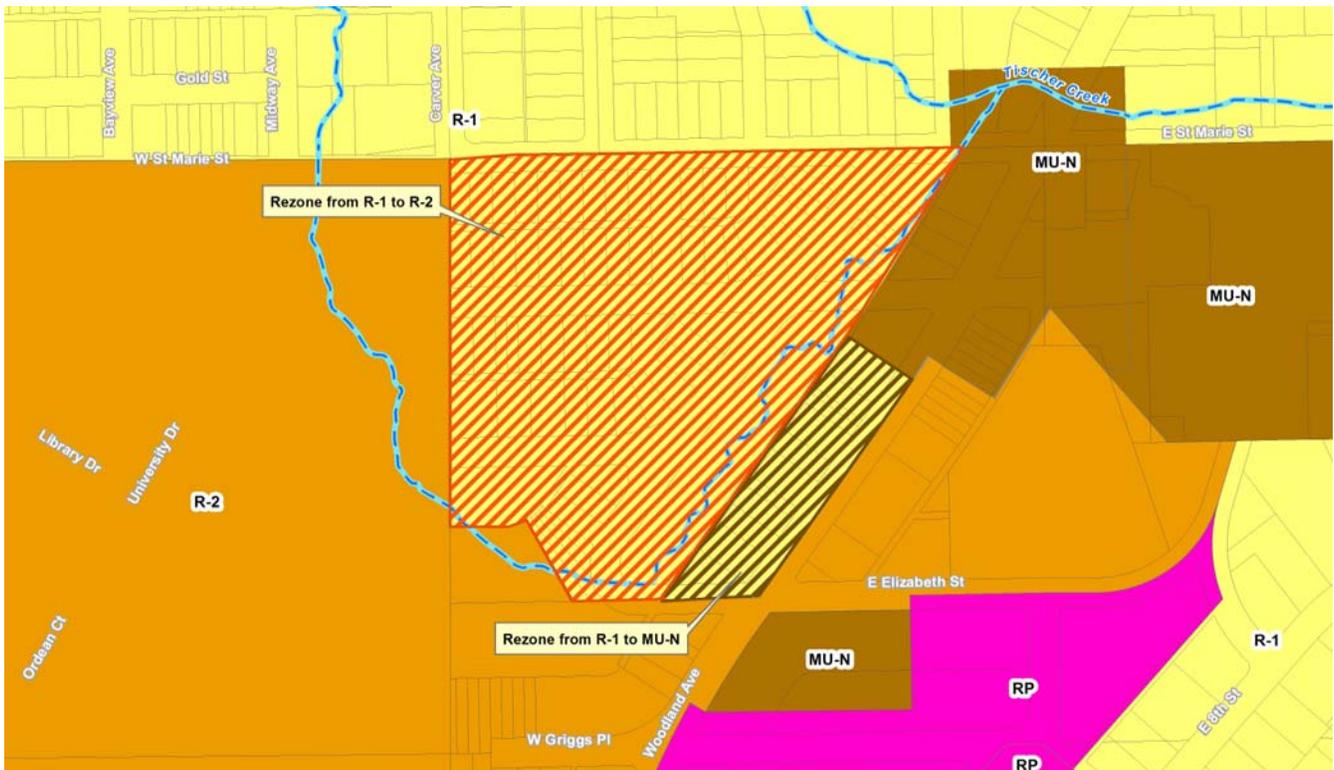
Thence northeasterly along centerline of said alley between Blocks 10 and 11 and its extension, to the northwesterly extension of the northeast line of Lot 5 of said Block 10;

Thence southeast along said northeast line of Lot 5 and its extension to the centerline of Woodland Avenue;

Thence southwest along said centerline of Woodland Avenue to the intersection of the centerline of Elizabeth Street;

Thence west along the centerline of Elizabeth Street to the point of beginning;

be reclassified from Residential-Traditional (R-1) to Residential-Urban (R-2) and Mixed Use-Neighborhood (MU-N) as noted above, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-084)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

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ORDINANCE NO. 10162

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1), TO MIXED USE-NEIGHBORHOOD (MU-N), THE PROPERTIES LOCATED ALONG CENTRAL ENTRANCE WEST OF BASSWOOD AVENUE TO WEST OF ANDERSON ROAD (CITY OF DULUTH).

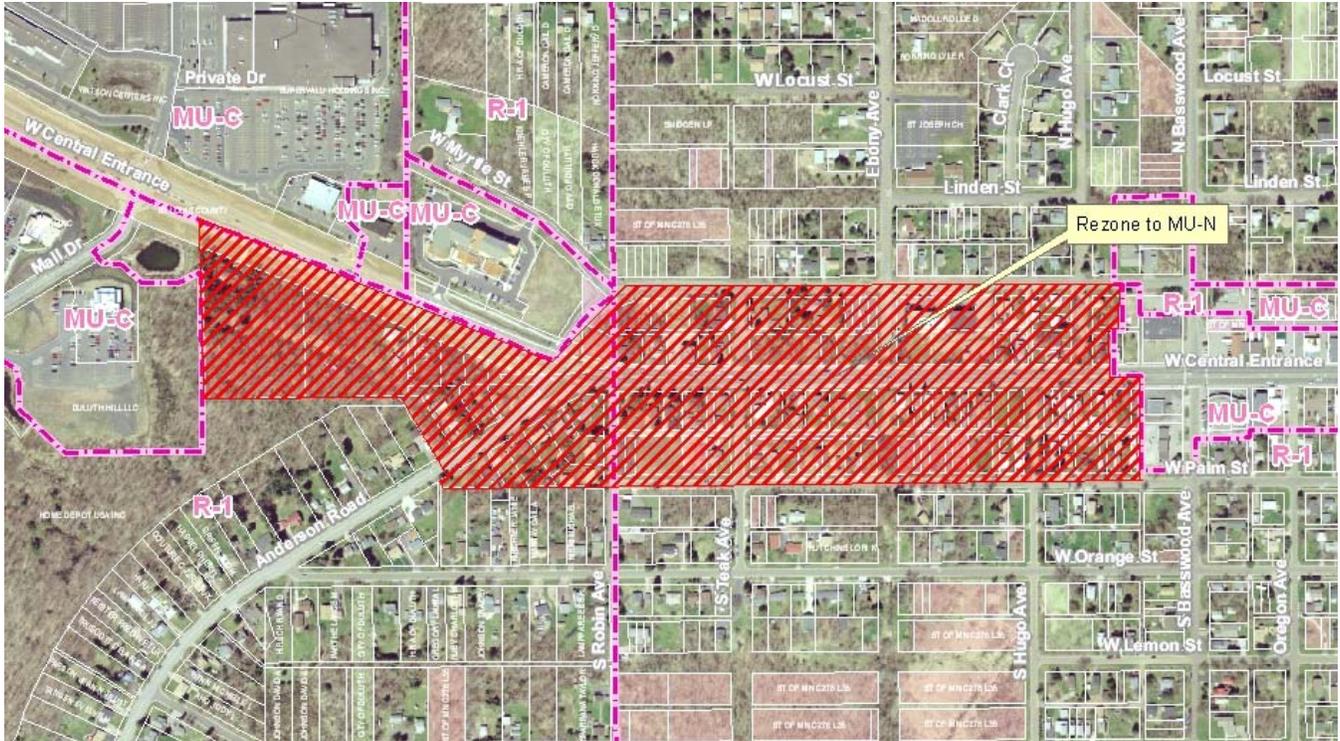
The city of Duluth does ordain:

Section 1. That the subject properties located along Central Entrance west of Basswood Avenue (north to Myrtle Street and south to Palm Street) to Anderson Road then west of Anderson Road (south side only) and as more particularly described as follows:

That part of Central Entrance Division, Duluth Fifth Division, Duluth Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of the centerline of Central Entrance (State Highway 194) and the northerly extension of the centerline of the north/south alley in Block 3, Duluth Fifth Division; thence south along centerline of said north/south alley of Block 3 its extension, to the centerline of West Palm Street; thence west along said center line of West Palm Street to the east line of Central Entrance Addition; thence south along said east line of Central Entrance Addition to the northeast corner of Lot 28, Central Entrance Addition; thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the centerline of the platted pedestrian path between Lots 20 and 35, Central Entrance Addition; thence north along said centerline of the platted pedestrian path the intersection of the centerline of Anderson Road; thence northeasterly along the centerline of Anderson Road to the southeasterly extension of the centerline of Apple Street, between Lots 4 and 5, Central Entrance Addition; thence northwesterly along said centerline of Apple Street to the south line of the Southwest Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West; thence west along said south line of the Southwest Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southwest Quarter of the Northwest Quarter of Section 20; thence north along the west line of said Southwest Quarter of the Northwest Quarter of Section 20 to the centerline of Central Entrance (State Highway 194); thence southeasterly along the centerline of Central Entrance to the intersection of the centerline of Myrtle Street; thence northeasterly and easterly along the centerline of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Sixth Division; thence south along said east line of Lot 3 and its extension to the centerline of the east/west alley of said Block 31; thence west along said centerline of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31; thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194); thence east along center line of Central Entrance to the point of beginning;
be reclassified from Residential-Traditional (R-1), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012



(Ref. File No. 12-088)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

ORDINANCE NO. 10163

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6), FOURTH STREET FROM MESABA TO FOURTH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties, Fourth Street from Mesaba to Fourth Avenue East, from the Alley above and Alley below Fourth Street, and as more particularly described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Those parts of Duluth Proper First Division, Duluth Proper Third Division and Re-Arrangement Block 50 of Duluth Proper Third Division, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the intersection of Third Avenue East centerline and East Third Street Alley centerline (alley between East Third Street and East Fourth Street);

Thence northwesterly along Third Avenue East centerline to the East Fourth Street centerline;

Thence northeasterly along said East Fourth Street centerline to the Fourth Avenue East centerline;

Thence northwesterly along said Fourth Avenue East centerline to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions and along West Fourth Street Alley centerline line and its extensions to the Mesaba Avenue centerline (State Route 194);

Thence southwesterly and southerly along said Mesaba Avenue centerline to the southwesterly extension of the West Third Street Alley centerline;

Thence northeasterly along West Third Street Alley centerline and its extensions and along East Third Street Alley centerline and its extensions to the point of beginning,

be reclassified from Mixed Use-Neighborhood (MU-N), to Form District Six, Mid-Rise Neighborhood Shopping (F-6), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

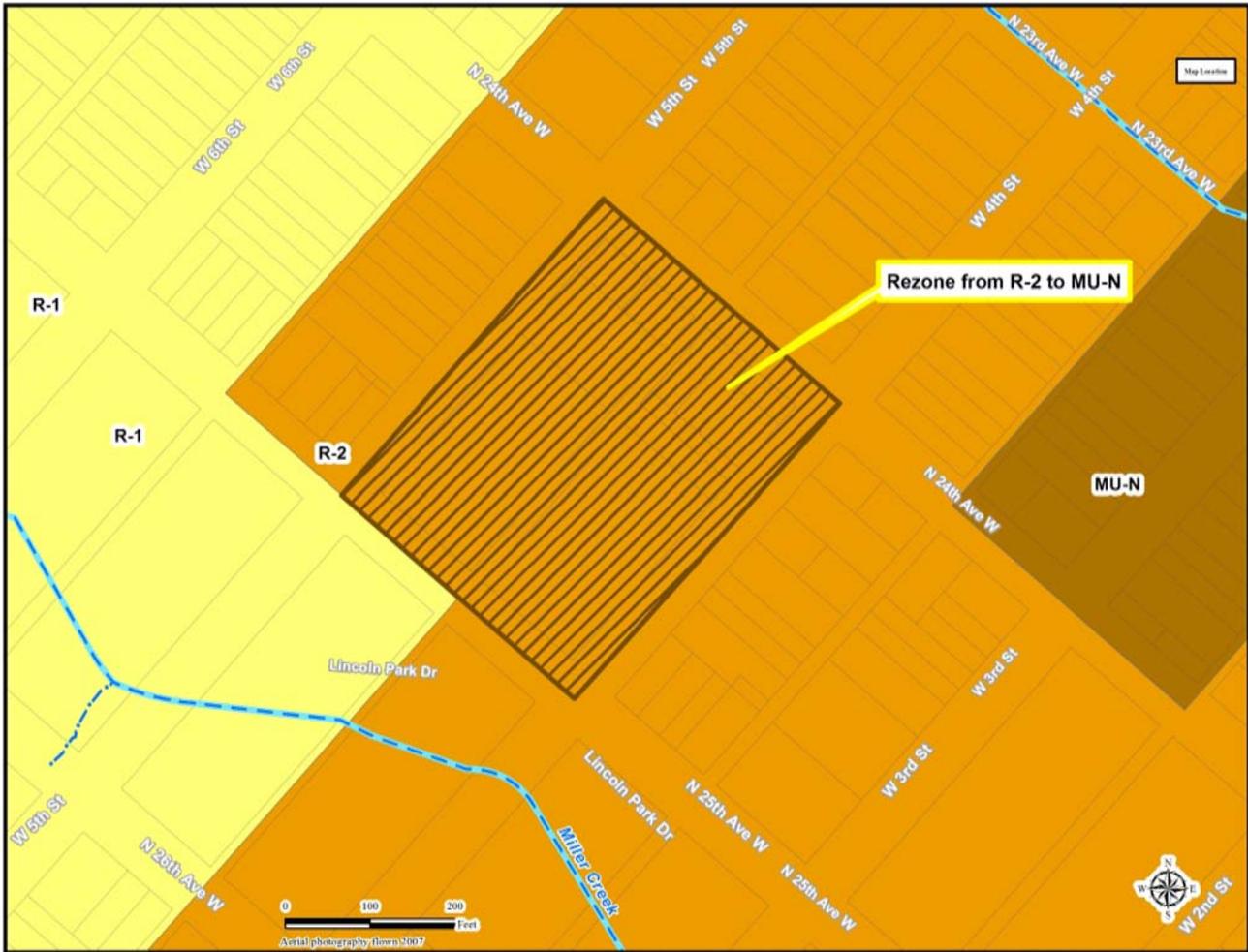
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ORDINANCE NO. 10164

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2), TO MIXED-USE NEIGHBORHOOD (MU-N), THE PROPERTY LOCATED AT 2424 WEST FIFTH STREET (SHERMAN AND ASSOCIATES, INC.).

The city of Duluth does ordain:

Section 1. That the 2.75 acres of the subject property located at 2424 West Fifth Street and as more particularly described as follows: Lots 385 through 400, inclusive, Block 121, Duluth Proper Second Division, St. Louis County, Minnesota, be reclassified from Urban-Residential (R-2), to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-085)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10165

BY COUNCILOR GARDNER:
AN ORDINANCE AUTHORIZING AN AGREEMENT AUTHORIZING SALE OF SKYWALK EASEMENTS IN THE HOLIDAY MALL TO JMM LIMITED PARTNERSHIP.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 1. That pursuant to the requirements of Section 2-176 of the Duluth City Code, 1959, as amended, the city council finds that:

(a) The planning division has determined that the proposed sale of the skywalk easements described in that agreement on file in the office of the city clerk as Public Document No. 12-0702-18 to JMM Limited Partnership conforms to the city's comprehensive plan; and

(b) The city assessor has provided an estimate of value for said property in the commercial real estate market indicating that, given the limitations of use contained in the agreement, the value of the easements in the market is negligible; and

(c) The city council finds that the sale of the property described in Public Document No. 12-0702-18 to JMM Limited Partnership will further the important city interest of preserving and promoting property values in the downtown area while providing for pedestrian needs in the property.

Section 2. That, pursuant to the provisions of Section 2-177.4 of the Duluth City Code, 1959, as amended, 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. 12-0702-18 authorizing the sale by quit claim deed of the property therein described to JMM Limited Partnership, subject to the terms and conditions therein contained.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

- - -

ORDINANCE NO. 10166

BY COUNCILORS GARDNER AND LARSON:

AN ORDINANCE CREATING ARTICLE XII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT OF A CITIZEN REVIEW BOARD.

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended is hereby amended by the addition of a new Article XII of Chapter 2 which reads as follows:

Article XII. Duluth Citizen Review Board.

Sec. 2-69. Created; membership.

There is hereby created a citizen review board to be known as the Duluth citizen review board, consisting of seven duly qualified members. The citizen review board shall be an advisory body to the police department and city council, for the purpose of fostering relationships and strengthening trust and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

communication between the police department and citizens of Duluth in furtherance of the best interests of the city and all of its residents.

Sec. 2-70. Appointment of members; oath; qualifications; training.

(a) The members of the citizen review board shall be appointed by the mayor, subject to confirmation and approval of the city council. Each member shall make and file with the city clerk an oath of affirmation as provided by Section 28 of the City Charter;

(b) In selecting persons for appointment, the mayor and city council shall endeavor to achieve a membership that is representative of the racial, cultural and geographic diversity of the city. To the extent possible, the mayor and council shall seek to appoint at least three people of color, two women and one person with law enforcement background to the board. The following criteria should be considered, but do not represent the exclusive criteria for appointment:

(1) Nomination by community organizations, including, without limitation, the Duluth task force for improved community police accountability, connected to or representing sectors of the community where trust of law enforcement has historically been lower than in other parts of the community;

(2) A commitment to the principle of citizen involvement in the law enforcement process;

(3) An ability to be impartial and objective as demonstrated by the applicant's record of public leadership and community service;

(4) An ability to effectively communicate in verbal, written and electronic forms;

(c) The members of the board shall be residents of, or employed within, the city. Current employees of the city are ineligible to serve on the board;

(d) Training. In connection with the Duluth police department, the Duluth city attorney's office, and the Duluth task force for improved community police accountability, the city's human rights officer shall develop a training program for members of the board including, without limitation, the following subject areas: police use of force, police policies and procedures, the Minnesota Government Data Practices Act, the Peace Officers Discipline and Procedures Act, conflict of interest principles, and human rights. All new members, and any member reappointed for an additional term, shall complete the training program after appointment, but before being sworn in to assume their official duties.

Sec. 2-71. Term of office, vacancies.

Initial appointments to the citizen review board shall be as follows: two members for one year, two members for two years, and three members for three years. Should vacancies occur during any current term, such vacancies shall be filled by special appointment made by the mayor, subject to confirmation and approval by the city council. Such special appointees shall be appointed to serve only for the unexpired balance of the term for which they are appointed. Upon the expiration of any term for which a member is appointed, his or her successor shall be appointed for a period of three years. No member shall be appointed to more than two terms consecutively, and no person who has held the office for more than two years of a term to which another person was appointed may be appointed to serve more than one additional consecutive term.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Sec. 2-72. Removal.

Any member of the board may be removed as provided in Section 27 of the City Charter.

Sec. 2-73. Officers; quorum.

At the first meeting of all of its sworn members following completion of the training program required herein, the citizen review board shall elect a president and vice president. The secretary of the board shall be the city's human rights officer. The secretary shall have no voting power. A majority of the board membership then serving shall constitute a quorum for the transaction of business. Any meeting shall be adjourned in the absence of a quorum.

Sec. 2-74. Rules of conduct; meetings; records.

The citizen review board may make, alter and amend such rules and regulations for its government and the conduct of its business as is consistent with the City Charter, this Code, other ordinance of the city, and state law. The board shall meet at least two times per year in quarters provided by the city within City Hall, and meetings shall be open to the public as required by state law. The board shall keep an accurate record of all its proceedings.

Sec. 2-75. Powers and duties.

The board shall have the following powers and duties:

(a) In partnership with the police department, the board shall develop a process to independently receive complaints of misconduct by Duluth police offices alleging, without limitation, any of the following:

- (1) Excessive force;
- (2) Abusive language or attitude;
- (3) Harassment;
- (4) Discrimination in the provision of public services on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, or sexual orientation;
- (5) Theft where the alleged victim is a private citizen;
- (6) Failure to provide adequate or timely police protection;
- (7) Retaliation for filing a complaint with the board or other police review authority;

(b) After final disposition of a complaint filed with the chief of police, including final disposition of any disciplinary actions or proceedings arising out of the complaint, the chief of police shall prepare, and the board shall review, a report of the final disposition which shall include, without limitation the following:

- (1) A description of the investigative process and procedures used to reach the final disposition;
- (2) Specific reasons supporting the final disposition;
- (3) Any other information supporting the final disposition that the chief of police, in his or her discretion, deems appropriate for disclosure to the board, excluding:

(A) The name(s) of the complainant(s), police officer(s), or other witness(es), involved in the complaint;

(B) Data prohibited from disclosure under the Minnesota Government Data Practices Act or other applicable law or regulation;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(C) Information which, if disclosed, could compromise confidential sources, undercover police operations, or other ongoing criminal investigation;

(c) The board may review and make recommendations to the chief of police for improving:

(1) Police policies, procedures, and investigations of citizen complaints;

(2) Police/citizen interactions;

(3) Communication with sectors of the community where trust of law enforcement has historically been lower;

(d) The board shall have no authority to investigate complaints;

(e) The board shall have no authority to recommend or impose discipline;

(f) By the first day of February of each year, the board shall make and file a report of its transactions for the preceding year with the city council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 4, 2012)

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 2, 2012
Approved July 2, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 12, 2012, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Julsrud, Krause, Krug, Larson and Vice President Boyle -- 7

Absent: Councilor Stauber and President Hartman -- 2

- - -

Vice President Boyle presided over the meeting in the absence of President Hartman.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR LARSON

12-046 - AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Chief Administrative Officer David Montgomery and Planning and Construction Services Department Director Keith Hamre reviewed the scope and intent of the ordinance and answered councilors' questions.

- - -

The meeting was adjourned at 5:23 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 16, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Absent: Councilor Krause -- 1

- - -

The minutes of council meetings held on March 12 and 26; April 5, 9 and 23; May 10 and 14, 2012, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0716-01 Minnesota state auditor management and compliance reports for the year ended December 31, 2011, of the: (a) City of Duluth; (b) Duluth economic development authority. -- Received

- - -

REPORTS FROM OTHER OFFICERS

12-0716-02 Auditor comprehensive annual financial report for the city of Duluth for the fiscal year ended December 31, 2011. -- Received

12-0716-03 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Duluth East Athletic Association on May 6, 2013 (raffle); (b) St. Michael's Church on October 21, 2012 (bingo, raffle). -- Received

12-0716-04 Purchasing agent emergency order for flood-related repairs totaling \$1,556,538 as of June 28, 2012. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-0716-05 Commission on disabilities minutes of May 2, 2012, meeting. -- Received

12-0716-06 Housing and redevelopment authority minutes of April 24, 2012, meeting. -
- Received

12-0716-07 Library board minutes of May 22, 2012, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that: the Duluth public school administration claims that its schools have seen a reduction in attendance due to private schools, home schooling and those going to other school districts, while other school districts are increasing attendance.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the city council has adopted and implemented the model performance measures for cities as developed by the Council on Local Results and Innovation pursuant to Laws of Minnesota 2010, Chapter 389, Article 2, sections 1 and 2, for city participation in the state of Minnesota performance measurement program.

Resolution 12-0362 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Law Enforcement Labor Services Local 363, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0716-08, covering the years 2012 through 2014.

Resolution 12-0365 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Crysteel Truck Equipment for the equipment and labor needed in the complete outfitting of two new International Harvester cab and chassis units, to include city-furnished front plow and hitch assemblies and used stainless V-box sanders, in accordance with Minnesota State Contract 39241, Release S-863(5), specifications and pricing in the amount of \$105,839.42 plus \$7,276.46 sales tax (6.875 percent), for a total combined amount of \$113,115.88, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-V1203.

Resolution 12-0346 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor licenses, subject to departmental approvals:

Duluth Softball Players Association (Copasetic Classic), Wheeler Field, for July 21 and 22, 2012, with John Vaydich, manager.

Duluth Softball Players Association (Beerhunters Tournament), Wheeler Field, for August 4 and 5, 2012, with John Vaydich, manager.

Duluth Softball Players Association (North Shore Classic), Wheeler Field, for August 25 and 26, 2012, with John Vaydich, manager.

Resolution 12-0350 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

JMMP Enterprises, LLC (Kom on Inn), 332 North 57th Avenue West, for August 1-2, 2012, from 6:00 p.m. to 11:00 p.m., and on August 3, 2012, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

Sir Benedicts III, Inc. (Sir Benedict's Tavern), 805 East Superior Street, for July 28, 2012, from 10:00 a.m. to 6:00 p.m.

Resolution 12-0351 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following 3.2 percent malt liquor license for the period ending April 30, 2013, and approves issuance of the following on sale wine license for the period beginning September 1, 2012, and ending August 31, 2013, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Up North Taps, LLC (7 West Tap House), 7 West Superior Street.

Resolution 12-0352 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a blanket increase of \$25,000 in year 2012, the third and final calendar year of city's Contract C21296 with Essentia Health Duluth Clinic, for additional occupational medical tests and services, payable from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1431 (benefits administration/citywide human resources), Object 5310 (contract services).

Resolution 12-0358 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to city Agreement No. 21423, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0716-09, with Architectural Resources, Inc., for design and project management services to complete the project that encompasses the MIS server room air conditioning unit replacement, switch closet relocations, re-cabling and necessary electrical work, increasing the amount payable by \$18,000 from the following accounts: Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project CP2011-1109b. Additional design services to include necessary electrical upgrades to the building service and construction administration during the course of the project.

Resolution 12-0359 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of assessor office data coordinator, which were approved by the civil service board on June 5,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

2012, and which are filed with the city clerk as Public Document No. 12-0716-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 132. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 12-0363 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a non-disturbance and attornment agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0716-11, with AAR Aircraft Services, Inc., and the Duluth Airport Authority pertaining to leasing of the maintenance, repair and overhaul facility at the Duluth International Airport.

Resolution 12-0348 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the 2012 fee schedule be amended by adding the following fee pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended:

Planning

Fee, Fine or Penalty Name 2012 Fee

Variance - for flood repair to structures located in flood fringe areas with damage that exceeds 50 percent or more of pre-flood market value \$300.00

Resolution 12-0368 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth act as the legal sponsor for the 425W redevelopment project as contained in the redevelopment grant program application to be submitted on August 1, 2012, and that the proper city officials are hereby authorized to apply to the department of employment and economic development (DEED) in an amount of up to \$1,500,000 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 if approved by the state, the city hereby commits to provide 50 percent of the project costs, up to \$1,500,000, in a qualified match contribution, said match to be provided by tax increment financing.

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 proper city officials may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Fund 255 (economic development fund), Department 020 (planning), Source 4220-01 (state of Minnesota), and that the city certifies that it will comply with all applicable laws and regulations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Resolution 12-0369 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 12-0716-12, with Senior Service America, Inc., (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$65,924 for the period of July 1, 2012, through September 30, 2012. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

Resolution 12-0355 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the August 14, 2012, state primary election and the November 6, 2012, state general election, as listed in Public Document No. 12-0716-13.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$8 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.55 per mile; payable from General Fund 110, Department 121 (public administration), Organization 1211 (city clerk), Object 5441 (other services and charges).

RESOLVED FURTHER, if any person who is name on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 12-0332 was unanimously adopted.
Approved July 16, 2012
DON NESS, Mayor

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The city council finds as follows:

(a) The municipality of Duluth implemented Municipal State Aid Project 118-163-002 in 2012; and

(b) Said municipality is proceeding with the construction of said project with MSAS construction funds and proposes to complete said project through the use of an advance from the state aid/municipal construction account; and

(c) The city of Duluth MSAS account balance as of June 11, 2012, is \$0; and

(d) The advance is based upon the estimated expenditure of \$2,280,681.95; and

(e) Repayment of the funds so advanced will be made in accordance with the provisions of Minnesota Statutes 162.08, subd. 7, and Minnesota Rules, Chapter 8820.1500, subp. 8; and

(f) The municipality acknowledges that advance funds are released on a first-come, first serve basis, and that this resolution does not guarantee the availability of funds.

RESOLVED, that the commissioner of transportation be and hereby is requested to approve this advance for financing approved municipal state aid projects of the municipality of Duluth in an amount up to \$2,280,681.95. The city of Duluth hereby authorizes payments from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

subsequent accruals. Repayment from entire future year allocation until fully repaid will be \$2,280,681.95, paid from year 2013.

Resolution 12-0292 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Veit and Company, Inc., for excavation and disposal of flocculated solids from the five settling lagoons located at the Lakewood water treatment plant in the amount of \$843,200, payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1066.

Resolution 12-0342 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meters during year 2012 for a total of \$42,390 plus \$2,914.32 sales tax, for a combined total of \$45,304.32, terms net 30, FOB destination, payable from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object 5227 (utility system maintenance supplies).

Resolution 12-0344 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the city's distributor, for the purchase and delivery of 300 Itron gas ERT meters during year 2012 for a total of \$23,700 plus \$1,629.38 sales tax, for a combined total of \$25,329.38, terms net 30, FOB destination, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object 5227 (utility system maintenance supplies).

Resolution 12-0345 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., for design, preparation of plans and specifications, and construction engineering services for the reconstruction of Westgate Boulevard flood-damaged utilities and street in the amount of \$72,000, payable from Fund 225 (disaster recovery), Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1111, Flood Emergency Site No. 2.

Resolution 12-0354 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the 2012 citywide sidewalk repair/replacement project in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

\$46,875, payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0938TR. Of these costs, 100 percent will be assessed to benefitting properties.

Resolution 12-0356 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for engineering services required to design, prepare plans and specifications, and provide construction engineering services to stabilize flood-damaged slopes along Seven Bridges Road in the amount of \$60,724, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1113, Flood Emergency Site No. 24.

Resolution 12-0357 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, the proper city officials are hereby authorized to apply to and participate in the natural resources conservation service emergency watershed protection program for restoration of Lake Superior watershed streams located in the city of Duluth which were damaged due to recent flash flood events.

FURTHER RESOLVED, that the proper city officials are authorized to commit a required 25 percent local match for watershed treatment or approved structural repairs which local match may be cash or in-kind services, funds committed shall be payable from Disaster Recovery Fund 225.

Resolution 12-0360 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc., for engineering services for stabilization of flood-damaged slopes on Chester Park Drive in the amount of \$29,440, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1114, Flood Emergency Site No. 56.

Resolution 12-0361 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth Superior Area Community Foundation in the amount of \$5,000 for the program entitled: Community-Wide Local Energy Action Plan Technical Assistance and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0716-14, grant funds to be deposited in Fund 257-015-4270 (energy management fund, administrative services, other grants).

Resolution 12-0364 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue from August 1-3, 2012, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 12-0367 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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The following resolutions were also considered:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license, on sale Sunday license, and approves issuance of a 2:00 a.m. beverage license and off sale brewery malt liquor license for the period ending August 31, 2012, subject to departmental approvals and the payment of sales and property taxes:

Canal Park Brewing Company, LLC (Canal Park Brewing Company), 300 Canal Park Drive, with Rockie Karajecz, 51 percent owner, Island Investments, Inc., 34 percent owner, and Kim Kaz, 15 percent owner.

Resolution 12-0353 was adopted upon the following vote:

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

Nays None -- 0

Abstention: Councilor Larson -- 1

Absent: Councilor Krause -- 1

Approved July 16, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment of Gabriel Peltier by Mayor Ness to the American Indian commission for a term expiring on March 31, 2015, replacing Donna Blue Bird who resigned, is confirmed.

Resolution 12-0370 was unanimously adopted.

Approved July 16, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-038 (10167) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

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

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

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INTRODUCED BY COUNCILOR STAUBER

12-046 (10168) - AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Fosle noted that in regard to the comments made by the speaker earlier, that due to his job he has seen students coming to the Duluth school district and his reports show where they are coming from.

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The meeting was adjourned at 7:13 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10167

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received commitments from the Minnesota public facilities authority (the "authority") for a loan and grant for the CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24 (the "project"), as identified in the city's application to the authority.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility for the project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or notes, in one or more series, in the maximum aggregate amount of \$1,000,000 for the purpose of paying costs of the project.

1.03 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of \$626,000; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$265,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the amount of \$2,370,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$690,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount of \$1,687,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,675,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$641,979; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,206,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of \$574,726; general obligation sewer utility revenue note dated December 16, 2009, now outstanding in the amount of \$2,239,800; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,330,143; two general obligation sewer utility revenue notes dated September 14, 2010, in the aggregate original principal amount of \$12,840,444, the proceeds of which have not been fully advanced; general obligation utilities revenue bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$1,765,000; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$2,265,000; and three general obligation sewer utility revenue notes dated November 29, 2011, in the aggregate original principal amount of \$915,320, the proceeds of which have not been fully advanced. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3, 2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, and November 29, 2011.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds or notes, in one or more series, of the city of Duluth in the maximum amount of \$1,000,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required 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 director of public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Terms of bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. Revenues and accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certificate of proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

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

Section 5. Effective date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: August 17, 2012)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 16, 2012
Approved July 16, 2012
DON NESS, Mayor

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ORDINANCE NO. 10168

AN ORDINANCE AUTHORIZING SETTING BUILDING PERMIT FEES BY RESOLUTION AND AUTHORIZING REDUCTION THEREOF FOR FLOOD DAMAGE REPAIR, AMENDING SECTION 10-2 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 10-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 10-2. Building permit fee schedule.

(a) Building permit fees. Collection of fees for building permits and building inspections, as authorized in Minnesota Statutes, Sec. 16B.62, subdivision 1, and Section 1300.0160, subparts 3 and 4, of the 2007 edition of the Minnesota State Building Code or its successor provision, shall be assessed for work in accordance with the fee schedule established in accordance with Section 31-6(a) of this Code;

(b) Plan inspection fees. When plan review fees are required pursuant to Section 1300.0160, subpart 6, of the 2007 edition of the Minnesota State Building Code or its successor provision, the plan inspection fee therefore shall be 65 percent of the amount of the building permit fee provided for in Sub-section (a) above except as modified by subpart 5 of said Section 1300.0160 or its successor provision;

(c) Special permits and fees. Special permits shall be obtained and special fees paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

Fees for the following shall be set in accordance with Section 31-6(a) of this Code:

- (1) Moving over public property any building which has an area of 1,000 square feet or less on the first floor;
- (2) Moving over public property any building which has an area of over 1,000 square feet on the first floor;
- (3) Moving any building or structure not on public property;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (4) Razing or demolishing any building or structure;
- (5) The installation of a mobile home;

(d) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same manner as for the construction of new buildings;

(e) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(f) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(g) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or easement.

Section 2. Nothing to the contrary in Section 1 of this ordinance to the contrary withstanding, in the event that the director of the department of planning and construction services determines in the exercise of his or her reasoned discretion that the work for which a building permit is being sought is necessary to repair or reconstruct damage to the property arising substantially out of the rainfall event of June 20 and 21, 2012, and resulting flooding, he or she shall be authorized to reduce the fee required pursuant to Subsection (a) of Section 1 above, by 50 percent. The authority granted by this Section 2 shall be deemed to be applicable to all such building permits granted after June 21, 2012, and shall further authorize said director to authorize the rebate of any permit fee in excess of such amount paid to city between June 21 and the effective date of this Section 2.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 17, 2012)

Section 4. As of December 31, 2012, Section 2 of this ordinance shall be repealed and shall be of no further force and effect and the authority granted thereunder shall end.

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

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

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 16, 2012
Approved July 16, 2012
DON NESS, Mayor

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