

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 10, 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

12-0910-10 Craig Schield information regarding Deaf and Hard of Hearing Services - Northeast (12-0440R). -- Received

12-0910-01 The following communications regarding the proposed ordinance to prohibit smoking in various locations (12-054-O): (a) Andrea Crouse; (b) Sara Curwin; (c) John M. Glendenning, Jr.; (d) Patti Hocking; (e) Charlene Shimmin; (f) Jodi Tervo; (g) Ladona Tornabene. -- Received

12-0910-08 The following communications regarding proposed rezoning in the Miller Hill area (12-056-O): (a) Larry Kraemer; (b) Mike Kruger (2); (c) Sharon Mosiniak, et al. (2). -- Received

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## REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported, regarding the proposed Seaway Hotel closure, that the city has coordinated a settlement of the issue and lining up a plan of action between all the agencies that is both long range and enforceable.

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## REPORTS FROM OTHER OFFICERS

12-0910-02 Building official:

(a) Appeal of the building appeal board decision to uphold the notice and order of condemnation for human habitation regarding the Seaway Hotel. -- Committee 2 (planning and economic development)

(b) Notice, by the planning and construction services department director, of the rescinding of the order of condemnation for human habitation regarding the Seaway Hotel and a memorandum of understanding with the Greater Minnesota Housing Fund for the repair of the building and property management requirements. -- Received

12-0910-03 Purchasing agent emergency order regarding Skyline Parkway culvert improvements awarded to Utility Services for \$104,726. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

12-0910-04 Duluth airport authority minutes of: (a) July 17; (b) August 14, 2012, meetings. -- Received

12-0910-05 Duluth economic development authority minutes of July 25, 2012, meeting. -- Received

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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12-0910-06 Duluth public utilities commission resolution abating fixed water, gas and sanitary sewer charges on flood damaged homes during the period of non-habitability (12PUC-009). -- Received

12-0910-07 Duluth transit authority: (a) Minutes of May 30, 2012, meeting; (b) Income statement of April 2012. -- Received

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### REPORTS OF COUNCIL COMMITTEES

12-0910-09 City council civil service reform working group recommendations of July 19, 2012, meeting, pursuant to Resolution 12-0130. -- Received

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### RESOLUTION RECONSIDERED

Councilor Julsrud moved to reconsider Resolution 12-0392, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2013 debt service tax levy, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Krause and Stauber -- 2

Councilor Julsrud said her original concerns were for the 2014 budget but she has faith that the council can work with the administration for the 2014 budget.

Councilor Stauber noted that: in 1995 there was a huge problem with the city streets and the council created the community investment trust (CIT) fund for future generations and for it to earn interest for infrastructure improvements; that some councilors voiced concern that future councils would use the money for other projects that the administration wanted to spend it on and that the city has spent down the CIT from \$78 million to \$23 million without a new street improvement plan.

Councilor Krause stated there are still many months to develop a plan for the street improvement program and that the council does not need to act on this now to ensure there is a plan in place.

Mr. Montgomery reviewed that: all the drawdowns to the CIT fund have been legally approved by the council; close to 70 miles of street improvements have been done; the administration will present a 2014 street improvement plan, but this funding is for the 2013 improvement plan and that this is a debt obligation that has to be paid.

Resolution 12-0392 was adopted as follows:

WHEREAS, the city of Duluth, Minnesota (the "city"), has issued several series of general obligation street improvement bonds (the "bonds") to finance the city's street improvement program, with a portion of the principal of and interest on the bonds being payable from special assessments on benefitted property and a portion being payable from a debt service tax levy; and

WHEREAS, the city administration has proposed to cancel a portion of the 2013 debt service tax levy with a transfer of monies from the community investment trust fund (Fund 256) (the "CIT fund").

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

The council hereby transfers \$2,913,182 from the CIT fund to the bond accounts within the street improvement debt service fund (the "debt service fund") for payment of a

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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portion of the principal of and interest on the bonds due on August 1, 2013, and February 1, 2014. The monies hereby appropriated shall be transferred to the debt service fund within 30 days of passage and approval of this resolution.

Resolution 12-0392 was adopted upon the following vote:

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

Nays: Councilors Krause and Stauber -- 2

Approved September 10, 2012

DON NESS, Mayor

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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 pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2013 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$778,800 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$778,800.

Resolution 12-0452 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2013 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,391,900.

Resolution 12-0453 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Northland Consulting Engineers, LLP, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0910-11, for professional design and construction engineering services in the repair, restoration and/or replacement of the sea wall and boardwalk at Chambers Grove Park located near the far western Duluth neighborhood of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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Fond-Du-Lac along the St. Louis River, for an amount not to exceed \$67,026, payable from the Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1804 (water control facilities), Object 5310 (contract services), Project No. Flood - 299.

Resolution 12-0434 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Scalzo Architects, Ltd., substantially the same as Public Document No. 12-0910-12 on file in the office of the city clerk, for performance of a condition survey and feasibility study of existing maintenance buildings in various locations, for an amount not to exceed \$38,000, payable from the Capital Improvements Fund 450, Department/Agency (finance) 030, Object 5520 (buildings and structures), Project No. CP2012-1202b.

Resolution 12-0445 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with SHI International Corporation for the purchase and delivery of computer PC (personal computer) replacements and accessories as needed in year 2012 for all city departments in accordance with Minnesota State Contract 48196, Release C-1046(5), specifications and pricing, not to exceed the budget allocation of \$150,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 12-0450 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to increase the original purchase order to MacQueen Equipment, Inc., for OEM (original equipment manufacturer) replacement parts for Elgin and Vactar equipment by \$20,000, for a new total contract amount of \$68,000, terms net 30, Minnesota state discount of ten percent on current pricing list, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair supplies).

Resolution 12-0458 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 12-0910-13 with Architectural Advantage, LLP, for architectural services related to the design and installation of replacement windows on City Hall, increasing the amount payable thereunder by \$53,350, \$33,500 of which shall be payable from Fund No. 450-030-5520-CP2011-1104B (capital improvement, finance) and \$19,850 of

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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which shall be payable from Fund No. 450-030-5520-CP2012-1204 (capital improvement, finance).

Resolution 12-0460 was unanimously adopted.

Approved September 10, 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 Women's Care Center 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 12-0463 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness of Patrick Kevin Mullen to the Duluth airport authority for a term expiring on July 1, 2015, replacing Conrad Firling, is confirmed.

Resolution 12-0447 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the appointments by Mayor Ness of Carrie Heffernan and Jay Seiler to the entertainment and convention center authority for terms expiring on June 30, 2015, replacing John Arnold III and Mark Emmel, are confirmed.

Resolution 12-0448 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the appointments by Mayor Ness of Gregory A. Benson and Sean M. Flaherty to the Spirit Mountain recreation area authority for terms expiring on June 30, 2015, replacing Willard Munger, Jr., and Nancy Nelson, are confirmed.

Resolution 12-0449 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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WHEREAS, to comply with the records management statute, Minnesota Statutes Section 138.17, it is necessary to adopt a plan for managing governmental records including the proper retention and disposal of municipal records; and

WHEREAS, Minnesota Statutes Section 138.17 establishes the records disposition panel and requires all government entities to follow an orderly process in disposing information; and

WHEREAS, the state of Minnesota has approved for use by all Minnesota cities the Minnesota General Records Retention Schedule for Cities which authorizes cities adopting said schedule an orderly method of disposing of municipal records; and

WHEREAS, the Minnesota General Records Retention Schedule for Cities is regularly updated.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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NOW, THEREFORE, BE IT RESOLVED, that the city council hereby adopts the Minnesota General Records Retention Schedule, providing for the retention and destruction of records as set forth in said schedule and subsequent revisions.

FURTHER RESOLVED, that the city clerk shall notify the Minnesota historical society/state archives department of such adoption pursuant to Minnesota Statutes Section 138.17.

Resolution 12-0437 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC, for repair of flood damaged utilities and street in Westgate Boulevard, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1111, Flood Site No. 2.

Resolution 12-0459 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding, substantially the same as that on file with the office of the city clerk as Public Document No. 12-0910-14, with the U.S. immigration and customs enforcement (ICE) for the reimbursement of overtime salaries and related expenses incurred by the Duluth police department in a joint law enforcement operation with ICE, said reimbursement monies to be deposited in Fund No. 110-160-1610-4209-02 (general fund, police department, administration and investigation, direct federal grants operating).

Resolution 12-0394 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept an additional grant from the state of Minnesota, department of commerce, in the amount of \$54,194, such funds to be applied to the salary, fringe benefits and training of an auto theft investigator within the Duluth police department, and to execute Amendment No. 1 for Grant Agreement No. 37322 (City Contract No. 21502), substantially the same as that on file in the office of the city clerk as Public Document No. 12-0910-15, funds to be deposited in Fund No. 215-200-2266-4220-02 (Duluth police grant programs, police, Minnesota auto theft grant, state of Minnesota operating).

Resolution 12-0427 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Invitation Health Institute in an amount not to exceed \$4,000, and to execute a grant agreement substantially in the same form as that on file in the office of the city clerk as Public Document No. 12-0910-16 or a form deemed by the city attorney's office to provide greater legal security to the city, for overtime backfill salary/fringe benefits for police officers in order to support the enhanced college enforcement initiative, funds to be deposited in Fund No. 110-

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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160-1610-4210-02 (general, police, administration and investigating, pass through federal grants, operating).

Resolution 12-0429 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Duluth Area Family YMCA to provide after school and summer youth programming at various city or school district locations, substantially the same as that on file with the city clerk as Public Document No. 12-0910-17, and providing for the annual payment of \$150,000, for a total contract amount of \$450,000, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 12-0439 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 12-0454, proposing the sum to be raised by taxation for general purposes for the year 2013, was introduced by Councilor Krug for discussion.

Councilor Julsrud moved to amend the resolution as follows:

(a) In Section 1, replace the sum "\$19,211,000" with "\$19,441,000";

(b) In Section 2, replace the sum "\$11,842,000" with "\$12,072,000,"

which motion was seconded and discussed as follows:

Councilors Stauber, Gardner, Krause and Fosle opposed the amendment because: it does not look to find ways to cut expenses to fund this additional economic development staffing; it just puts the burden on the taxpayers; public safety is the first concern for citizens, especially with the closing of a fire hall this year; pursuing getting more revenue from the state should be the priority; local governments are struggling; just adding more business development staff does not bring more businesses to the city, especially with other entities like Apex already bringing new employers to the city and given the deadline is coming up for setting the maximum levy, there is very little time to discuss this in greater detail.

Councilors Julsrud, Krug, Boyle and President Hartman expressed support for the amendment for reasons of: there are not enough jobs for students who want to stay here; the Northwest Airbase could have likely had a new tenant and added to the tax base a lot sooner if there were more business developers; with Georgia Pacific closing, the natural gas customers will adversely be affected; this is an investment in economic development; this is not final until the budget is adopted in December; there are only two city staff members who do economic development, where St. Cloud and Rochester have many more; small businesses that want to come here do not get the assistance they need and if funding for these positions can be found without this levy increase, that can be looked at before the final vote in December.

Councilor Julsrud's amendment carried as follows:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Resolution 12-0454, as amended, was adopted as follows:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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Section 1. The sum to be raised by taxation for the year 2013 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$12,072,000.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$7,161,500.

Section 4. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$207,500.

Resolution 12-0454, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Approved September 10, 2012

DON NESS, Mayor

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Resolution 12-0455, setting a proposed budget for the fiscal year 2013, was introduced by Councilor Krug for discussion.

Councilor Julsrud moved to amend the resolution as follows:

(a) Under "Total planning and construction services," replace the sum "\$2,136,200" with "2,226,200";

(b) Under "Total business and community development," replace the sum "\$583,200" with "\$723,200";

(c) Under "General fund total" replace the sum "\$73,743,000" with "\$73,973,000," which amendment was seconded and carried as follows:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Resolution 12-0455, as amended, was adopted as follows:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2013.

GENERAL		
010	Total legislative and executive	2,350,400
121	Total public administration	21,619,900
125	Total finance	3,484,000
132	Total planning and construction services	2,226,200
135	Total business and community development	723,200
150	Total fire	13,621,300
160	Total police	18,280,700
500	Total public works	1,689,900

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

GENERAL		
700	Total transfers	9,977,400
110	General fund total	73,973,000

Resolution 12-0455, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Approved September 10, 2012

DON NESS, Mayor

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Resolutions 12-0456 and 12-0457, by Councilor Stauber, affirming and reversing, respectively, the decision of the building appeal board to uphold an order of condemnation for human habitation at 2001 West Superior Street (The Seaway Hotel) and deny a request for an extension of the deadline for tenants to vacate the building by 180 days, were introduced.

Councilor Stauber moved remove the resolutions from the agenda, which motion was seconded and unanimously carried.

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RESOLVED, that the city of Duluth hereby accepts a gift in the amount of \$13,000 from Amsoil, Inc., and that the council, on behalf of the city, extends its sincere gratitude for this generous gift.

FURTHER RESOLVED, that the proper city officials are authorized, in accordance with the conditions of the donor, to use the gifted funds to purchase a new police canine, funds to be deposited in Fund No. 210-030-3123-4660 (special projects, finance, K-9 account, gifts and donations).

Resolution 12-0446 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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Resolution 12-0440, by councilors Larson and Krug, regarding sign language interpreters and closed caption broadcasting for council meetings, 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.

Craig Schield spoke through an interpreter requesting close captioning and how it would help many.

Resolution 12-0440 was adopted as follows:

BY COUNCILORS LARSON AND KRUG:

WHEREAS, it is important for council meetings to be open and accessible to all including constituents who are deaf or hard of hearing; and

WHEREAS, there is no current process for constituents to request a sign language interpreter for council meetings; and

WHEREAS, council meetings broadcast with closed captioning would also be beneficial for constituents who are deaf or hard of hearing or who may benefit from the voice associated with the captioning.

THEREFORE, BY IT RESOLVED, that the council hereby requests city administration establish a policy for constituents to request a sign language interpreter for council meetings

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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including the following: Requests for sign language interpreter services should be made to the city clerk's office and at least two business days prior to a scheduled meeting; interpreter services are for on-site meeting participation only and are not generally broadcast by PACT TV.

FURTHER RESOLVED, that the council requests PACT TV review the feasibility of broadcasting city council meetings with closed captioning.

Resolution 12-0440 was unanimously adopted.

Approved September 10, 2012

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the second time:

BY COUNCILORS BOYLE AND STAUBER

12-054 (10174) - 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.

Councilor Gardner moved to amend the ordinance to delete subsection 28-64(a)(6) and add the following subsection 28-64(b):

“(b) No person shall ingest by smoking or chewing any substance labeled as not safe for or intended for human consumption at or in any of the following locations:

(1) On the Lakewalk, on Lake Place or in Leif Ericson Park;”

which motion was seconded and discussed.

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

Andrea Crouse, Patrick Schoff, Jim Carlson and Elizabeth Santana, representing the East Hillside Patch/Summer Youth Program, expressed support for the ordinance for the reasons of: statistics are kept after the beach sweeps each year and tobacco-related products make up over 50 percent of the litter that is picked up; cigarette filters are very toxic and can affect small organisms and with eliminating this source of toxic filters it will reduce the toxicity to the water environment next to the Lakewalk; this ordinance should also include other public places where children play; youth programs promote healthy, active lifestyles and there is no need for smoking on the Lakewalk; there are no health benefits to cigarettes and cigarettes are only allowed because of the tax dollars and money in politicians' hands.

Councilors Boyle and Julsrud opposed the amendment for the reasons of: the problem with tobacco smoking in the Lake Place Park, Leif Ericson Park during movies at the park and behind the new East High School; the increased cost of healthcare directly caused by smoking and smoking is the highest killer and teenagers are the highest smoking age category.

Councilor Gardner reviewed how she felt that this goes too far to restrict tobacco smoking outside with government making decisions for them, while smoking synthetic marijuana and bath salts is the problem; there are already underage smoking laws that are not being enforced and the city council can educate, but cannot always legislate, for the common good.

Councilor Gardner's amendment failed upon the following vote:

Yeas: Councilor Gardner -- 1

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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

Councilors Krause, Gardner and Fosle opposed the ordinance for reasons of: nonsmokers have contacted councilors opposing the ordinance; this will not stop those high school smoking issues; smokers will not be able to enjoy the Lakewalk as they smoke; this is getting too deep into what is regulated in the open air and enforcement will not take place, as shown in other situations, where police are present.

Councilors Larson, Krug and Stauber supported the ordinance for the reasons of: government should regulate this like it does with alcohol in public places; the Lakewalk is one of those distinctive features that other cities do not have; we all are paying more for healthcare because of smoking; Duluth has been rated as one of the top ten locations for outdoor recreation and public health is a nonpartisan issue and is for the good of all.

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

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

Nays: Councilors Fosle, Gardner and Krause -- 3

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INTRODUCED BY COUNCILOR STAUBER

12-053 (10175) - 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.

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

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INTRODUCED BY COUNCILOR STAUBER

12-055 (10176) - 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.

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

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INTRODUCED BY COUNCILOR STAUBER

12-056 (10177) - 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 MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

Councilor Krause moved to amend the ordinance to exclude all of that property lying to the east of Joshua Avenue, between Joshua and Eklund avenues, which motion was seconded and discussed.

Councilor Krause reviewed how this amendment alters only one of the parcels for rezoning classification, as a compromise. He further noted that there was misinformation on these classifications with the comprehensive plan and this will act as a buffer.

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

George Kovich, Larry Kraemer, Sharon Mosiniak, Horace Kahlbaugh and Debra James opposed the ordinance for the reasons of: property taxes have increased with past zoning changes; one person should not be allowed to rezone this area; no land owners in this area were asked to be on the comprehensive planning committee; the amendment should be passed because it will act as a buffer between the two zones; of the 360 homeowners in the

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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area, 94 percent are in favor of the amendment; the residents should have a voice in this decision; a petition of 365 signatures is opposed to the rezoning (Public Document No. 12-0910-08(c)); the rezoning falls short of consideration of homeowners rights, as much as vegetation and animals are protected; home values will be decreased; there are unresolved traffic problems and more buildings in this area likely will contribute to flooding.

Gloria Richards supported the ordinance for reasons of: change is not liked, but changing times require communities to grow and thrive; the parcel of land has had many changes over the years with a church, a large scale living facility, paint store, Walgreens and Stoneridge Shopping Center; this piece of land is trapped with commerce all around it and should be afforded the same opportunities; only eight houses are directly affected by the rezoning and the city would require sufficient buffers of any developer to make it look beautiful.

Councilors Fosle, Krause and Stauber opposed the ordinance for the following reasons: all the effort of the neighborhood petition means a lot; the recommendation of the district councilor should be considered, because of their knowledge of what the wishes of the neighborhoods are; to the west of this parcel is the route planned for development up to Kohl's, but that was not the intent for this parcel; to get good information the city really needs to go door-to-door, not just from those who attend meetings and there should have been a residential plan for this area.

Councilors Krug, Julsrud, Larson and Gardner supported the ordinance without the amendment for the reasons of: without development, the city cannot move forward; if this land was in the middle of the neighborhood, this would not be supported by the planning division and planning commission; if the city does not allow for this type of economic development, this development will go to another city; if the comprehensive plan and small area plan were not in agreement, the council would look at this differently, and staff and the planning commission both recommend this approval.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

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

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

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

At this time, Councilor Krause left the meeting.

- - -

BY PRESIDENT HARTMAN AND COUNCILOR GARDNER  
12-057 (10178) - AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE  
DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.

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

- - -

The meeting was adjourned at 9:54 p.m.

JEFFREY J. COX, City Clerk

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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### ORDINANCE NO. 10174

BY COUNCILORS BOYLE AND STAUBER:

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.

The city of Duluth does ordain:

Section 1. That Chapter 28 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 28-63 which reads as follows:

Sec. 28-63. Definitions.

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

(a) Kitchi Gammi Park, for the purposes of this Article only, shall mean that park located on land located between Congdon Boulevard and Lake Superior and between the Lester River and 69th Avenue East;

(b) Lake Place shall mean that structure elevated over the right-of-way of Interstate Highway 35 between Lake Avenue and Fourth Avenue East containing park-like amenities;

(c) Lakewalk shall mean the constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Duluth Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park;

(d) Leif Ericson Park shall mean that property used for park purposes located between the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad and the shoreline of Lake Superior and between Eighth Avenue East and 13th Avenue East;

(e) Medical facility shall mean any medical hospital, medical or dental clinic;

(f) Prohibited substances shall mean any tobacco related product and any other substance labeled as not safe for or intended for human consumption;

(g) Public place shall mean any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(h) Smoke shall mean the gases, particles or vapors released into the atmosphere as a result of combustion, electrical ignition or vaporization of or by any prohibited substance;

(i) Smoking shall mean inhaling or exhaling smoke from any instrumentality, including but not limited to any cigar, cigarette, pipe, hookah pipe or an operating electronic cigarette, or having in possession any such instrumentality producing smoke or engaging in any act that generates smoke;

(j) Tobacco related products shall mean any product containing, made or derived from tobacco that is intended for human consumption, or any component, part, or accessory of a tobacco product, including but not limited to

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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tobacco found in cigars and cigarettes, tobacco intended to be used in pipes or cigarettes, chewing tobacco, moist or dry snuff, dissolvable tobacco products and electronic cigarettes and any other product containing, made or derived from tobacco that is intended or expected to be consumed with or without being combusted but does not include any tobacco product that has been approved by the United States food and drug administration for sale as a tobacco cessation product, tobacco dependent product or for other medical purposes and is marketed and sold only for those purposes.

Section 2. That Chapter 28 of the Duluth City Code, 1959, as amended is hereby amended by adding a new Section 28-64 which reads as follows:

Sec. 28-64. Ingesting a prohibited substance--prohibited in certain places.

(a) No person shall ingest by smoking or chewing any prohibited substance at or in any of the following locations:

(1) Anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act;

(2) Inside any Duluth Transit Authority transit shelter;

(3) Within 15 feet from the nearest point of any Duluth Transit Authority transit shelter which displays at least two signs visible from the exterior of the shelter providing notice of this prohibition, said 15 feet measured in a straight line of constant elevation;

(4) Anywhere in Wade Stadium that is open to the public except in areas designated for such consumption;

(5) Within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation; provided that this prohibition does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley;

(6) On the Lakewalk, on Lake Place or in Leif Ericson Park;

(c) Any person violating this Section is guilty of a petty misdemeanor or may be penalized under Chapter 12 of the Duluth City Code, 1959, as amended;

(d) Signage to enforce the provisions of this ordinance shall be approved by the city of Duluth.

Section 3. That Section 28-70 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 28-70. Private right of action.

In addition to the penalties provided in Section 28-64(c), any person injured by a repeated or continuing violation of the Article may bring a civil action against the proprietor or other person in charge of a public place to enjoin further violations.

Section 4. That Section 34-40 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 5. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 12, 2012)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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

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

Nays: Councilors Fosle, Gardner and Krause -- 3

Passed September 10, 2012

Approved September 10, 2012

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10175**

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.

The city of Duluth does ordain:

Section 1. That the 143 acres of the subject property located south of McFarlane Road, between Howard Gnesen Road and Blackman Avenue, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of McFarlane Road, Howard Gnesen Road, and Blackman Avenue, where these parcels abut roadways:

010-2710-02715	010-1500-00310	010-1500-00520
010-2710-02720	010-1500-00320	010-1500-00510
010-2710-02725	010-1500-00340	010-1500-00500
010-2710-02726	010-1500-00380	010-1500-00490
010-2710-02727	010-1500-00390	010-1500-00480
010-2710-02730	010-1500-00420	010-3500-00200
010-2710-02740	010-1500-00440	010-3500-00230
010-2710-02750	010-1500-00630	010-3500-00235
010-2710-02755	010-1500-00620	010-3500-00190
010-2710-02756	010-1500-00610	010-3500-00202
010-2710-02760	010-1500-00580	010-3500-00240
010-2710-02770	010-1500-00570	010-3500-00245
010-2710-02780	010-1500-00560	010-3500-00250
010-2710-02786	010-1500-00550	010-1500-00640
010-2710-02790	010-1500-00540	
010-2710-02800	010-1500-00530	

be reclassified from R-1 to RR-2, 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:

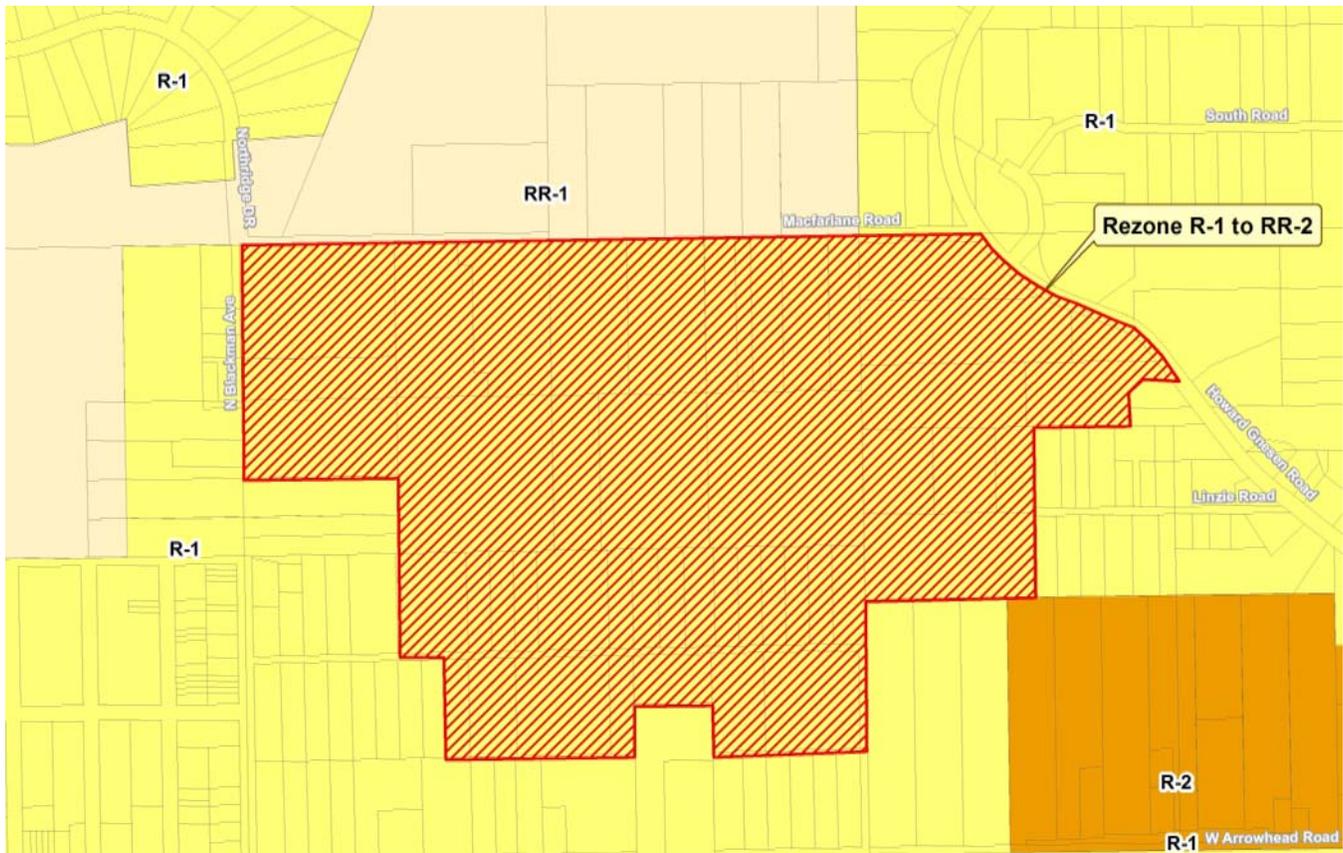


Exhibit A

(Ref. File No. 12-108)

Section 2. That the 1.28 acres of the subject property located at 1320 Kenwood Avenue and as more particularly described in Exhibit B and by the following:

Parcel 010-2640-00110, extended north to the centerline of East Buffalo Street, west to the centerline of Kenwood Avenue, and south to the centerline of East Toledo Street be reclassified from R-1 to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

010-3570-03500

be reclassified from R-1 to R-2, 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:

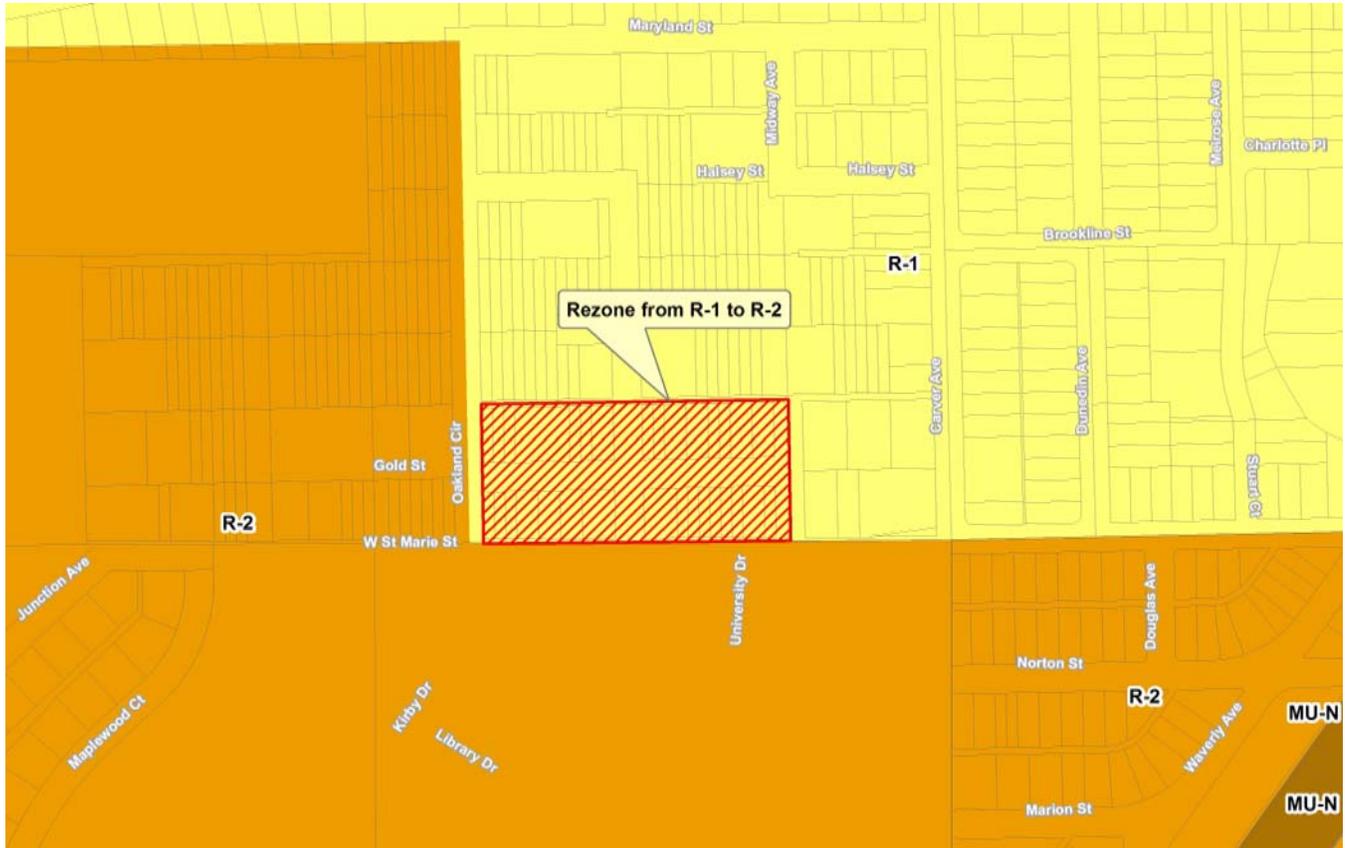


Exhibit C

(Ref. File No. 12-108)

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 12, 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 September 10, 2012  
Approved September 10, 2012  
DON NESS, Mayor

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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**ORDINANCE NO. 10176**

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.

The city of Duluth does ordain:

Section 1. That the Duluth city planning commission recommended at its August 14, 2012, regular meeting, the sale of the park described in Section 3 below by an affirmative vote by the seven commissioners present out of nine commissioners seated on the commission, meeting the 3/4 vote required by the state statute.

Section 2. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, and as described and depicted on Public Document No. 12-0910-18, by quit claim deed to James and Mary Ann Monge for \$11,898.50, the proceeds to be deposited in general fund, and to execute all documents necessary with regard to said conveyance:

That part of the Northeast Quarter of Southeast Quarter of Northwest Quarter, Section, 13, Township 50 North, Range 14 West, which lies adjacent to Lot 32A, Block 8, FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the most northerly corner of said Lot 32A; thence on an assumed bearing of south 65 degrees 39 minutes 18 seconds east along the northeasterly line of said Lot 32A a distance of 63.93 feet to the point of beginning of the property to be described; thence north 50 degrees 42 minutes 17 seconds east a distance of 36.77 feet; thence south 87 degrees 58 minutes 30 seconds east a distance of 21.47 feet; thence south 57 degrees 08 minutes 17 seconds east a distance of 24.69 feet; thence south 32 degrees 24 minutes 49 seconds east a distance of 22.71 feet; thence south 53 degrees 52 minutes 22 seconds west a distance of 28.73 feet to the northeasterly line of said Lot 32A; thence north 65 degrees 39 minutes 18 seconds west along the northeasterly line of said Lot 32A a distance of 65.44 feet to the point of beginning.

Section 4. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 12, 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 September 10, 2012  
Approved September 10, 2012  
DON NESS, Mayor

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**ORDINANCE NO. 10177**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-2 TO MU-N, AND R-1 TO MU-C, PROPERTIES IN THE MILLER HILL AREA (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 6.6 acres of the subject property located south of Page Street, and east and west of Sundby Road, and as more particularly described in Exhibit A and by the following:

The below parcels and area, along Page Street and Sundby Road, where these parcels and site abut roadways:

010-2710-04653

010-2710-04654

an area beginning at the centerline of Sundby Road to the northwest corner of Parcel 010-3257-00050, then northwest 200 feet, then south 315 feet, then southeast 270 feet, then south southeast 200 feet, then south 150 feet, then east 190 feet to centerline of Sundby Road, then north to point of beginning following centerline of Sundby Road;

be reclassified from R-1, to MU-C, 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:

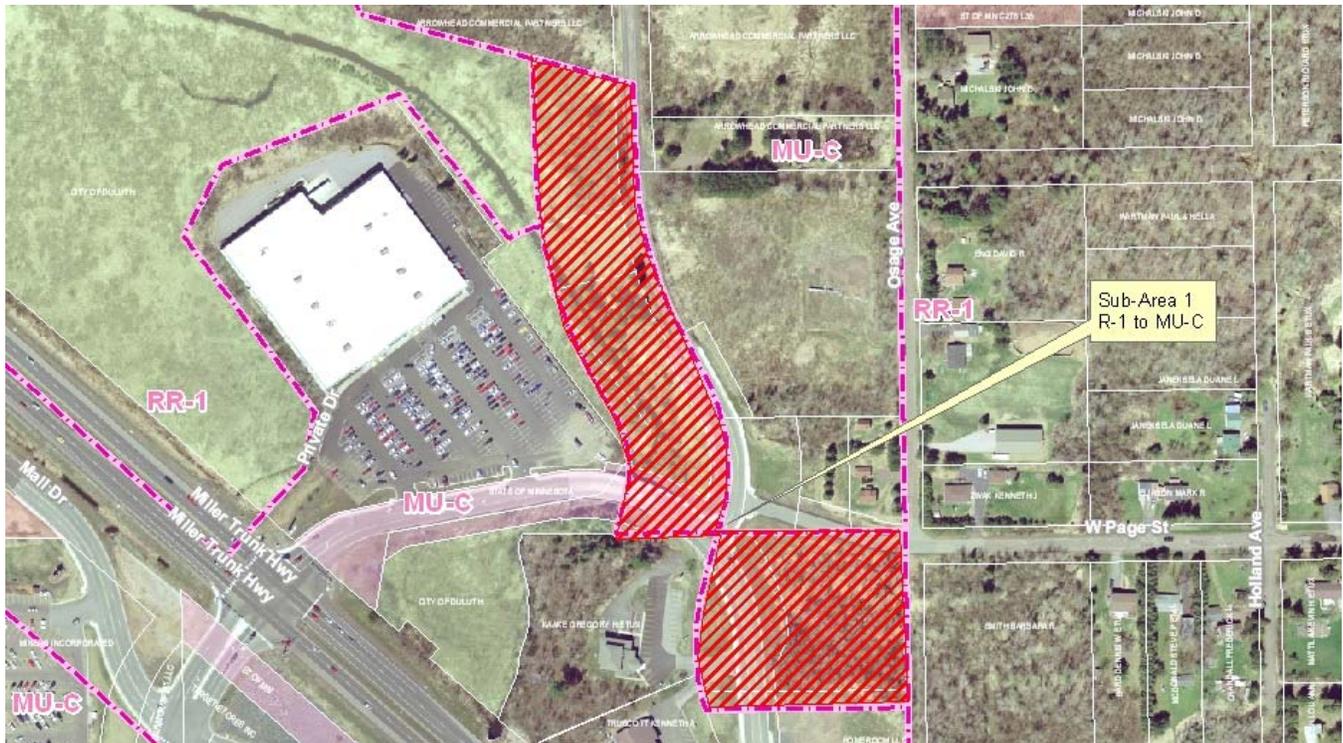


Exhibit A

(Ref. File No. 12-102)

Section 2. That the 12 acres of the subject properties located north of Maple Grove Road, east of Joshua Avenue and east of Yosemite Avenue and as more particularly described in Exhibit B and by the following:

010-2230-05680

010-2230-06690

010-2236-06250

010-2230-06310

010-2230-07230

010-2230-06240

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

010-2230-06750	010-2230-07255	010-2230-06230
010-2230-06850	010-2230-07280	010-2230-06220
010-2230-06740	010-2230-07130	010-2230-06210
010-2230-06950	010-2230-07300	010-2230-06200
010-2230-06730	010-2230-05610	010-2230-06190
010-2230-06960	010-2230-05780	010-2230-06180
010-2230-06720	010-2230-06260	010-2230-06170
010-2230-06710	010-2230-06270	010-2230-06160
010-2230-06970	010-2230-06280	010-2230-06410
010-2230-06700	010-2230-06290	

be reclassified from R-1, to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

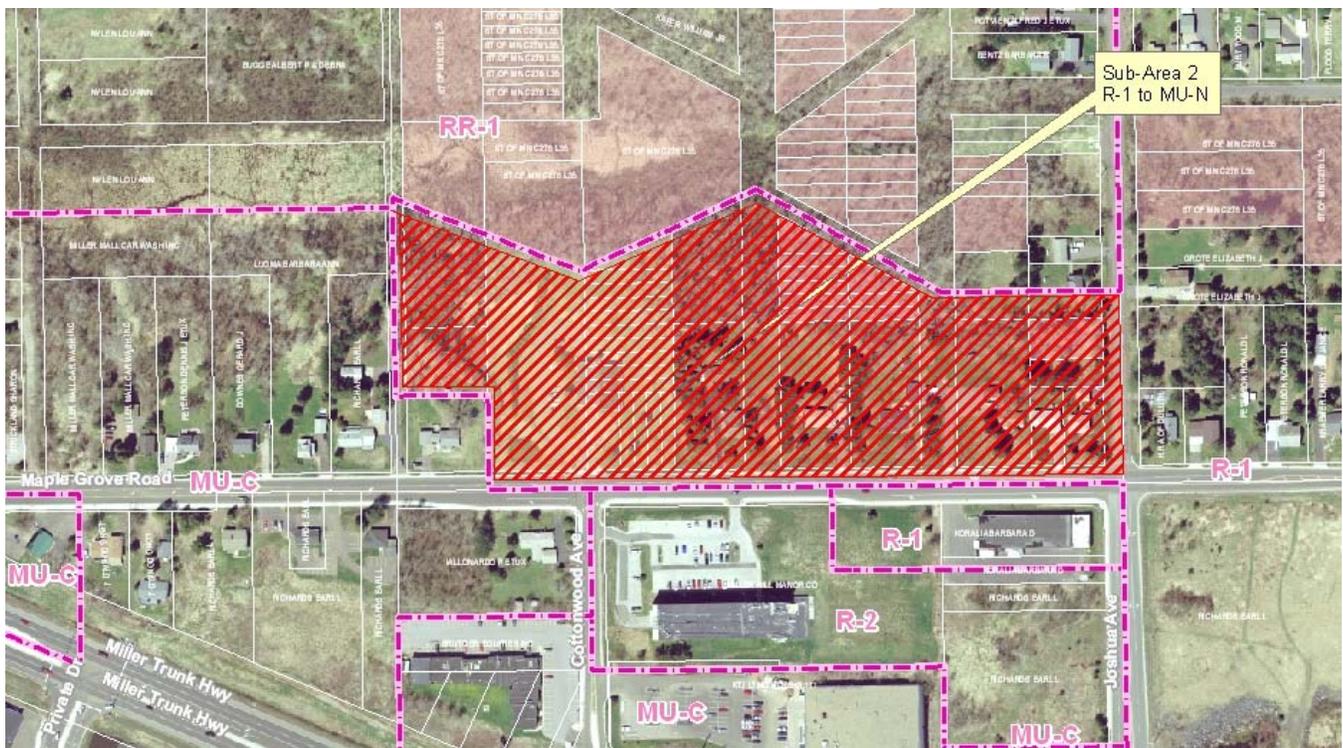


Exhibit B  
(Ref. File No. 12-102)

Section 3. That the 29 acres of the subject properties located south of Maple Grove Road, between Cotton Wood Avenue and Eklund Avenue, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

010-2040-00100	010-2710-05852
010-2040-00140	010-2710-05850
010-2040-00155	
010-2040-00150	
010-2040-00160	
010-2710-05853	

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

be reclassified from R-1 and R-2, to MU-N and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

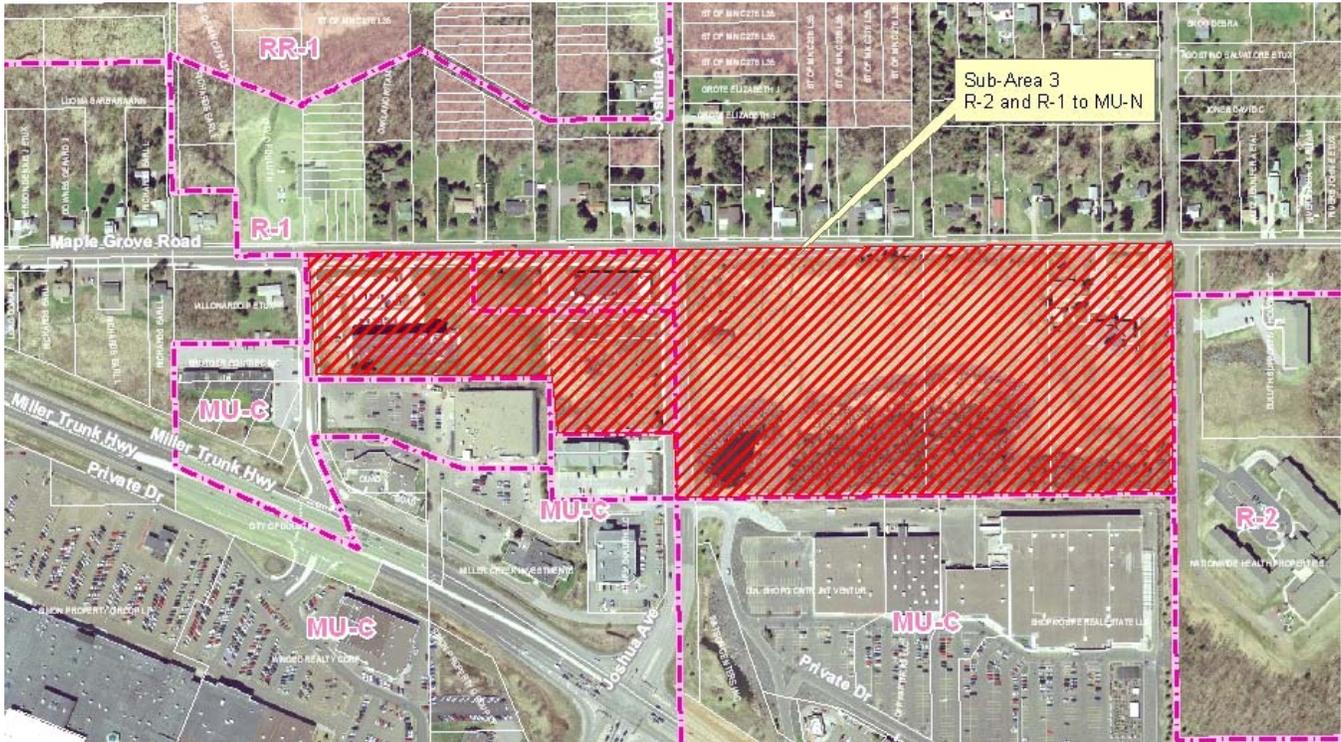


Exhibit C

(Ref. File No. 12-102)

Section 4. That the 24 acres of the subject properties located south of Mall Drive, and the east and west sides of Decker Road, and as more particularly described in Exhibit D and by the following:

The below parcels and area, extending to the centerline of Cotton Wood, Maple Grove Road, Joshua Avenue, and Eklund Avenue where these parcels abut roadways:

- 010-2710-05178; south 1/2 of parcel
- 010-2710-05172
- 010-2710-05130
- 010-2710-05124

an area beginning at the centerline of Decker Road, then east to the northeast corner of Parcel 010-2710-04760, then south 700 feet along Miller Creek, then west 450 feet to the centerline of Decker Road, then north along the centerline of Decker Road at a distance of 663 feet to the point of beginning;

be reclassified from R-1 to MU-N and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

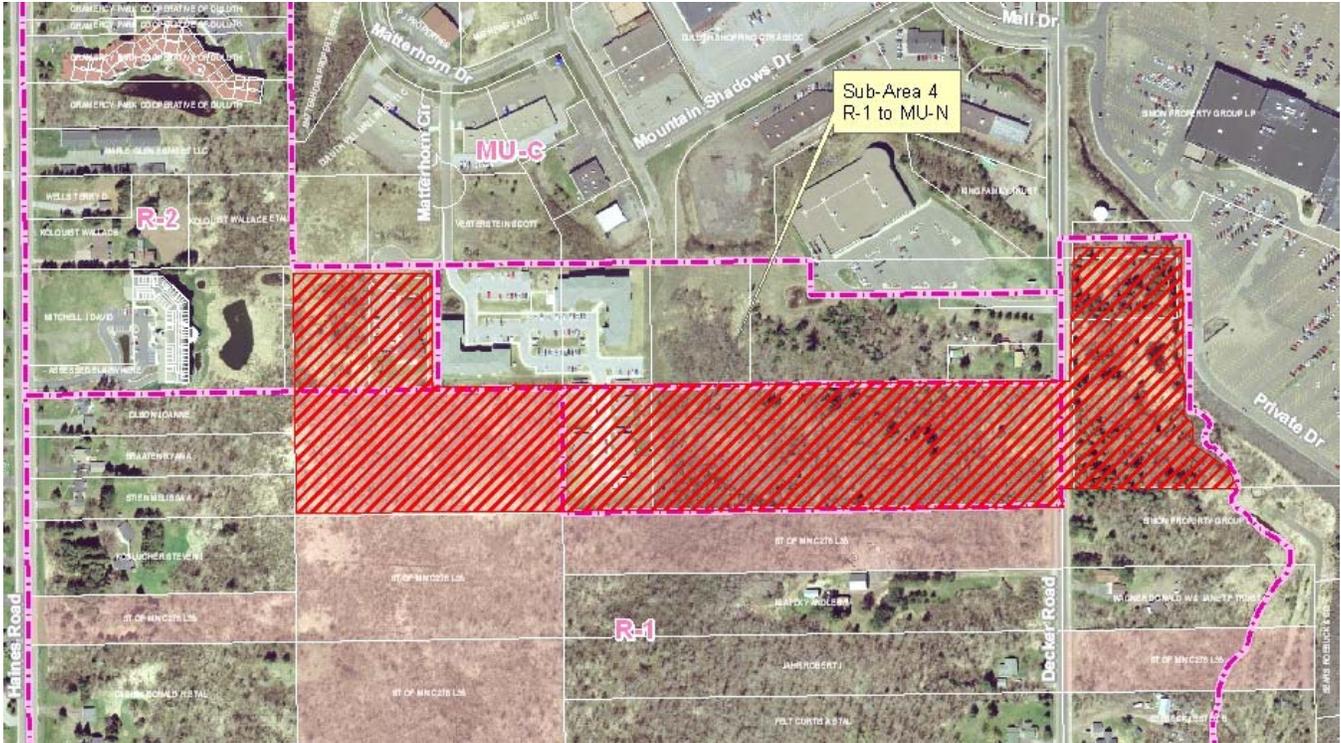


Exhibit D  
(Ref. File No. 12-102)

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 12, 2012)

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

- Yeas: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6
- Nays: Councilors Fosle, Krause and Stauber -- 3

Passed September 10, 2012  
Approved September 10, 2012  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10178**

BY PRESIDENT HARTMAN AND COUNCILOR GARDNER:  
AN ORDINANCE AMENDING SECTIONS 6-79 AND 6-79.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE KEEPING OF CHICKENS.

The city of Duluth does ordain:

Section 1. That Section 6-79 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

- Sec. 6-79. Obtaining a license to keep chickens.
  - (a) Any person who keeps chickens in the city of Duluth other than areas zoned Rural-Conservation (R-C) or Residential-Rural 1 (RR-1) under sections 50-14.2 and 50-14.3 of this Code, shall obtain an annual license prior to acquiring the chickens. Only one license shall be allowed per one-family

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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dwelling or two-family dwelling as defined in Section 50-41 of this Code. A license granted to a two-family dwelling shall require written permission from the occupants of both dwelling units. The license year commences on January 1 and ends on the following December 31. Applications shall be made to the city clerk. The city clerk shall collect the license fee;

(b) Fees to be charged for the issuance of a license to keep chickens shall be set in accordance with Section 31-6(a) of this Code;

(c) All licenses shall be conditioned upon passing a mandatory inspection by the animal control authority;

(d) The animal control authority may refuse to grant or may revoke a license if the chickens become a nuisance, as evidenced by a third admitted or judicially-determined violation of the Duluth City Code within 12 months of the first of the three admitted or judicially-determined violations;

(e) The animal control authority may refuse to grant or may revoke a license to a person convicted of cruelty to animals under a code, ordinance or statute from this state, or a code, ordinance or statute from another state;

Section 2. That Section 6-79.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-79.1. Keeping of chickens.

(a) Each person holding a license to keep chickens within the city of Duluth shall comply with the following:

(1) The principle use of the property where the chickens are to be kept is a one-family dwelling or two-family dwelling as defined in Section 50-41 of this Code;

(2) No person shall keep more than five chickens;

(3) No person shall keep a rooster;

(4) No person shall keep any chickens inside a dwelling unit;

(5) No person shall slaughter any chickens within the city of Duluth;

(6) Chickens shall be provided a secure and well ventilated roofed structure in compliance with the current zoning and building codes;

(7) The roofed structure shall be fully enclosed, wind proof, have one square foot of window to 15 square feet of floor space and have a heat source to maintain an adequate indoor temperature during extreme cold conditions;

(8) The floors and walls of the roofed structure shall be kept in a clean, sanitary and healthy condition with all dropping and body excretions collected on a daily basis and placed in a fire-proof covered container until applied as fertilizer, composted or transported off the premises;

(9) Chickens shall be kept in the roofed structure or any attached fenced yard enclosure at all times;

(10) The fence around the yard enclosure shall be securely constructed with a mesh type material and shall have protective overhead netting to keep the chickens separated from other animals;

(11) The fenced yard enclosure shall be well drained so there is no accumulation of moisture;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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(12) A floor area or combination of the floor and fenced yard area for keeping chickens shall not be less than ten square feet of floor space per chicken;

(13) No roofed structure or fenced yard enclosure shall be located closer than 25 feet to any residential dwelling on the adjacent lots.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 12, 2012)

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

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

Nays: None -- 0

Absent: Councilor Krause -- 1

Passed September 10, 2012  
Approved September 10, 2012  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 24, 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

- - -

The minutes of the council meeting held on May 29, 2012, were approved upon a unanimous vote.

- - -

## REPORTS OF BOARDS AND COMMISSIONS

12-0924-01 Duluth parking commission: (a) Minutes of: (1) July 24; (b) August 17, 2012, meetings; (b) Resolution 2012-17, retaining a two hour limit for eight parking meters at 925 and 1026 East Superior Street, pursuant to Section 33-78 of the Duluth City Code. -- Received

12-0924-02 Duluth public arts commission minutes of: (a) March 30; (b) April 16; (c) May 21; (d) June 18; (e) July 16; (f) August 20, 2012, meetings. -- Received

- - -

## 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 levied to defray the assessable portion of the low pressure sanitary sewer located in Columbia Street (#5444 - Sewer Fund 530; assessable amount - \$30,000) is hereby confirmed.

Resolution 12-0464 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied for reassessment of a canceled garbage assessment (#2007310, 2008310, 2010420 and 2011420 - Fund GARBAGE) at the following location as set forth below is hereby confirmed:

Plat 3430 Parcel 19270 (332 95th Avenue West) – total assessable garbage: \$1,406.61.

Resolution 12-0467 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

WHEREAS, the use and management agreement between the city of Duluth, Minnesota (the "city"), and Spirit Mountain recreation area authority (the "authority"), dated as of March 28, 2003, provides that the authority shall not enter into any lease purchase agreement without the written approval of the city council; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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WHEREAS, the authority proposes to enter into a lease purchase agreement for the purchase of a groomer tractor.

RESOLVED, that the city council hereby approves the authority entering into a tax-exempt lease purchase agreement with Beacon Bank in the amount of \$271,000 for the purpose of purchasing a groomer tractor.

Resolution 12-0469 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

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

Section 1. Purpose, findings and authorization.

1.01 Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, as amended by Laws of Minnesota 1991, Chapter 291, Article 8, Section 22, Laws of Minnesota 1998, Chapter 389, Article 8, Section 25, and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 11, authorized the city to impose an additional one-half of one percent tax on certain sales of food and beverages, and Laws of Minnesota 1980, Chapter 511, Section 2, as amended by Laws of Minnesota 1998, Chapter 389, Article 8, Section 26 and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 12, authorized the city to impose an additional tax of one-half of one percent on certain sales of lodging (collectively, the "additional 1/2 percent tourism taxes") to pay the debt service on (i) bonds in the principal amount of \$8,000,000 for improvements to the Duluth Entertainment Convention Center, and (ii) bonds in the amount of \$4,970,000 to finance capital improvements to the Great Lakes Aquarium (collectively, the "original bonds"). Such statutes further provided that when the city council determines that the additional 1/2 percent tourism taxes have produced sufficient revenues to pay the principal of and interest on the original bonds, or bonds refunding of the original bonds, that the additional 1/2 percent tourism taxes shall be cancelled and the tourism taxes authorized by such statutes shall be reduced to one percent.

1.02 The city issued the original bonds and have refunded the original bonds with a series of bonds, a portion of which remain outstanding, which include: (i) the city's \$1,765,000 general obligation refunding bonds, Series 2005K, dated December 19, 2005 (the "2005 bonds"), and (ii) the city's \$3,760,000 general obligation DECC improvement refunding bonds, Series 2007E, dated December 13, 2007 (the "2007 bonds," and together with the 2005 bonds, the "bonds").

1.03 The city council hereby determines that with the collection of the additional 1/2 percent tourism taxes through October 31, 2012, the city will have sufficient revenues from such taxes to defease the bonds. Therefore, the city council hereby directs that no further additional 1/2 percent tourism taxes be collected commencing on November 1, 2012, and the sales taxes imposed by the city pursuant to Laws of 1980, Chapter 511, Section 1, Subdivision 2 and Section 2, as amended, and sections 42A-2(b) and 42A-49 of the Duluth City Code on certain sales of food and beverages and lodging within the city commencing on November 1, 2012, shall be one percent.

1.04 The city council hereby determines that it is necessary, expedient and in the best interest of the city's residents that the city defease the outstanding 2005 bonds maturing on and after February 1, 2013, of which \$905,000 in principal amount is outstanding (the "2005 refunded bonds"), and to defease the outstanding 2007 bonds maturing on and after February 1, 2013, of which \$1,370,000 in principal amount is outstanding (the "2007 refunded bonds"). The 2005 refunded bonds maturing on and after February 1, 2015, are subject to prepayment

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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and redemption on February 1, 2014. (February 1, 2014, is herein referred to as the "redemption date.") The 2007 bonds are not subject to prepayment and redemption but has a final maturity payable on February 1, 2014.

### Section 2. Escrow agreement; escrow agent.

2.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the state of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "escrow agent") with respect to the bonds.

2.02 The mayor and the clerk are hereby authorized and directed to execute on behalf of the city an escrow agreement (the "escrow agreement") with the escrow agent in substantially the form now on file with the clerk as Public Document No. 12-0924-03. The execution and delivery of the escrow agreement by the mayor and the clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the escrow agreement, including payment by the city of reasonable charges for the services of the escrow agent, are hereby approved and adopted and made a part of this resolution, and the city covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the escrow agent.

### Section 3. Escrow account.

(a) To the escrow account under the escrow agreement, there is hereby pledged and irrevocably appropriated and there shall be credited: (a) receipts from the additional 1/2 percent tourism taxes or other funds of the city in an estimated amount of \$2,445,000 (the "funds"); and (b) investment earnings on such monies referenced in clause (a), for the payment of (i) principal and interest due on the 2005 refunded bonds through February 1, 2014; (ii) the principal on the 2005 refunded bonds called for prepayment and redemption on the redemption date; (iii) the principal of and interest due on the 2007 bonds through February 1, 2014; and (iv) for the payment of the costs for defeasance of the bonds;

(b) (i) The escrow account shall be maintained with the escrow agent pursuant to the escrow agreement and this resolution. The escrow account shall be invested in accordance with Minnesota Statutes, Section 475 (the "act"), the escrow agreement and this section, in securities specified in Section 475.67, Subdivision 8(a) of the act, which investments will provide sufficient funds together with any cash or other funds retained in the escrow account for the payment of principal and interest due on the 2005 refunded bonds through February 1, 2014, and the principal of the 2005 refunded bonds called for redemption and prepayment on the redemption date, and for the payment of principal and interest on the 2007 refunded bonds due through February 1, 2014;

(ii) From the escrow account there shall be paid: (a) principal and interest due on the 2005 refunded bonds through February 1, 2014; (b) principal of the 2005 refunded bonds called for redemption and prepayment on the redemption date; and (c) principal and interest on the 2007 refunded bonds due through February 1, 2014;

(iii) The escrow account for the 2005 refunded bonds and the 2007 refunded bonds as set forth above is irrevocably appropriated to the payment of the principal of and interest due on the 2005 refunded bonds and the 2007 refunded bonds as set forth in clause (ii) above. The monies in the escrow account for the bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the escrow account may be remitted to the city all in accordance with the escrow agreement;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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(iv) Securities purchased for the escrow account shall be purchased simultaneously with the delivery of the funds to the escrow agent. The mayor and clerk or their designee are authorized and directed to purchase such securities.

Section 4. Findings; redemption of refunded bonds.

4.01 It is hereby found and determined that the funds available and appropriated to the escrow account for the 2005 refunded bonds and the 2007 refunded bonds as set forth in Section 3 will be sufficient (i) to pay the principal and interest due on the 2005 refunded bonds through February 1, 2014, and to prepay and redeem the 2005 refunded bonds maturing on and after February 1, 2015, by reason of redemption on the redemption date; and (ii) to pay the principal and interest due on the 2007 refunded bonds through February 1, 2014, the final maturity date of the 2007 bonds.

4.02 The 2005 refunded bonds maturing on and after February 1, 2015, shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption attached to the escrow agreement, which terms and conditions are hereby approved and incorporated herein by reference. The escrow agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the 2005 refunded bonds in accordance with their terms and the escrow agreement.

4.03 The proper city officials are authorized and directed to cause to be provided a material event notice regarding the defeasance of the 2005 refunded bonds and the 2007 bonds in accordance with the continuing disclosure certificates of the city dated December 19, 2005, and delivered in connection with the 2005 bonds, and dated December 13, 2007, and delivered in connection with the 2007 bonds.

Resolution 12-0470 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the city of Duluth Supervisory Association, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-04, covering the years 2012 through 2014.

Resolution 12-0487 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the Confidential Unit of the city of Duluth, represented by Chicago and Midwest Regional Joint Board, affiliated with Workers United/SEIU, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-05, covering the years 2012 through 2014.

Resolution 12-0488 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

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**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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

(a) On July 10, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of TRM, Inc., d/b/a Sammy's Pizza & Restaurant, 403 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-0924-06;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on September 24, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-0924-06 regarding any suspension, revocation and/or civil penalty relating to the on sale wine and 3.2 percent malt liquor licenses of TRM, Inc., d/b/a Sammy's Pizza & Restaurant, 403 North Central Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstances adopted in the finding of facts, the city council imposes a \$300 civil penalty payable within 30 days of final council action.

Resolution 12-0461 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

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

(a) On July 10, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of JNC Liquors, Inc., d/b/a Wild West Liquor, 318 North Central Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-0924-07;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on September 24, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-0924-07 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of JNC Liquors, Inc., d/b/a Wild West Liquor, 318 North Central Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstances adopted in the finding of facts, the city council imposes a \$300 civil penalty payable within 30 days of final council action.

Resolution 12-0462 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

WHEREAS, the purchasing division issued Purchase Order 12-0478 in the amount of \$20,000 to Duluth Ready Mix on July 25, 2012, for Class 5 and related supplies for flood-related projects.

NOW, THEREFORE, BE RESOLVED, that the proper city officials are authorized to increase the purchase order issued to Duluth Ready Mix, Inc., by \$126,122.97 (\$118,009.80 plus \$8,113.17 sales tax) for the purchase and delivery of additional Class 5 gravel to be used by public works and street maintenance crews in flood projects, for a new flood-related contract amount of \$146,122.97, payable as follows:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012**

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(a) \$20,000 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5224 (gravel and other maintenance materials), Project Flood-990;

(b) \$126,122.97 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5224 (gravel and other maintenance materials), Project Flood-482.

Resolution 12-0465 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council previously approved Resolution 12-0251 on May 29, 2012, authorizing an annual contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fines for street improvement projects in year 2012; thereafter, the purchasing division issued Purchase Order 12-0309 in the amount of \$521,500 to Northland Constructors; and

WHEREAS, the city street maintenance division requires additional hot mix fines in the amount of \$176,050.91 to cover expenses for flood-related projects from the June storm disaster.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to increase the original purchase order issued to Northland Constructors of Duluth, LLC, by \$176,050.91 (\$164,726 plus \$11,324.91 sales tax) for a new annual contract total of \$697,550.91, payable as follows:

(a) \$521,500.00 - General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop);

(b) \$176,050.91 - Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-990.

Resolution 12-0466 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Landscape Structures, Inc., for the purchase and delivery of playground equipment in accordance with Minnesota State Contract 25294, Release P949(5), specifications and pricing for Portland Square Park (Design 2006 Toddler Town) for \$13,140 plus sales tax and Lester Park (Design 3324 Playbooster) for \$95,007.10 plus sales tax, for a combined total of \$115,582.22 (\$108,147.10 plus \$7,435.12 sales tax) payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5520, Project CM205-Playgr.

Resolution 12-0473 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale wine license for the period ending August 31, 2013, subject to departmental approvals and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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Minnesota Wine Exchange, LLC (Minnesota Wine Exchange), 3 West Superior Street, premises main floor and loft, with Debra Fellman, owner.

Resolution 12-0486 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the city council hereby requests that the planning commission review mixed use zone districts as set forth in Chapter 50 of the Duluth City Code, 1959, as amended, particularly the district classification of mixed use - neighborhood (MU-N), and evaluate whether the district definitions and permitted uses are overly broad and whether there is a need for additional districts to be created.

Resolution 12-0492 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a brownfield revolving loan fund (RLF) grant from the U.S. environmental protection agency (EPA), Region 5, in the amount of \$650,000, payable into Fund 231 (brownfield revolving loan fund), and to execute Assistance Agreement No. BF-00E01083 substantially in the form of that on file in the office of the city clerk as Public Document No. 12-0924-08, in connection therewith.

Resolution 12-0468 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacations described 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 easements are useless for all purposes; and

(c) The city planning commission, at its Tuesday, September 11, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the easements described below and as described and depicted on Public Document No. 12-0924-09:

All that part of the dedicated ten foot wide utility easement lying within Lot 2, LONDON ADDITION TO DULUTH & EAST DULUTH REARRANGEMENT, filed in Plat Book No. 16, Page 30, St. Louis County, Minnesota, that lies northeasterly of the southwesterly 10.00 feet of said Lot 2;

and

All of the dedicated ten foot wide electrical utility easement lying within Lot 3, LONDON ADDITION TO DULUTH & EAST DULUTH REARRANGEMENT, filed in Plat Book No. 16, Page 30, St. Louis County, Minnesota;

(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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-0924-09 showing the utility easement to be vacated.

Resolution 12-0471 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that plans for projects No. 069-691-020, 069-691-025 and 069-691-028 showing promised alignment, profiles, grades and cross sections, and box culvert for the construction, reconstruction or improvement of CSAH No. 91 (40th Avenue West and Haines Road) from 190 feet north of Ninth Street to Morris Thomas Road within the corporate limits of the city of Duluth have been prepared and presented to the city.

FURTHER RESOLVED, that the plans and specifications prepared by St. Louis County are hereby approved.

Resolution 12-0156 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for the repair and reconstruction of Vermilion Road in the amount of \$107,150.02, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1117.

Resolution 12-0477 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that by Resolution of Intent Number 12-0387 the council did request the administration to prepare plans and specifications for the construction of approximately 165 feet of sanitary sewer in Lakeside Court easement beginning at Lake Superior and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said improvement as estimated by the city engineer is \$37,827.04, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), City Project No. 1150; and of these costs, \$37,827.04 will be assessed to benefitting properties.

FURTHER RESOLVED, that the assessment shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the municipal bond fund index rate plus 1.5 percent.

FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement be hereby ordered.

Resolution 12-0478 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Billman Construction, Inc., for Gogebic Street and Lanigan Boulevard ditch and culvert improvements in the amount of \$59,990, payable from Disaster Recovery Fund 252,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1142.

Resolution 12-0479 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for flood damage repair and reconstruction on Seventh Avenue East in the amount of \$82,102.71, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1166.

Resolution 12-0480 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the repair and reconstruction of West Tenth Street at Coffee Creek in the amount of \$78,910.38, payable from Disaster Recovery Fund 252, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1136.

Resolution 12-0481 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

RESOLVED, that Contract C-21627 with Hanco Utilities, Inc., for construction of high pressure gas mains and services at various city locations be amended for additional service installations, due to a large increase in requests for natural gas service, in the amount of \$570,000 for a new total of \$1,196,621, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1075.

Resolution 12-0482 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

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### THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Lowell to Lakewalk Trail in 2014;

(b) The estimated cost for design and construction of the Lowell to Lakewalk Trail is \$2,800,000. The Minnesota department of natural resources (DNR) has grant monies available through its parks and trails legacy grant program that are intended to accelerate the acquisition and development of recreational trails;

(c) To receive this money the city must submit the regional trail legacy grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Lowell to Lakewalk Trail as described in the application.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grand amount to be \$2,800,000 and is available on a 100 percent/0 percent local matching basis, and has matching funds available.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, Minnesota 55802

Resolution 12-0484 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

- - -

### THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Bayfront to Cross-City Trail in 2014;

(b) The estimated cost for design and construction of the Bayfront to Cross-City Trail is \$1,000,000. The Minnesota department of natural resources (DNR) has grant monies available through its parks and trails legacy grant program that are intended to accelerate the acquisition and development of recreational trails;

(c) To receive this money the city must submit the regional trail legacy grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Bayfront to Cross-City Trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grand amount to be \$1,000,000 and is available on a 100 percent/0 percent local matching basis, and has matching funds available.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, Minnesota 55802

Resolution 12-0485 was unanimously adopted.  
Approved September 24, 2012  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$203,776 such funds to be used to reimburse the Duluth police department and other Lake Superior traffic enforcement team participants for overtime salary/fringe benefits reimbursement for traffic enforcement of speed, distracted and impaired driving and passenger safety, St. Louis County 9-1-1 dispatch support, and grant management and administration, and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-10, funds to be deposited in Fund No. 215-200-2206-4210-02 (Duluth police grant programs, police, 2013 TZD grant, pass thru federal grants operating).

Resolution 12-0472 was unanimously adopted.  
Approved September 24, 2012  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-0924-11, with the city of Superior, Wisconsin, to facilitate cooperation and assistance between the police departments in emergency situations and for the purpose of generating and executing search warrants relating to the enforcement of drug control laws.

Resolution 12-0474 was unanimously adopted.  
Approved September 24, 2012  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with M&T Fire Safety, Inc., as recommended by the Duluth fire department in its memorandum to the purchasing division, dated September 12, 2012, and on file with the city clerk as Public Document No. 12-0924-12, for the tax exempt purchase and delivery of 16 Drager UCF9000 thermal imaging cameras to be funded 80 percent by a FEMA (federal emergency management agency) grant and 20 percent by a city match as authorized by passage of Resolution 12-0029 accepting such grant and in accordance with city-approved specifications and the vendor's bid as of \$162,400 (\$10,150 per unit), terms net 60, FOB destination, payable as follows:

- (a) \$126,720 - Special Projects Fund 210, Department/Agency 030 (finance), Division 3174 (FEMA grant SCBA), Object 5580 (capital equipment); and
- (b) \$35,680 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-E1213.

Resolution 12-0476 was unanimously adopted.  
Approved September 24, 2012  
DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

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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 space is established: in front of 1512 East Fourth Street.

Resolution 12-0483 was unanimously adopted.

Approved September 24, 2012

DON NESS, Mayor

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### **INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER

12-059 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM I-W TO MU-W THE PROPERTIES LOCATED AT 1119, 1123 AND 1127 MINNESOTA AVENUE (RAY ROBBINS).

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The meeting was adjourned at 7:10 p.m.

JEFFREY J. COX, City Clerk