

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 13, 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

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-0813-01 Park Point Properties, LLC, appeal of the planning commission decision regarding the denial of the shoreline variance of 3129 Minnesota Avenue (12-0414R and 12-0415R). -- Committee 2 (planning and economic development).

12-0813-02 The following communications regarding the appeal of the planning commission decision regarding the denial of the shoreline variance of Park Point Properties, LLC, at 3129 Minnesota Avenue (12-0414R and 12-0415R): (a) Bruce Anderson; (b) Rick Ball; (c) Dawn and Ted Buck; (d) Sigurd Haller; (e) Debra McLaughlin; (f) LeAne and Bruce Rutherford. -- Received

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REPORTS FROM OTHER OFFICERS

12-0813-03 Purchasing agent emergency repair notice awarded to Soil Nail Launcher, Inc., to stabilize slopes at Chester Bowl Drive at an estimated cost of \$750,000. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0813-04 Charter commission minutes of January 11, 2012, meeting. -- Received

12-0813-05 Duluth airport authority minutes of: (a) June 19; (b) July 9, 2012, meetings. -- Received

12-0813-06 Duluth Seaway Port authority minutes of: (a) April 26; (b) May 31, 2012, meetings. -- Received

12-0813-07 Entertainment and convention center authority minutes of: (a) March 27; (b) April 24; (c) May 18, 2012, meetings. -- Received

12-0813-08 Housing and redevelopment authority minutes of: (a) May 29; (b) June 26, 2012, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jimmie Lemmon, Mike Macey, manager of the Seaway Hotel, Mary Edlund, Christine Anttila, pastor of Our Saviors Lutheran Church, and Deb Holm expressed concerns regarding the Seaway Hotel of: the need for more state assistance for flood victims and residents of the Seaway Hotel; the homeless are really in need of more housing; that only a few rooms are damaged and that the whole building should not be condemned; that most water problems can easily be repaired, but that the recent torrential rains will take a while to fix; the building should be saved; there is not any other affordable housing available since other locations have closed; that due to many of the individuals' past situations, they cannot get into housing and redevelopment authority units; many individuals have basic health and housing needs and that there needs to be a dialogue with the homeless as to their needs.

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Loren Martell reviewed: the past couple of years of open enrollment in and out of the Duluth school district for the last couple years, noting that more were leaving than coming in; that these losses are critical in lost state aid; the claim that these losses are due to population is ludicrous, with citizens opposing these new large schools.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 12-0813-09, which is levied to collect delinquent stormwater utility fees payable during the period of January 1, 2011, to December 31, 2011, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 12-0385 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officers are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is on file in the office of the city clerk as Public Document No. 12-0813-26, with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2012-2014 season in the amount of \$6,852.83; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Buildings and Grounds-1217-2150, Ski Trail Reimbursement-4225.

Resolution 12-0399 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that city and Building N, Inc., entered into an agreement on or about June 4, 1999, (City Contract No. 18439) related to the use of first boat slip on the east side of the Minnesota slip north of the pedestrian bridge.

FURTHER RESOLVED, the parties desire to amend the agreement to update certain clauses of the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-10.

Resolution 12-0374 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale 3.2 percent malt liquor licenses, subject to departmental approvals and any specific restrictions:

Nifty 50 Cruisers Car Club (Kia of Duluth Car Show and Time Trials), 350 Garfield Avenue, for September 8-9, 2012, with Ryan Kern, manager.

College of St. Scholastica (Homecoming Tailgate Party), 1200 Kenwood Avenue, for September 15, 2012, from 11:30 a.m. to 3:30 p.m., with Carrie Emslander, manager.

Resolution 12-0376 was unanimously adopted.

Approved August 13, 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:

Nifty 50 Cruisers Car Club (Haunted Hanger on the Hill), Duluth International Airport Hanger #3, for October 27, 2012, with Ryan Kern, manager.

Bong P-38 Fund (Duluth Airshow), 4127 Grinden Avenue, for September 22-23, 2012, with Ryan Kern, Manager.

Duluth-Superior GLBT Pride, Inc. (Duluth-Superior GLBT Pride Festival), Bayfront Park, for September 1, 2012, from 11:00 a.m. to 7:00 p.m., with Carolyn Reisberg, manager.

Northland Country Club, 3901 East Superior Street, for August 22, 2012, with Joe O'Connor, manager.

Minnesota Citizens Federation Northeast (Lasagna Dinner), 2430 West Third Street, for September 12, 2012, with Buddy Robinson, manager.

Resolution 12-0377 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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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:

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for August 30, 2012, from 4:00 p.m. to 8:00 p.m.

The Duke Partners, LLC (Spurs on 1st), 109 West First Street for September 15, 2012 (rain date September 22, 2012), from 6:00 p.m. to midnight.

CW Chips Grill & Bar, Inc. (Twins Bar), 501 East Fourth Street, for August 25, 2012, with the music ceasing at 11:00 p.m. and serving ceasing at midnight.

Resolution 12-0383 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Lake Superior Zoological

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Society and Minnesota Teen Challenge and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 12-0384 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract for the purchase and delivery of a 3920 communications service monitor (digital radio test set) and related accessories from Aeroflex Wichita, Inc., the sole distributor of this product in the United States, as verified by Public Document No. 12-0813-11 on file in the office of the city clerk, for a total of \$41,331 plus \$2,841.51 sales tax for a combined total of \$44,172.51, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year), Object 5580 (capital equipment), Project CE250-E1211.

Resolution 12-0395 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility maintenance worker, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-12, 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 23. 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 12-0409 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of utility operator apprentice, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-13, 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 25A-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 12-0410 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility operator, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-14, 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 28. The

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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 12-0411 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior safety and training specialist, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0813-15, 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 136. 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 12-0412 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a contamination cleanup program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-16, with the state of Minnesota acting through the department of employment and economic development ("DEED") in the amount of \$145,350 payable into Fund 255 (economic development), Agency 020 (planning), Object 4220-02 (state of Minnesota operating), related to the Blumberg-1831, LLC project.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a sub-recipient funding agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-16, with Blumberg-1831, LLC ("Blumberg"), in the amount of \$145,350, payable from Fund 255 (economic development), Agency 020 (planning), Object 5458 (payment to developer).

Resolution 12-0390 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the city council hereby amends the 2012 annual action plan to delete \$316,839 in HOME program funds awarded to NCLT for a HOME project, to create a new HOME program project awarding \$316,839 to the HRA, to decrease the HRA’s CDBG award by \$200,000, and to add a new CDBG project and award \$200,000 to one roof community housing (formerly NCLT), and authorize contracts and contract amendments as set forth below:

2012 HOME Program

Fund 260 (Home Program), Agency 020 (business and community development)
Object 5434 (projects), Project CD12HM (Home 2012)

Sub-Project	Activity	Project	Amount	New Grant	Difference
CH12	2271	Rehab/resale-NCLT	\$316,839	-0-	(\$316,839)
GN12	1738	Property/rehab-HRA	-0-	\$316,839	\$316,839

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2012 Grant (CDBG) Program

Fund 262 (community development), Agency 020 (business and community development), Object 5434 (projects), Project CD12CD (CDBG 2012)

Sub-Project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Property rehab-HRA	\$750,659	\$550,659	(\$200,000)
HOUS	6915	Rehab/resale-1Roof	-0-	\$200,000	\$200,000

Resolution 12-0400 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, July 10, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the utility easement described below and as described and depicted on Public Document No. 12-0813-17:

That part of the east 10.00 feet of Lot 28, Block 1, Lepak's Second Addition, Saint Louis County, Minnesota, lying southerly of the north 10.00 feet;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0813-17 showing the utility easement to be vacated.

Resolution 12-0403 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to Contract No. 20956 with St. Louis County, substantially in the form of that on file with the office of the city clerk as Public Document No. 12-0813-18, extending the term of said agreement through September 30, 2012, for the provision of supported work services to Minnesota family investment program (MFIP) participants. Monies received under this agreement will be deposited in Fund No. 268-031-6228 (workforce development, grants division, miscellaneous workforce development grants).

Resolution 12-0391 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that proper city officials are authorized to accept \$16,000 in cooperative agreement funding from the U.S. department of housing and urban development under the authority of City Contract No. 20095 in award funds providing for enforcement of federal fair

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housing laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 12-0813-19, funds to be deposited in Fund 110-110-1104-4209-02 (general, legislative and executive, attorney and human rights).

Resolution 12-0401 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the following is the revised list of high priority bridges in the city of Duluth, and that the city intends to replace, rehabilitate or remove these bridges as soon as possible when funds become available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Const Year
L8516	Fairmont Street	\$500,000	\$375,000		\$125,000	2012
N/A	Blackman Avenue	\$225,000	\$135,000		\$90,000	2012
L5931	Niagara Street	\$150,000	\$90,000		\$60,000	2012
L8491	38th Avenue West	\$500,000	\$375,000		\$125,000	2012
L8486	Greene Street	\$500,000	\$375,000		\$125,000	2012
88457	London Road	\$100,000			\$100,000	2012
L5833	Triggs Avenue	\$500,000	\$375,000		\$125,000	2012
L3140	63rd Avenue West	\$500,000	\$375,000		\$125,000	2012
L8485	Bristol Street	\$500,000	\$375,000		\$125,000	2012
69J73	Cody Street	\$150,000			\$150,000	2012
L6116	Lake Avenue	\$5,000,000	\$3,750,000		\$1,250,000	2013
L6129	Woodland Avenue	\$150,000	\$90,000		\$60,000	2015
L8515	Lewis Street	\$250,000	\$150,000		\$100,000	2016

Resolution 12-0349 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to award a contract to Insituform Technologies USA, Inc., for cured-in-place pipe (CIPP) rehabilitation of sanitary sewers in Sewer Basin No. 24 in the amount of \$2,857,975, with \$571,595 payable from Clean

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Water Fund 532, Department 500 (public works and utilities), Object 5532 (capital improvements - bond), City Project No. 0983SN. The remaining \$2,286,380 will be reimbursed with a WIF grant from the PFA.

Resolution 12-0373 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the construction of a sanitary sewer in Lakeside Court easement beginning at Lake Superior and extending 160 feet northerly, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost should be paid by special assessment, the number of installments in which assessments may be paid, and the properties which should include the special assessment:

1 Lakeside Court	2 Lakeside Court	3 Lakeside Court
4 Lakeside Court	5 Lakeside Court	6 Lakeside Court
7 Lakeside Court	8 Lakeside Court	

Resolution 12-0387 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that six out of seven property owners signed a petition to pave Plum Street from Ninth Avenue East to Skywood Lane.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said contract as estimated by the city engineer is \$46,675, payable from Permanent Improvement Fund 411, Department 035 (capital projects), object 5530 (improvements other than buildings), City Project No. 1061, with 100 percent of the costs assessable to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll (Public Document No. 12-0813-20), and may be paid in ten annual installments at municipal bond index plus 1.50 percent interest.

Resolution 12-0388 was unanimously adopted.

Approved August 13, 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 sidewalk and crosswalk improvements at Congdon Park Elementary, Lester Park Elementary and Harriet Beecher Stowe Elementary schools in the amount of \$279,036, payable out of Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0657TR.

Resolution 12-0389 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for the reconstruction of 17th Avenue East from South Street to London

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Road in the amount of \$81,259.83, payable out of Water Utility Fund 510, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 1083.

Resolution 12-0393 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that plans for Project 69-691-026 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of Skyline Parkway from Haines Road to Highland Avenue of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

FURTHER RESOLVED, that approval of the project is conditional on the county requiring its contractor indemnify the city of Duluth and include the city of Duluth as an additional insured on its certificate of insurance on this project.

Resolution 12-0397 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter in an agreement, a substantially the same as that on file in the office of the city clerk as Public Document No. 12-0813-21, with Tenaska Marketing Ventures for professional services relating to asset management of the city's underutilized gas pipeline and gas storage capacity with receipts therefrom to be paid to the gas utility fund.

Resolution 12-0418 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to the Communications Facility Use Agreement #98282, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-22, with the state of Minnesota, department of transportation (Mn/DOT), allowing the city of Duluth police department to lease space for four additional base stations on the communications tower located at 329 West Tenth Street, increasing the annual lease fee from \$300 to \$500, payable from Fund No. 110-160-1610-5401 (general, police, administration and investigation).

Resolution 12-0375 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to enter into a contract with Clarey's Safety Equipment, Inc., for the tax-exempt purchase and delivery of 52 Scott SCBA integrated firefighter self-rescue devices for the Duluth fire department to be funded 80 percent by a FEMA (federal emergency management agency) grant and 20 percent by a city match as authorized by the passage of Resolution 11-0132 accepting such grant and in accordance with city-approved specifications and the vendor's low bid of \$56,680.00, payable as follows:

(a) \$45,144.00 - Special Projects Fund 210, Department/Agency 030 (finance), Division 3174 (FEMA grant SCBA), Object 5580 (capital equipment), Project No. CP2011-1116b);

(b) \$11,536 - General Fund 110, Department/Agency 150 (fire), Division 1502 (operations), Object 5241 (small equipment office operating).

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Resolution 12-0398 was unanimously adopted.
Approved August 13, 2012
DON NESS, Mayor

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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 Michigan Street, between Fifth and Sixth avenues West on August 30, 2012, in conjunction with the Mayor's Pride Reception at the Historic Union Depot, provided that all alcoholic beverages consumed outside of 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 12-0404 was unanimously adopted.
Approved August 13, 2012
DON NESS, Mayor

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BY COUNCILOR FOSLE:

WHEREAS, on June 20 and 21, 2012, the city of Duluth experienced a catastrophic rainfall event, causing great damage to and destruction of public and private property, which event resulted in a public disaster declaration (DR-4069) by the president of the United States, hereinafter referred to as the "disaster declaration"; and

WHEREAS, by virtue of the disaster declaration, the city and other affected jurisdictions will receive assistance from the federal emergency management agency, hereinafter referred to as "FEMA", to fund the cost of restoration of the public infrastructure so damaged; and

WHEREAS, even though many private properties in the city were badly damaged by the event to the point of being uninhabitable, the owners of such properties will not be eligible for assistance from FEMA to assist in the rebuilding of their homes; and

WHEREAS, even while such properties are uninhabitable and will therefore not be using any water service, gas service or sanitary sewer service, standard city utility rates practice will require them to continue to pay monthly fixed charges for water, gas and sanitary sewer; and

WHEREAS, the city council deems it to be fair, right and equitable that the owners of such damaged properties not be required to pay fixed monthly fees for utility services they cannot enjoy due to flood damage, during the time that their properties are uninhabitable.

RESOLVED, that the city council of the city of Duluth hereby requests that, pursuant to the provisions of Section 2-186 (b) of the Duluth City Code, 1959, as amended, the Duluth public utility commission temporarily modify the rates charged to customers of the city's water, gas and sanitary sewer systems, abating fixed charges for water, gas and sanitary sewer service for properties damaged or destroyed by the rainfall event that gave rise to the disaster declaration, subject to the following conditions:

(a) The property served by the services were damaged or destroyed by the rainfall event which gave rise to the disaster declaration;

(b) Because of the damage or destruction referred to in paragraph (a) above, the property has been formally placarded with a red, orange or yellow placard by the city's division of construction services and inspections in accordance with the procedures and practices provided for in the *Minnesota Building Official Disaster Preparedness Manual-Fourth Edition-Revised 2011*;

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(c) No water service, gas service or sanitary sewer service is used on the property during the abatement period;

(d) The customer requests that the city abate said fixed charges;

(e) The abatement granted pursuant to this resolution would cease to be effective as of the date of the resumption of use of water service, gas service or sewer service on the property or upon the authorization to remove the placard by the above division on the property being lifted.

Resolution 12-0422 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the city and Hartley Nature Center Incorporated (Hartley) entered into an amended and restated lease agreement on or about July 22, 2002, (City Contract No. 19253) related to the maintenance and operation of a nature center in Hartley Park.

FURTHER RESOLVED, that the parties desire to amend the agreement to expand the leased area and extend the lease by a period of 30 years.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-23.

Resolution 12-0407 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that the city act as legal sponsor for the project contained in the park legacy application to be submitted on or before September 28, 2012, and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and financial capability to meet the match requirement and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED that the city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-24 agreeing to the project with grant funds to be deposited in Fund 205-130-1219-4210-02 (parks fund, community resources, parks operating, pass-thru federal grants) and to provide the city's in-kind contribution of \$50,000 of the project cost payable from Fund 205-130-1219-4220 (parks fund, community resources, parks operating, state of Minnesota).

Resolution 12-0413 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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RESOLVED, that city act as legal sponsor for the project contained in the park legacy application to be submitted on or before September 28, 2012 and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

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FURTHER RESOLVED that city has the legal authority to apply for financial assistance, and financial capability to meet the match requirement and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

FURTHER RESOLVED that city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0813-25 agreeing to the project with grant funds to be deposited in Funds 205-130-1219-4210-02 (parks fund, community resources, parks operating, pass-thru federal grants) and to provide the city's in-kind contribution of \$50,000 of the project cost payable from Fund 205-130-1219-4220 (parks fund, community resources, parks operating, state of Minnesota).

Resolution 12-0416 was unanimously adopted.

Approved August 13, 2012

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 12-0392, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2013 debt service tax levy, was introduced by Councilor Krug for discussion.

Councilor Stauber expressed concern regarding the depletion of the community investment trust fund until a complete plan is developed on how to fund the street improvement plan.

Chief Administrative Officer David Montgomery commented that while the fund is being reduced, the administration will work with the council to find alternative street funding options if the legal actions with the Fond Du Lac Band of Lake Superior Chippewa are not favorable to the city. He felt that when the court decisions come forward this fall, the administration will have a better idea of the financial status of the trust fund.

Councilors and Mr. Montgomery discussed at length specifics of the fund and debt service.

Councilor Fosle moved to table the resolution so that all councilors could be part of the discussion, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Stauber -- 1

Absent: Councilor Krause -- 1

- - -

Resolution 12-0386, confirming the appointment of Roshanda Smiley as director of public administration for the city of Duluth, was introduced by Councilor Boyle for discussion.

Councilors Gardner and Stauber felt that: Ms. Smiley is very well qualified but they had concerns about the reduction of city staff by 20 percent or more over the last 12 years and that there does not seem to be a reduced number of administrative supervisor positions; given this reduction of staffing, there could be a leaner number of supervisory positions; as a city, with the cutbacks in life safety and other areas; the city needs to look at priorities and with the chief informational officer position it was also argued that the city needed that position and now it is not filled.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Mr. Montgomery reviewed the history on this position with over 200 employees in this department and the need for an adequate administrative oversight structure.

Resolution 12-0386 was adopted as follows:

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of Roshanda Smiley to the position of director of public administration; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Roshanda Smiley to the position of director of public administration for the city of Duluth.

Resolution 12-0386 was adopted upon the following vote:

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

Nays: Councilors Gardner and Stauber -- 2

Absent: Councilor Krause -- 1

Approved August 13, 2012

DON NESS, Mayor

- - -

Resolution 12-0421, approving proposed amendments to the specifications for the civil service classification of executive assistant, was introduced by Councilor Boyle for discussion.

Councilors Gardner and Julsrud expressed concerns that this only amends the job description and to put more individuals into this position as executive assistants to directors, which should not be the priority at this time.

Councilor Julsrud moved to table the resolution so that there can more in depth discussion, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Fosle and President Hartman -- 2

Absent: Councilor Krause -- 1

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Resolutions 12-0414 and 12-0415, affirming and reversing, respectively, the decision of the planning commission to deny the application for a variance by Park Point Properties from the shoreland setback of Section 50-18.1 of the Duluth City Code., were introduced by Councilor Stauber for discussion.

Councilor Stauber moved to suspend the rules to hear from speakers on the issue, which motion was seconded and unanimously carried.

Keith McLaughlin, Debra McLaughlin, LeAne Rutherford, Rick Ball, Ted Buck and Dawn Buck, president of the Park Point Community Club, supported Resolution 12-0414 for the reasons of: what is proposed here is out of character for the neighborhood; the hardship is that the developer is insistent that this be large, three story duplex, not a reasonably sized single home; the planning commission did a very thorough review of this request and its decision should be supported; what you have before you is exactly what the planning commission considered; while the footprint seems reasonable, it is for a large, three story structure; if this was approved, it would set a bad precedence for other property on the point; this is a unique and environmentally sensitive site; and the Park Point Community Club supports this resolution, the protection of the shoreline and a nice reasonably sized single family home.

Tom Reistad and Paul Kellner supported Resolution 12-0415 for reasons of: this footprint is reduced in size from the original permit for this site; this is a much smaller proposal than the permitted version and is a result of meeting with the neighbors; the location of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

building on the property, on what is buildable, is the hardship issue; this is not a pristine site; the Minnesota department of resources has stated that issues can be mediated and without this variance there are safety issues associated with the placement of the garage close to the street and proximity to the neighboring property.

Councilors Gardner, Larson, Stauber and Boyle discussed the merits of supporting Resolution 12-0415 at length, noting: each variance approved is a separate decision and not a precedence for future developments; this is not uninterrupted, pristine shoreline and is just a vacant lot;; the developers are sensitive to the neighbors; this is not going to change the neighborhood; a duplex allows those who are not extremely rich to be able to afford to live on the point; by the nature of the process the council is in the role to listen to all comments and make a decision, not to demine the extensive work of volunteers on the planning commission or staff; this duplex could be built without a variance, further up on the property line; this should include the 44 foot setback to the shoreline and following the lead of the district city councilor is important.

Councilor Krug expressed her support for Resolution 12-0414, stating that the planning commission has had all the information and reviewed it thoroughly and the council should not micromanage this.

Resolution 12-0414, affirming the planning commission decision, failed upon the following vote (Public Document No. 12-0813-27):

Yeas: Councilor Krug -- 1

Nays: Councilors Boyle, Fosle, Gardner, Julsrud, Larson, Stauber and President Hartman -- 7

Absent: Councilor Krause -- 1

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Councilor Stauber moved to amend Resolution 12-0415, to add a new subparagraph as follows:

“The setbacks were reduced from 50 feet from the ordinary high water mark to - 44 feet from the rear or southwest side of the lot, 34 feet from the southeast side and 25 feet from the northwest side of the ordinary high water mark,”

which motion was seconded and carried as follows:

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

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Councilor Fosle moved to amend the resolution to add a new subparagraph as follows:

“The finding of a hardship due to the constrictions placed on the reasonable use of the lot by the 50 foot setbacks from the ordinary high water mark that is measured from three different locations due to the irregular shoreline,”

which motion was seconded and carried as follows:

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

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Resolution 12-0415, as amended, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) Park Point Properties agent Kellner’s property is located at 3129 Minnesota Avenue and the proposed structure is within the 50 foot shoreland setback from the ordinary high water level;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(b) On May 7, 2012, Park Point Properties applied for a variance that would allow them to construct a 1,400 square foot duplex to be set back 25 feet from the ordinary high water level (Planning File No. 12-083);

(c) A public hearing was held by the planning commission at its June 12, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting. The commission tabled the request until their July 10, 2012, meeting to allow for a neighborhood meeting. At this meeting the commission voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) Section 50-37.9.C(b) of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property and not caused by the landowner required by Section 50-18.1.D of the City Code;

(2) If the city granted the requested variance it would have the effect of authorizing a lesser degree of shoreland protection than is required by Section 50-18.1.D of the City Code;

(3) Such a variance is prohibited by Section 50-37.9.L of the City Code;

(d) Park Point Properties was provided written notice of the commission's action on July 11, 2012;

(e) Park Point Properties filed an appeal of the commission's decision to the city council on July 20, 2012, and pursuant to Section 50-37.1.O(4) of the City Code;

(f) The city council heard the appeal at its August 13, 2012, meeting of the planning and economic development committee and the matter was considered at the August 13, 2012, meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for variance is reversed on the following grounds:

(a) Park Point Properties' property located at 3129 Minnesota Avenue is within the 50 foot shoreland setback;

(b) Park Point Properties seeks a variance that would authorize the construction of a duplex of 1,400 square feet to be located within the 50 foot shoreland setback at a distance of 25 feet from the ordinary high water level;

(c) The following sections of the City Code are applicable to construction within the shoreland setback and relevant to this matter:

(1) Section 50-37.9.L provides as follows: "Variances in the shoreland in Section 50-18.1 shall only be granted in compliance with the limitation in this subsection D";

(2) Section 50-37.9.I provides as follows: "No variance shall be authorized that results in adverse consequences to the environment by Section 50-18.1.D";

(d) In addition to the meeting the standards applicable to construction within the shoreland as identified in subparagraph (c) above, the City Code requires an applicant for a variance to demonstrate the requirement for a variance provided in Section 50-37.9.C of the City Code;

(e) Granting a variance that allows for the construction of an 1,400 square foot structure within the 50 foot setback from the shoreland, but no closer than 25 feet from the ordinary high water level;

(f) Park Point Properties has demonstrated the existence of a hardship and the standards necessary to support a variance as provided in Section 50-37.9.C of the City Code.

RESOLVED FURTHER, that, pursuant to the authority to grant variances as provided in Section 50-37.9.L, the application for a variance by the Park Point Properties is granted subject to the following conditions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (a) The duplex is no larger than 1,400 square feet and no closer to the ordinary high water level than 25 feet;
- (b) Prior to construction, a plan for the operation and maintenance of the pervious pavers and rain garden be approved by the city engineer;
- (c) That the driveway apron be designed according to the city engineer's standards;
- (d) The authority to issue a building permit for the construction of a duplex pursuant to this variance shall expire one year from the date of the approval of this resolution;
- (e) The finding of a hardship due to the constrictions placed on the reasonable use of the lot by the 50 foot setbacks from the ordinary high water mark that is measured from three different locations due to the irregular shoreline;
- (f) The setbacks were reduced from 50 feet from the ordinary high water mark to - 44 feet from the rear or southwest side of the lot, 34 feet from the southeast side and 25 feet from the northwest side of the ordinary high water mark.

Resolution 12-0415, as amended, was adopted upon the following vote:

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

Nays: Councilor Krug -- 1

Absent: Councilor Krause -- 1

Approved August 13, 2012

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

12-048 - AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-047 - 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-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-049 - 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 INDUSTRIAL GENERAL (I-G), LOCATED AT 1 LAKE AVENUE (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

12-051 - AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS REGULATING SIGNS.

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INTRODUCED BY COUNCILOR JULSRUD

12-031 - AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilors discussed at length the housing shortage for low income individuals.

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The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 27, 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

12-0827-07 Sharon Mosiniak communication regarding the proposed rezoning of properties in the Miller Hill area (12-056-O). -- Received

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REPORTS FROM THE ADMINISTRATION

12-0827-29 Mayor proposed 2013 levy and budget. -- Received

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REPORTS FROM OTHER OFFICERS

12-0827-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Essentia Health-Duluth on November 9, 2012; (b) Essentia Health-St. Mary's Medical Center on November 9, 2012. -- Received

12-0827-02 Purchasing agent emergency order hiring Adjusters International as a consultant in disaster management and recovery. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

12-0827-03 Duluth economic development authority minutes of: (a) June 12, 2012; (b) June 27, 2012; (c) July 9, 2012, meetings. -- Received

12-0827-04 Duluth parking commission: (a) Minutes of June 11, 2012, meeting; (b) Resolutions: (1) Prohibiting daytime parking on the north side of St. Benedict Street across from the Walgreens parking lot entrance/exit (2012-14); (2) Creating a handicapped accessible space on the south side of West First Street in front of the entrance to the Minnesota WorkForce Center (2012-15); (3) Adding new parking meters and converting existing meters to 12 hour time limits in the St. Luke's Hospital vicinity (2012-16). -- Received

12-0827-05 Seaway Port authority of Duluth summary budget of March 2012. -- Received

12-0827-06 Spirit Mountain recreation area authority minutes of June 21, 2012, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that: the Duluth School District is in poor financial shape again as large class sizes are causing students to leave the district, which is hurting the investment in the new buildings; deep cuts are going to be needed, with teacher layoffs and reduced services; there are no reserve funds and with teacher layoffs, more students will leave the district.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Jerry Schlafer felt that: the federal government is spending 40 percent more than the money they are taking in; Congress is not fixing the problem as it causes financial pain, which has political consequences; taking no action is worse, with breakdowns in our society; we need to start in Duluth when we take federal money and settle for less from the government; local government needs to set an example for the federal government to avoid more severe problems in the future.

- - -

Karen Lewis voiced concern that mosquito-borne illnesses are a public health issue and there is a need to take steps to restore screens to apartment building doors and windows to prevent serious diseases.

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RESOLUTIONS TABLED

Councilor Krug moved to remove Resolution 12-0392, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2013 debt service tax levy, from the table, which motion was seconded and unanimously carried.

Councilors Stauber and Julsrud noted that: this fund has been reduced with difficulty in paying the street improvement bonds; this is moving close to the minimum line the city should be at and instead of dipping into the fund a plan needs to be adopted.

Chief Administrative Officer David Montgomery reviewed the financial consequences of not approving this resolution.

Councilors and Mr. Montgomery discussed at length the history of the community investment trust fund and alternatives on street funding in the future.

Resolution 12-0392, which needed a 7/9th vote to pass, failed upon the following vote (Public Document No. 12-0827-08):

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

Nays: Councilors Julsrud, Krause and Stauber -- 3

[Editor's Note: The resolution was reconsidered and approved at the September 10, 2012, council meeting.]

- - -

Councilor Boyle moved to remove Resolution 12-0421, approving proposed amendments to the specifications for the civil service classification of executive assistant, from the table, which motion was seconded and unanimously carried.

Resolution 12-0421 was adopted as follows:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of executive assistant, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0827-09, are approved. This classification shall remain subject to the city's collective bargaining agreement with its confidential unit employees and compensated at Pay Range 9.

Resolution 12-0421 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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.

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 84 on sale intoxicating liquor, 85 on sale Sunday intoxicating liquor, seven additional bar, 18 on sale dancing, and 36 2:00 a.m. beverage licenses, for the period beginning September 1, 2012, and ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, as listed on Public Document No. 12-0827-10.

Resolution 12-0378 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 14 on sale wine licenses for the period beginning September 1, 2012, and ending August 31, 2013, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 12-0827-11.

Resolution 12-0379 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of seven on sale club liquor licenses for the period beginning September 1, 2012, and ending August 31, 2013, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 12-0827-12.

Resolution 12-0380 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 20 off sale intoxicating liquor licenses for the period beginning September 1, 2012, and ending August 31, 2013, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 12-0827-13.

Resolution 12-0381 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of three brewery malt liquor off sale intoxicating liquor licenses for the period beginning September 1, 2012, and ending August 31, 2013, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 12-0827-14.

Resolution 12-0382 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Visual Computer Solutions, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-15, for the purchase and installation of a time and attendance system that will meet the needs of city departments and track and report various types of labor for a total of \$228,067 plus \$13,273.36 sales tax, a combined total of \$241,340.36, payable from the following accounts:

- \$189,632.52 from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object (capital equipment), Project CE250-E1209;
- \$13,201.57 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$17,298.60 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$9,104.53 from Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$5,917.94 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
- \$6,185.20 Duluth Airport Authority Fund 590, Department/Agency 590 (airport operations), Object 5201 (computer supplies/software).

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the annual software and maintenance fee of \$24,000 per year for years two through five for a total amount of \$96,000.

Resolution 12-0417 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to enter into the second year of a three-year contract with GovConnection, Inc., for the purchase and delivery of computer laptop replacements and accessories as needed in year 2012 for an amount not to exceed the budget allocation of \$99,459.65, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Cost Center 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-E1204.

Resolution 12-0424 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Adjusters International, substantially in the form of that

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

on file in the office of the city clerk as Public Document No. 12-0827-16, for professional disaster management consulting services in the preparation of among other things, FEMA (federal emergency management agency) documentation for an amount not to exceed \$200,000, payable from Fund 225 (disaster recovery fund), Department/Agency 125 (finance), Division 1800 (force labor), Object 5310 (contract services), Project No. Flood - 990.

Resolution 12-0431 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-17, for professional engineering and architectural design services, including construction administration during demolition and construction of the project, for a new communications tower and radio telemetry building on the city of Duluth Park Point tower site near Fire Hall No. 5, for an amount not to exceed \$49,500, payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2008-OT-0810.

Resolution 12-0432 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Tony Cuneo to the housing and redevelopment authority of Duluth for a term expiring on January 2, 2017, replacing Mary Rennie who resigned, is confirmed.

Resolution 12-0408 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of instrument technician, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 12-0827-18, 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 30. 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 12-0419 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of property and evidence technician, which were approved by the civil service board on August 7, 2012, and which are filed with the city clerk as Public Document No. 12-0827-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 22.

Resolution 12-0420 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below;

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-20:

Niagara Street from the eastern line of Junction Avenue to the eastern line of Superior View Addition, First and Second Divisions;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-20:

A 20 foot portion along the easterly line of Junction Avenue, a 20 foot portion along the northerly edge of Lot 1, Block 10, Superior View Addition First Division extended, and a 20 foot portion along the southerly edge of Lot 47, Block 11, Superior View Addition Second Division extended to the eastern line of Superior View Addition;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-20 showing the platted street to be vacated.

Resolution 12-0430 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division, which is implementing the comprehensive land use plan by developing new zoning regulations, looked at how zoning could encourage areas for manufacturing, processing and other activities that may have off-site impacts and are generally isolated from other uses or buffered from them with access to major regional transportation facilities and other infrastructure; and

(c) Based on public comments received and the review of the area completed by the city planning division, recommended to the city planning commission that the future land use map be amended for the area 1,200 feet by 1,200 feet south of West Gary Street to approximately Sargent Creek and 350 feet west of the entrance to the Veit solid waste disposal and processing facility, from low-density neighborhood to general industrial; and

(d) The city planning commission has reviewed this future land use amendment, conducted a public hearing on August 14, 2012, at their regular planning commission meeting and recommends adoption of the proposed future land use map amendment; and

(e) The city council action shall be by resolution, with the affirmative votes of at least two-thirds of those members constituting a quorum required to take action.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

IS IT FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map, is amended as identified in Public Document No. 12-0827-21.

Resolution 12-0435 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council grants Village Center Development, LLC, an interim use permit to operate a university or college use and parking structure located at 201 Clover Street and as described by the following:

010-0590-01280

010-0590-01210

010-0590-00840

010-0590-00730

010-0590-00451

010-0590-00430

010-0590-00570

(b) Pursuant to Section 50-20.4.D and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission. The commission gave due notice of public hearing and considered the application during a public hearing occurring on August 14, 2012;

(c) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that authorizes a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use;

(d) The city planning commission, at their regular meeting on August 14, 2012, considered the application's consistency with the comprehensive land use plan and voted to recommend approval of an interim use permit for an college or university use and parking structure use;

(e) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use location.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit for university or college use will be valid a maximum of 35 years (December 2047) and parking structure use will be valid a maximum of 50 years (December 2062);

(b) The university or college use is limited to within the existing structure of the Woodland Middle School. The parking structure use is limited to the area adjacent to the school and East Eighth Street;

(c) The university or college use and parking structure must comply with the requirements of the approved regulating plan and other UDC design standards, as appropriate.

Resolution 12-0436 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below;

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-22:

Clover Street from the easterly line of Lot 2, Block 17, Clover Hill Division extended to the west line of Woodland Avenue, Clover Hill Division;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-22:

A 20 foot portion along the southerly line of Lots 8 and 9, Block 7, Clover Hill Division, a 33 foot portion along the westerly line of Woodland Avenue between Lot 4, Block 17, and Lot 8, Block 7, Clover Hill Division and a ten foot portion extended westerly from a line from the northwest corner of Lot 4, Block 17 to the southwest corner of Lot 8, Block 7, Clover Hill Division;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-22 showing the platted street to be vacated.

Resolution 12-0443 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below;

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes;

(c) The city planning commission, at its Tuesday, August 14, 2012, regular meeting, recommended approval of the vacation petition;

(d) The city council of the city of Duluth approves the vacation of the platted street described below and as described and depicted on Public Document No. 12-0827-23:

Bayview Avenue from the northern line of Halsey Street to the northern line of Worth Street, Oakland Park Addition;

and

Halsey Street from the eastern line of Oakland Avenue to the western line of Bayview Avenue, Oakland Park Addition;

(e) The city council of the city of Duluth approves the dedication of the utility easement described below and as described and depicted on Public Document No. 12-0827-23:

A 20 foot portion beginning six feet west the southwest corner of Lot 12, Block 10, Oakland Park Addition, to the southern line of Block 18, Oakland Park Addition, extended and a 20 foot portion beginning at the southeast corner of Lot 1, Block 19, Oakland Park Addition, extending north 100 feet;

(f) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0827-23 showing the platted street to be vacated.

Resolution 12-0444 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that city council Resolution No. 12-0264 authorizing advanced home energy audits under the advance home energy audit program is hereby amended by increasing the number of audits authorized under the program from 600 to 800 and by increasing the authorized cost thereof from \$120,000 to \$160,000, the increased amount to be payable from Fund No. 555-500-5441 (home energy conservation, public works and utilities).

Resolution 12-0423 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a FY2012 justice assistance grant program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$42,370, to be used for state and local initiatives including the first witness program; Southern St. Louis County drug, mental health and DWI court; camera equipment; and to help fund technical assistance, training, personnel, equipment, supplies, contractual support and criminal justice information systems; and further are authorized to execute any documents required to be executed to accept said grant, funds to be deposited in Fund No. 215-200-2299-4209-02 (Duluth police grant programs, police, 2012 JAG Grant, direct federal grants operating), camera expenses to be paid from Fund No. 215-200-2299-5580 (Duluth police grant programs, police, 2012 JAG grant, capital equipment), and other expenses to be paid from Fund No. 215-200-2299-5447 (Duluth police grant programs, police, 2012 JAG grant, payment to other government agencies).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0827-24, with the St. Louis County sheriff's office, who is a partner of the city under this grant, all reimbursement payments to St. Louis County pursuant to this agreement shall be paid from Fund No. 215-200-2299-5447 (Duluth police grant programs, police, 2012 JAG grant, payment to other government agencies).

Resolution 12-0396 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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

In front of 919 East Ninth Street;

In front of 2223 West Second Street.

Resolution 12-0425 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2011-FH-00967 from the U.S. department of homeland security, federal emergency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

management agency, staffing for adequate fire and emergency response (SAFER) grant program, a copy of which is on file in the office of the city clerk as Public Document No. 12-0827-25, in the amount of \$420,582, said funds to be deposited in Fund No. 110-015-1505-4209-02 (general fund, fire, administration, federal grants), for the purpose of funding wages and benefits for three additional firefighter positions for two years.

Resolution 12-0441 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0827-26 with the St. James Home of Duluth, Inc., d/b/a Woodland Hills, for the lease of space in the Washington Recreation Center with monthly rent of \$600 payable to Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings).

Resolution 12-0426 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 12-0433, authorizing the issuance and sale of a \$600,175 general obligation sewer utility revenue note, Series 2012A, and providing for its payment, was introduced by Councilor Krug for discussion.

Councilor Stauber felt that the city should be paying as it goes instead of bonding.

Resolution 12-0433 was adopted as follows:

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

Section 1. Note Purpose and Authorization.

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

1.02 The city council has, by Ordinance No. 10167 adopted July 16, 2012 (the "Ordinance"), ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the maximum amount of \$1,000,000 of the City for the following project: CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24 (the "Project") as identified in the City's application to the PFA, and for the payment of part of the interest cost of the bond or note.

1.03 The City has applied for and received a grant from the State of Minnesota's Wastewater Infrastructure Fund in the amount of \$2,400,699 to pay a portion of the costs of the Project. The general obligation sewer utility revenue note to be issued under the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Ordinance for the Project shall be issued in the principal amount of \$600,175 (the "Note") to pay the portion of the costs of the Project, not paid by such grant funds.

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

1.05 The City hereby authorizes the issuance and sale of the Note, in substantially the form on file in the office of the clerk as Public Document No. 12-0827-27(a), for the Project to the PFA pursuant to a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated August 10, 2012, between the PFA and the City, in substantially the form presented to the Council and on file in the office of the clerk (the "Loan Agreement"), as Public Document No. 12-0827-27(b) which is hereby authorized, ratified and approved.

Section 2. Execution and Delivery of Note and Loan Agreement.

2.01 The Note to be issued hereunder shall be dated as of the date of delivery to PFA, shall be issued in the principal amount of \$600,175, in fully registered form and lettered and numbered R-1. Interest on the Note shall be at the rate of 1.00% per annum. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the Note, subject to adjustment as provided in the Loan Agreement. If the principal and interest payments are paid by check and mailed to the registered holder of the Note, such payment shall be mailed by the City at least five business days prior to the payment date.

2.02 The Note shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the Mayor and attested by the manual signature of the Clerk. In case any officer whose signature shall appear on the Note shall cease to be an officer before delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. All actions of the officers of the City regarding the Loan Agreement, including but not limited to, the officers of the City executing the Loan Agreement, are ratified, confirmed and approved as of the date of the Loan Agreement.

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

2.04. Delivery of the Note shall be made at a place mutually satisfactory to the City and the PFA. The Note shall be furnished by the City without cost to the PFA. The Note, when prepared in accordance with this Resolution and executed, shall be delivered to the PFA by and under the direction of the Treasurer. Disbursement of the proceeds of the Note shall be made pursuant to the Loan Agreement.

2.05. In the event of an inconsistency between a provision of this Resolution and a provision of the Loan Agreement, the provision of the Loan Agreement shall govern.

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the PFA and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Note and on all other bonds and notes heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this section.

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

3.02 The City hereby creates a separate construction account (the "2012A Construction Account") within the Public Utility Sewer Fund to which there shall be credited the proceeds of the Note as received, together with investment income thereon, all grant funds for the Project and any additional funds which may be available and are appropriated for improvements to the Project. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the Project and costs of the issuance of the Note.

3.03 Until the Note issued hereunder is fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the sewer utility. The council further authorizes the use of monies on deposit in the Clean Water Fund to pay the principal of and interest on the Note. All investment income on funds in the Sewer Debt Service Fund are pledged to payment of the Note and other bonds and notes payable from the Sewer Debt Service Fund. The treasurer shall transfer from the Sewer Utility Operating Account and the Clean Water Fund to the Sewer Debt Service Fund amounts of the net revenues and monies from the Clean Water Fund sufficient for the payment of all interest and principal then due on the Note. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

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

3.05 A. In the event the monies and payments appropriated to the Sewer Debt Service Fund are insufficient to pay principal of and interest on the Note and the other bonds and notes payable from such fund as the same become due, the City is required by law and by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

contract with the holders of the Note and such bonds and notes and hereby obligates itself to levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal of and interest on the Note.

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

3.06 Monies on deposit in the 2012A Construction Account and the Sewer Debt Service Fund may, at the discretion of the City, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the Project costs and/or the principal and interest on the Note and bonds or notes payable from the Sewer Debt Service Fund when due, as applicable.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Note shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note and any sums from time to time held in the Sewer Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Note) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods or minor portion made available under the federal arbitrage regulations.

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

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

4.03 If the City determines that the Note does not qualify for exemption from the federal arbitrage rebate requirements under Section 148(f) of the Code, the City agrees to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

cause the calculations and payments to the United States to be made pursuant to Section 148 of the Code and Treasury Regulations relating thereto.

Section 5. Certificate of Proceedings.

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

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

Resolution 12-0433 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Approved August 27, 2012

DON NESS, Mayor

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Resolution 12-0371, by Councilor Boyle, appointing _____ to the civil service board, replacing Robert Zallar, was introduced for discussion.

Councilor Boyle moved to amend the resolution to insert the name "Richard E. Edwards" into the resolution, which motion was seconded and unanimously carried.

Resolution 12-0371, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the Duluth City Council hereby appoints Richard E. Edwards to the civil service board for a term expiring on March 31, 2017, replacing Robert Zallar who resigned.

Resolution 12-0371, as amended, was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

- - -

Resolution 12-0372, by Councilor Boyle, appointing _____ to the Duluth public utilities commission, replacing John Bruggeman, was introduced for discussion.

Councilor Boyle moved to amend the resolution to insert the name of "Jason Thorsell" into the resolution, which motion was seconded and unanimously carried.

Resolution 12-0372, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby appoints Jason Thorsell (at large) to the Duluth public utilities commission for a term expiring on March 31, 2014, replacing John Bruggeman who resigned.

Resolution 12-0372, as amended, was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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Resolution 12-0405, amending Resolution 09-0007, as amended, retaining Maki and Overom, Chartered, increasing the amount by \$250,000 for a new total amount not to exceed \$1,310,000, was introduced for discussion.

Upon Councilor Julsrud's request, City Attorney Gunnar Johnson reviewed in detail the history on this issue.

Councilor Stauber expressed concerns of: the amounts of money that are being spent on legal and other fees; that the tribe has been successful on the decisions so far and that the city should work with the band and try to negotiate a settlement instead of using the court system.

Resolution 12-0405 was adopted as follows:

RESOLVED, that the city council hereby amends Resolution 09-0007, as amended, retaining Maki and Overom, Chartered, to provide legal services to the city related to a gaming matter, increasing the amount by \$250,000 for a new total amount not to exceed \$1,310,000, payable from Fund 256-030-5304 (community investment trust fund, finance, legal services), and authorizes the proper city officials to execute a sixth amendment to professional services agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-0827-28.

Resolution 12-0405 was adopted upon the following vote:

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

Nays: Councilor Stauber -- 1

Abstention: Councilor Boyle -- 1

Approved August 27, 2012

DON NESS, Mayor

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Resolution 12-0438, by councilors Julsrud and Larson, of support for the Lake Superior Good Food Charter, was introduced for discussion.

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

Jamie Harvey, executive director for the Institute For Sustainable Future, expressed support for the resolution for reasons of: in Duluth over a half billion dollars are spent on health care costs annually; fresh, healthy food should be available to all, in homes and schools and both local restaurants and institutions have made changes to healthy foods.

Resolution 12-0438 was adopted as follows:

BY COUNCILORS JULSRUD AND LARSON:

RESOLVED, that the city council hereby expresses its support for the Lake Superior Good Food Charter and the development of a vibrant, dynamic and sustainable local food system.

Resolution 12-0438 was unanimously adopted.

Approved August 27, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILORS BOYLE AND STAUBER

12-054 - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND ON LAKEWALK AND REVISING OTHER SMOKING RESTRICTIONS, ADDING NEW SECTION 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING SECTION 28-70 AND REPEALING SECTION 34-40 THEREOF.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-053 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO RR-2, R-2, AND MU-N, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-055 - AN ORDINANCE AUTHORIZING THE SALE OF 2,379.7 SQUARE FEET OF PARKLAND IN CONGDON PARK TO JAMES AND MARY ANN MONGE FOR \$11,898.50.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-056 - 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 R-1 AND R-2 TO TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

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

George Kovich, Sharon Mosiniak and Larry Kraemer opposed the ordinance for reasons of: over the years this issue has been reviewed and reviewed; and now under this proposal commercial development is going to be allowed; Miller Hill Manor is terrible to look at with its six stories and now with the antennas it is even worse - like a eight story building; a petition (Public Document No. 12-0827-07) of 265 signatures was submitted opposing the rezoning; with this change there will be more noise, traffic and commercial business in the neighborhood; it will devastate property values; this is turning out to be more rental properties; this property was initially intended to be a buffer between the neighborhood and commercial businesses; the neighbors' concerns were ignored at the planning commission and one resident should not profit and the expense of over 200 residents.

Earl Richards supported the ordinance because he owns close to 15 acres along one side of Maple Grove Road and has paid taxes and made improvements for 20 years and this would allow for commercial development here.

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BY PRESIDENT HARTMAN AND COUNCILOR GARDNER

12-057 - AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

12-048 (10169) - AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-047 (10170) - 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-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

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

- - -

INTRODUCED BY COUNCILOR STAUBER

12-049 (10171) - 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 INDUSTRIAL GENERAL (I-G), THE PROPERTY LOCATED AT 1 LAKE AVENUE (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

12-051 (10172) - AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS REGULATING SIGNS.

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

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INTRODUCED BY COUNCILOR JULSRUD

12-031 (10173) - AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

Councilor Julsrud 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: Councilor Krause -- 1

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The meeting was adjourned at 8:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10169

AN ORDINANCE AMENDING SECTION 10A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF PULL-TABS.

The city of Duluth does ordain:

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

Sec. 10A-5. Sale of pull-tabs.

(a) No organization or person shall sell or purchase pull-tabs except in compliance with Minnesota statutes and regulations;

(b) In licensed liquor establishments, sales of pull-tabs must cease at least 15 minutes before sales of alcoholic beverages are required by law to cease;

(c) Pull-tab sales are also subject to the restrictions contained in Section 8-24 of this Code;

(d) Pull-tabs shall be sold only in business establishments that are licensed to sell on sale intoxicating liquor, or on sale 3.2 malt liquor.

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

Councilor Krause 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

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10170

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-COMMERCIAL, TO FORM DISTRICT 8, DOWNTOWN MIX, THE FOUR PARCELS LOCATED ON THE SOUTHWEST CORNER OF EAST MICHIGAN STREET AND EAST SUPERIOR STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties located on the southwest corner of East Michigan Street and East Superior Street and as more particularly described as follows:

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

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Beginning at the north corner of Lot 17, Block 5, Portland Division; thence northwesterly along the northwesterly extension of the northeast line of said Lot 17 to the centerline of Superior Street; thence southwest along the centerline of Superior Street to the northwesterly extension of the southwest line of Lot 20 of said Block 5; thence southeasterly along said southwest line of Lot 20 and its extensions to a line parallel and 170.00 feet distant from said centerline of Superior Street; thence northeasterly along said line parallel with Superior Street centerline to the southeasterly extension of the northeast line of said Lot 17; thence northwesterly along the northeast line of said Lot 17 and its extension to the point of beginning;

be reclassified from Mixed Use-Commercial (MU-C), to Form District 8 Downtown Mix (F-8), 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. 12-105)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 30, 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 August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ORDINANCE NO. 10171

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 INDUSTRIAL GENERAL (I-G), THE PROPERTY LOCATED AT 1 LAKE AVENUE (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject property located at city located at 1 Lake Place Drive (Duluth steam utility site) from Mixed Use-Neighborhood (MU-N) to Industrial-General (I-G). The Duluth steam utility site located between Interstate 35, Lake Avenue and Railroad Street and as more particularly described as follows:

Those parts of Transfer Division of Duluth and Industrial Division of Duluth, according to the recorded plats thereof at St. Louis County recorder's office, Minnesota, described as follows:

Beginning at the east corner of Lot 12, Block 2 of said Industrial Park; thence northwesterly along the northeast lines of Lots 12, 14, 16, 18 and 20 of said Block 2 to the southeast right-of-way of Interstate 35;

Thence southwesterly along said southeast right-of-way of Interstate 35 to the northeast line of the former 24.00 foot wide railroad easement within Lot 18 of Transfer Division of Duluth; thence southeasterly along said northeast line of railroad easement, through Lots 18, 17 and 16 of Transfer Division of Duluth, to the southeast line of the northwest half of said Lot 16; thence northeast along said southeast line of the northwest half of Lot 16 and its extension to the centerline of Lake Avenue South; thence northwesterly along said centerline of Lake Avenue South to the southwesterly extension of the southeast line of said Lot 12 of Industrial Division of Duluth; thence northeasterly along said southeast line of Lot 12 and its extension to the point of beginning;

be reclassified from Mixed Use-Neighborhood (MU-N) to Industrial-General (I-G), 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:

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(Ref. File No. 12-104)

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

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

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

Nays: None -- 0

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 10172

AN INTERIM ORDINANCE IMPOSING A MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS PENDING THE ENACTMENT OF AN ORDINANCE AMENDING CHAPTER 50 OF THE LEGISLATIVE CODE RELATING TO THE OFFICIAL CONTROLS REGULATING SIGNS.

The city of Duluth does ordain:

Section 1. Statement of legislative intent.

The council of the city of Duluth finds that it is necessary to preserve the status quo regarding the city's regulation of signs codified in Chapter 50 of the Legislative Code.

The council finds that the current regulations provided for in Chapter 50 require amendment.

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The council finds that in order to properly implement the comprehensive plan and to protect the public health, welfare and safety, the official controls regulating signs must be studied and amended.

Accordingly, it is the intent of the council of the city of Duluth to establish under this interim ordinance, a moratorium protecting the general health, welfare and safety of the public, and preserving the status quo with respect to signs pending the conclusion of a zoning study and the enactment of amendments to Chapter 50, by immediately prohibiting the issuance of any approval necessary to erect or alter pole signs and monument signs.

Section 2. Moratorium imposed.

The city of Duluth hereby imposes on any parcel of land, lot, or part thereof within the boundaries of the city a prohibition on the issuance of any approval necessary to erect or alter a pole sign or monument sign pending the completion of the study and enactment of ordinances noted in Section 1. This moratorium shall be effective until the expiration of 12 months following enactment or until such earlier time as the city council has taken action on the amended ordinances noted in Section 1.

Section 3. Extension of moratorium.

The council may, by resolution, and pursuant to the requirements of Minnesota Statutes Section 466.355, Subd. 4, extend the moratorium before the expiration of the 12 month period for an additional period of time, but in no event may the moratorium extend beyond 18 months from the date this ordinance becomes effective.

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

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10173

AN ORDINANCE AUTHORIZING ASSESSING DELINQUENT WATER AND SANITARY SEWER CHARGES AGAINST BENEFITTED PROPERTIES IN CERTAIN CASES, AMENDING SECTION 43-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, AND ADDING A NEW SECTION 48-15.5 TO THE CODE.

The city of Duluth does ordain:

Section 1. That Section 43-6 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-6. Joint liability for payments.

The owner of premises which are connected to the city's wastewater facilities, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the city only upon the condition that the owner of the

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premises, occupant and user of the services are jointly and severally liable to the city therefor. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner, occupant or user if a civil action in any court of competent jurisdiction or in the discretion of the director may be certified to the county auditor to be collected with taxes against such premises so served. The certification of such charges shall be performed in accordance with the provisions of subsections b. through f. of Section 48-15.5 of this Code. Money paid to the county auditor on such account shall belong to the city and shall be remitted to the city treasurer by the county auditor in the manner provided by law for the payment of other money belonging to the city. In addition to, and not in lieu of, the foregoing method of enforcing payment of such charges, the director may, according to such rules and regulations as he may have established and the council shall have by resolution approved, cause the city water supply for and to any premises to be shut off until all arrears, with interest and penalties on such delinquent charges, shall be paid, together with the cost of shutting off and turning on such water.

Section 2. That Chapter 48 of the Duluth City Code, 1959, as amended, is hereby amended by the addition of a new Section 48-15.5 thereto which reads as follows:

Sec. 48-15.5. Assessment of unpaid sewer charges generally and assessment of unpaid water charges in certain cases.

(a) Application. The authorization to assess for unpaid water charges in this Section shall apply only in cases meeting the following criteria; said criteria shall not limit the authority of the city to assess for unpaid sewer charges under Section 43-6 of the Code:

(1) Where more than one building is served by a single water service;

(2) Where at least one of the buildings so served is under separate ownership from one or more of the other buildings served by said service;

(3) Where there are at least two months of unpaid charges for water service provided to any such separately-owned property;

(4) Where the director certifies that reasonable efforts to collect such unpaid charges have been unsuccessful and the applicant for such services does not have a valid agreement with the department to pay such charges;

(5) Where there is not a water shut-off valve located within a public street easement which will allow water service to be shut off to the property to which the unpaid charges pertain without turning off water service to a property where payments received for water service are current;

(b) List of delinquent accounts. On or before June 1 of each year, the department may transmit to the city assessor a list of properties described in Subsection (a) above and any other properties having unpaid sewer charges certified by the director for assessment against the property pursuant to Section 43-6 of the Code, together with the amount due with respect to each such property. For each account transmitted, a collection fee in the amount set by city council resolution pursuant to Section 31-8 of the City Code shall be added to reimburse the department for its administrative costs;

(c) Preparation of assessment roll. Upon the receipt of such lists, the city assessor shall make an assessment roll containing, in columns, the name of

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the owner of each lot or parcel of land separately assessed, if known to him, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in Subsection (b) above;

(d) Notice. On or before July 1 of each year, the city assessor shall certify the assessment roll to the city council. The assessor shall give 20 days notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in said land stating the amount of the assessment, including the collection fee, the description of the property, that the assessment roll is on file in the assessor's office and that any party aggrieved by the assessment may appeal the assessment to the city assessor by filing a written notice of appeal with the assessor within 20 days after the notice of assessment. Such notice shall indicate that the assessment, including the collection fee, is due and payable on or before October 1 of the current year. Failure to make payment by such date shall render the assessment delinquent;

(e) Appeal to city assessor. Any party aggrieved by an assessment made pursuant to this Section may appeal such assessment by filing a written notice of appeal with the city assessor. The notice shall state the precise grounds upon which the appeal is taken. The city assessor shall notify the appellant of the time and place of the hearing. At the hearing, the city assessor shall hear and determine all objections made to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular and the amounts claimed had been properly billed with regard to the benefitted property, the assessor shall correct any errors which may have been found in the assessment and shall thereupon recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution pursuant to Section 31-8 of the City Code to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent. After all appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution;

(f) Certification of delinquent assessments. After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with ten percent penalty added, after which the assessment shall follow the provisions of Chapter IX of the City Charter including but not limited to Sections 67 and 68 thereof.

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

Councilor Julsrud 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: Councilor Krause -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 27, 2012
Approved August 27, 2012
DON NESS, Mayor

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