

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 1, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on January 28, 2013, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0401-01 Summit Management, LLC, petition for signal and intersection improvements at the intersection of Woodland Avenue and Summit Street. -- Assessor

13-0401-17 Joel Sipress communication regarding the proposed ordinances relating to civil service (13-008-O and 13-013-O). -- Received

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REPORTS FROM OTHER OFFICERS

13-0401-08 Planning and construction services department director communication regarding the one-for-one replacement of housing units for the Hillside Apartment project. -- Received

13-0401-02 Purchasing agent emergency order for the purchase of additional road salt. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

13-0401-03 Commission on disabilities minutes of February 6, 2013, meeting. -- Received

13-0401-04 Duluth public arts commission minutes of February 18, 2013, meeting. -- Received

13-0401-05 Duluth transit authority: (a) Minutes of January 30, 2013, meeting; (b) Income statement for January 2013. -- Received

13-0401-06 Entertainment and convention center authority minutes of December 18, 2012, meeting. -- Received

13-0401-07 Spirit Mountain recreation area authority board minutes of: (a) December 20, 2012; (b) January 17, 2013, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeff Briner, Radisson Hotel general manager, commented that relative to Resolution 13-0153 on this agenda, the hotel has upgraded their alcohol service training.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

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

(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of TB Duluth, LLC (Radisson Hotel), 505 West Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-09;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-09 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of TB Duluth, LLC (Radisson Hotel), 505 West Superior Street, 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 circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0153 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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

(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the 3.2 percent malt liquor license of Miner's, Inc. (Super One Foods #457), 15 South 13th Avenue East, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-10;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-10 regarding any suspension, revocation and/or civil penalty relating to the 3.2 percent malt liquor license of Miner's, Inc. (Super One Foods #457), 15 South 13th Avenue East, 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 circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0154 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments and reappointments by Mayor Ness of members to city boards and

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commissions as listed on Public Document No. 13-0401-11, for terms expiring on March 31 of various years, are confirmed.

Resolution 13-0122 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement in year 2013 with St. Louis County for four quarters of shield maintenance software associated with NEMESIS (Northeastern Minnesota Enforcement Safety Information System) in the amount of \$72,200, terms net 30, payable from General Fund 110, Department/Agency 160 (police), Division 1610 (administration and investigation), Object 5404 (equipment/machinery repair and miscellaneous).

Resolution 13-0111 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education and the fire service advisory committee in the amount of up to \$10,000, said funds to be deposited in Fund 210, Agency, 030, Organization 3183, Revenue Source 4220-02 (special projects, finance, MBFTE, Haz-Mat, state of Minnesota grant), for the purpose of supporting the Duluth fire department chemical assessment team training.

Resolution 13-0155 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Animal Allies Humane Society, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0401-12, for the operation of an adoption program within the city of Duluth.

Resolution 13-0157 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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RESOLVED, that Contract 21716 with St. James Home of Duluth, Inc., d/b/a Woodland Hills, for the rental of Washington Recreation Center is hereby amended to reflect the annual rental fee of \$7,200 for years 2013 and 2014. The rental fee will continue to be payable into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings) on a monthly basis.

Resolution 13-0156 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

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The following resolutions were also considered:

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

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(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Northland Country Club, 3901 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-13 regarding any suspension, revocation and/or civil penalty relating to the on sale club liquor license of Northland Country Club, 3901 East Superior Street, 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 circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0152 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved April 1, 2013

DON NESS, Mayor

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Resolution 13-0159, by councilors Stauber and Krause, amending Duluth legislative bonding priorities establishing engineering and renovation of Frank Wade Stadium as the top priority for 2013, was introduced for discussion.

Councilor Stauber commented at length, expressing concerns of: the safety of the wall that fell; that the problems with the wall have been talked about previously; all the other areas at the stadium are also stressed; that matching dollars had previously been identified; it was previously contemplated that a DEED grant would cover the repairs and with the wall falling there could be more legislative support.

Chief Administrative Officer David Montgomery responded at length that: everyone agrees that Wade Stadium needs to be repaired; the only issue is what is the best process to get the job done effectively; the engineering and design work needs to be done first and that will take a fair amount of time; even if the total funding was available to today, the actual construction work would be done in 2014; where the matching funds will come from needs to be resolved, with the options of bonding, tourism tax or using the reserves.

Councilors Krause and Fosle supported the resolution for reasons of: there are countless organizations that use this facility for their fund raising; this has been on the repair list for years; public perception of this being unsafe will hurt activities there; as long as it sits, there will be more damage; this should be a priority and the community investment trust fund could also be used to fund it.

Councilors Gardner, Larson and President Boyle opposed the resolution for reasons of: with everyone supporting Wade being repaired, this should not be an issue between councilors and this, Spirit Mountain and the Norshor Theater are also on the list, with no priority after the No. 1 issue of flood relief.

Resolution 13-0159 failed upon the following vote (Public Document No. 13-0401-14):

Yeas: Councilors Fosle, Krause and Stauber -- 3

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

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Resolution 13-0158, of intent to improve a portion of Tenth Avenue East and to assess a portion of the costs thereof, was introduced by Councilor Julsrud for discussion.

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

Scott Tomkins, Marissa Saurer, Lee Witte and Roger Hendrickson opposed the resolution for reasons of: there will be the loss of the existing private off street parking; residents just found out about this change; the residents are paying 25 percent of the project; the widening should be below Fifth Street; with the hospital expansion, employees take up the on street parking; instead of this project, this area should become a resident permit parking zone; this needs further review; it should just be widened on one side; other residents who oppose this could not be at the council meeting tonight; these are small lots with small front yards that would be reduced even further; this will devalue properties and there has been poor resident contact on this project.

Mr. Montgomery and councilors reviewed at length the process of meetings on this issue, the merits of the project and the other option of having one lane of street parking.

Councilor Fosle felt that this should be defeated so that the administration would review it and come back to the council at a later date.

Councilor Gardner moved that the resolution be tabled for further review, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Fosle -- 1

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

BY COUNCILORS GARDNER, HARTMAN AND STAUBER

13-008 (10213) - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE

Councilor Gardner moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

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

Tom Maida, president of the Duluth Police Union, expressed the union's support for Ordinance 13-008, because hiring a police lieutenant from an outside agency is highly unusual for the police profession and reviewed the reasons.

Mr. Montgomery reviewed in detail what has happened since the civil service ordinance originally passed and noted the administration's concerns and their support for Ordinance 13-013, which contains the aspects that all parties agree to.

Councilor Krug felt that all changes to the Civil Service Code are too premature because she does not have the accurate data as to what needs to be changed since the last change.

Councilor Krause felt that: many of the changes proposed in the ordinance are addressed already in federal and state laws and do not address the best services for all Duluth residents and management skills are learned, not achieved by time of service.

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Councilor Stauber stated that after review by the city attorney's office, he does not have a conflict of interest on this ordinance because of a family member working for the Duluth police department.

Other councilors commented at length as to their different viewpoints for supporting the ordinance.

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

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

Nays: Councilors Krause and Krug -- 2

BY COUNCILOR KRAUSE

13-013 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Krause moved remove the ordinance from the table, which motion was seconded and unanimously carried

Councilor Krause moved passage of the ordinance and the same failed upon the following vote (Public Document No. 13-0401-15):

Yeas: Councilor Krause -- 1

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

The following entitled ordinance was read for the first time:

BY COUNCILOR GARDNER

13-025 - AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XIX, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE DULUTH PUBLIC ARTS COMMISSION.

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-019 (10214) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-1 TO R-C, MU-N TO R-N, AND R-1 TO RR-2, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD AREA.

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

INTRODUCED BY COUNCILOR STAUBER

13-020 (10215) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

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

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INTRODUCED BY COUNCILOR STAUBER

13-021 (10216) - AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

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

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INTRODUCED BY COUNCILOR STAUBER

13-022 (10217) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

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

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INTRODUCED BY COUNCILOR STAUBER

13-023 (10218) - AN ORDINANCE AMENDING ORDINANCE NO. 10198 EXTENDING THE CLOSING DATE AND CORRECTING THE LEGAL DESCRIPTION RELATING TO THE SALE OF THE ENDION STATION.

Councilor Larson stated that she would be abstaining on this ordinance and the following one, because her husband has a professional involvement with the party to both ordinances.

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

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

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INTRODUCED BY COUNCILOR STAUBER

13-024 (10219) - AN ORDINANCE AMENDING ORDINANCE NO. 10201 AUTHORIZING THE DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

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

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

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The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10213

BY COUNCILORS GARDNER, HARTMAN AND STAUBER:

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

The city of Duluth does ordain:

Section 1. That Section 13-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-1. Purpose.

The civil service board is established pursuant to Chapter V of the Duluth City Charter. This Chapter 13 shall constitute the rules and regulations of the board and are established pursuant to Section 36, Chapter V, of the Duluth City Charter. Minnesota law and agreements reached under the Minnesota Public Employment Labor Relations Act (PELRA), 2012 Minnesota Statutes Chapter 179A, to which the city is a party shall supersede these rules and regulations as required by Minnesota law. The provisions and employee protections of PELRA, 2012 Minnesota Statutes Chapter 179A, whether subsequently amended or rescinded, are hereby incorporated into Chapter 13 to the extent allowed by Minnesota law. The purpose of this Chapter 13 is to ensure a fair, efficient and effective system of city human resource administration that meets the needs of the city and provides an equal opportunity for all qualified individuals to obtain employment within the civil service of the city.

Section 2. That Section 13-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-2. Definitions.

The definitions provided in the Minnesota Public Employment Labor Relations Act (PELRA), 2012 Minnesota Statutes Chapter 179A, whether subsequently amended or rescinded, are hereby incorporated into this Chapter to the fullest extent allowed by Minnesota law. The following additional definitions apply to this Chapter:

(a) Appointing authority. The chief administrative officer, department head or acting department head, or staff officer appointed pursuant to charter or statute;

(b) Board. The civil service board established pursuant to Chapter V of the Charter;

(c) Charter. The City Charter for the city of Duluth;

(d) Chief administrative officer. The chief administrative officer for the city or such officer's designee;

(e) Class or class of positions. A group of positions established under this Chapter sufficiently similar in respect to the duties, responsibilities qualifications, and authority that the same descriptive title may be used to designate each position allocated to the class;

(f) Class description. A description of the major duties of each class, examples of tasks performed, and the minimum qualifications required, and other essential functions of the class;

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(g) Classification plan. The classes of positions within the classified service;

(h) Classified employee. Any employee, except an employee provisionally appointed, who, in accordance with the provisions of this Chapter, occupies any position in the classified service, or who is on leave of absence from such position if such position is held vacant pending the employee's return;

(i) Classified service. Any position in the service of the city except the following:

(1) Any position excluded from the definition of public employee under applicable state law; or

(2) Any other position which is exempted from the classified service by the Charter;

(j) Eligible. Any person whose name is on a reappointment, re-employment, internal-employment or open-employment list for a given class and who continues to meet the minimum qualifications for the position;

(k) Eligible list. A list of the names of persons who have been found qualified for employment in positions in the classified service, including the names of persons on the reappointment, re-employment, promotional, internal-employment and open-employment lists;

(l) Employment test. A test or group of tests used to determine the relative fitness of applicants for positions allocated to a class;

(m) Internal-employment list. A list of names of persons currently employed in the classified service who have qualified through employment tests administered by the secretary for employment in other positions allocated to a different class;

(n) Layoff series. A list of class titles that has been created to allow a qualified employee to bump into a lower classification, and whose order has been negotiated as provided in a collective bargaining agreement to which the city is a party;

(o) Open-employment list. A list of names of persons who have qualified through employment tests administered by the secretary for employment in positions allocated to a class within the classification plan;

(p) Organization unit. Any department, office or division of the city government commonly recognized as a unit for purposes of administration;

(q) Position. A full or part-time job held by one person, unless the job is filled by a job sharing arrangement;

(r) Promotional list. A list containing the names of persons currently employed in the classified service in the police or fire departments in a lower class of position, as determined by pay range, who have qualified through employment tests administered by the secretary for promotion to a higher class of position in the same department;

(s) Public Employment Labor Relations Act (PELRA). 2012 Minnesota Statutes Chapter 179A. PELRA regulates labor relations between the city, its employees and the labor organizations that represent city employees;

(t) Reappointment list. A list containing the names of city employees within the classified service who have been demoted for non-disciplinary reasons;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(u) Re-employment list. A list of the names of persons who have occupied permanent positions allocated to any class, who have been separated from the service as a result of layoff or approved leave of absence, and who, in accordance with this Chapter, are entitled to have their names certified to the appointing authority when vacancies in the class are to be filled;

(v) Secretary. The manager of human resources for the city or the manager's designee.

Section 3. That Section 13-3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 13-3. Duties of the board.

(a) The board shall oversee compliance with this Chapter. The board may investigate any allegation of a violation of this Chapter. If the board rules there has been a violation, it can recommend a remedy to the appointing authority. If the appointing authority does not apply the remedy recommended by the board, the board may then recommend that same remedy to the city council;

(b) In addition to the authority and responsibility conferred upon the board by Chapter V of the Charter and by the provisions of this Chapter, the board shall act in accordance with the authority and responsibility conferred upon it by any provision of any collective bargaining agreement to which the city is a party;

(c) The board shall serve as a veteran's hearing board as provided by Minnesota law;

(d) All new civil service board members shall participate in training regarding the role of the board, employment laws and other pertinent human resources topics necessary to carry out their duties;

(e) All civil service board members shall participate in annual training regarding applicable employment laws and pertinent human resources topics.

Section 4. That Section 13-8 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-8. Reclassification of positions.

(a) If, after the evaluation of a position, it is the opinion of the secretary that there has been a significant change in the duties of such position, the secretary may assign such position to either a different current classification or to a new classification created by the secretary, both subject to the approval of the chief administrative officer. New job classifications created as a result of this process shall also comply with Section 13-7. The board may modify new job classifications created by the secretary, subject to the chief administrative officer's approval. New job classifications, including any approved amendments, shall be submitted to city council for approval, but not until the employee's appeal period pursuant to this Chapter has expired;

(b) Upon reclassification of the position, the chief administrative officer shall, after receipt of the secretary's and appointing authority's recommendation, determine whether the reclassified position will be filled through an employment test or by the appointment of the incumbent of the former position to the reclassified position. The secretary shall notify the affected employee in writing at least ten calendar days prior to implementation of the chief administrative officer's determination;

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(c) The secretary shall inform the board of the status of all new, pending and completed job audits at each board meeting.

Section 5. That Section 13-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-10. Determination of type of eligible list to be created.

(a) When employment tests are to be held to establish an eligible list, the secretary, in consultation with the appointing authority, shall determine whether to administer a promotional only, internal only, internal and open, or open only test process; however, promotional only test processes shall be administered for higher level classifications in the police and fire departments only;

(b) Only persons currently employed in the classified service who have completed a probationary period for a position within the service, may apply to participate in an internal test process;

(c) All persons at least 18 years old, and who may be legally employed in the United States, may apply to participate in an open test process.

Section 6. That Section 13-16 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-16. Creation of eligible list.

(a) Following the completion of test scoring, the secretary shall prepare an eligible list showing the names of the test participants, the raw score of each participant in each test or group of tests and the participant's total weighted score;

(b) The names of the participants shall be arranged on the eligible list in the order of total weighted scores with the highest first; provided, that if two or more participants have the same weighted score, those names shall be placed on the eligible list in the same rank; the list shall be presented to the board for non-public review at the next meeting of the board;

(c) In no case shall the name of any applicant be included on an eligible list if the applicant fails to obtain a passing score on any test or group of tests, as stated in the notice of the test.

Section 7. That Section 13-21 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-21. Cancellation of eligible lists.

The secretary shall provide written notice to all persons whose name appeared on the cancelled list. The secretary may cancel any eligible list under the following circumstances:

(a) Illegality, fraud or mistake has affected the creation or maintenance of a list;

(b) The secretary determines that an insufficient number of names remain on the list. The secretary may not cancel an entry level eligible list in the police officer and firefighter organization units if that list has seven or more names. The secretary must obtain board approval prior to canceling promotional lists in the police officer, police lieutenant and firefighter organization units unless there are less than three names on the list.

Section 8. That Section 13-29 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 13-29. Appeals to the board.

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(a) Right to appeal. Any applicant participating in a selection process for a position within the classified service and any current classified employee whose civil service status is directly affected by an action taken by the secretary pursuant to this Chapter may appeal to the board as provided in this Section;

(b) Manner and time for appeal. An appeal is perfected by filing a notice of appeal within ten calendar days after the secretary's written notification of the action. The notice of appeal shall be in writing, shall contain a complete statement of the matter in controversy and the relief requested, and shall be signed and dated by the appellant. The notice shall be addressed to the board and filed with the office of the secretary. Filing may be accomplished by electronic submission, personal delivery or United States mail addressed to the secretary; however, filing shall not be timely unless the notice of appeal is received in the office of the secretary within the time fixed for appeal;

(c) Reporting notice of appeal to the board. The secretary shall forward appeal notices to all board members within seven calendar days of receiving them;

(d) Secretary's authority to reject appeals. The secretary shall reject any appeal received after the time limit provided by this Section;

(e) Board scope of authority. Unless otherwise provided by this Chapter, state or federal law, or required by a collective bargaining agreement, the board's jurisdiction shall be to hear and render a decision on:

(1) Appeals challenging the fairness or scoring of a test, including the number of veteran's preference points allotted to an applicant;

(2) Appeals from applicants that have been rejected under Section 13-13 of this Code;

(3) Appeals of the secretary's action related to placement on a reappointment or re-employment list;

(4) Appeals from applicants on an eligible list canceled by the secretary pursuant to Section 13-21(a);

(5) Appeals of the secretary's action under this Chapter that directly impacts the civil service status of a current classified employee;

(6) Appeals from the secretary's decision not to perform a job audit requested by a classified employee;

(7) Appeals from the secretary's decision not to change an employee's job classification following a job audit of that employee's position;

(8) In rendering its decision the board shall not modify or waive any of the qualifications, skills, abilities or experience requirements provided for in the classification description; this restriction of modification and waiver will not prevent the board from hearing appeals of the secretary's interpretation of qualifications, skills, abilities or experience requirements as stated in the job description and job announcement;

(f) Limitation of board authority. Unless otherwise required by the provisions of a collective bargaining agreement to which the city is a party, the board shall have no authority to hear the appeal of a dispute that is subject to the grievance article of a collective bargaining agreement;

(g) Suspension of employment process pending appeal. The filing of a timely appeal shall stay all proceedings in furtherance of the applicable employment action;

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(h) Notification of board decision. After due deliberation, the board shall render its decision on the record. Within ten calendar days of the board's decision the secretary shall provide written notice of the decision to the appellant and appointing authority. The notice of decision shall be delivered by any reasonable means. The secretary shall provide a copy of the record of decision upon request and as required by Minnesota law. The appellant shall be deemed to have actual notice of the decision on the date the decision was rendered if the appellant or the appellant's representative was present during the meeting at which the board took the action;

(i) Finality of board decision. All decisions of the board are final. Any party aggrieved by a decision of the board may appeal as authorized by Minnesota law;

(j) Implementation of board decision. The secretary shall implement the decision of the board, and in so doing shall determine and implement steps necessary to ensure that legal compliance is maintained.

Section 9. That a new Section 13-30 of the Duluth City Code, 1959, as amended, is hereby added as follows:

Sec. 13-30. Temporary positions.

During any calendar year, no person shall be employed in a temporary position as defined by the Minnesota Public Employment Labor Relations Act (PELRA) for more than 67 days worked; no person shall be employed in more than one temporary position during a calendar year for a total period that exceeds 67 days worked without board approval.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

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

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

Nays: Councilors Krause and Krug -- 2

Passed April 1, 2013

Approved April 1, 2013, pursuant to Section 12 of the Duluth City Charter.

- - -

ORDINANCE NO. 10214

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

The city of Duluth does ordain:

Section 1. That the 12 acres of the subject properties located on a portion of Campus Park, east of Rice Lake Road, and as more particularly described in Exhibit A and by the following parcel identification numbers:

010-2710-03947 010-1980-05540
010-2710-03946 010-1980-04420

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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:

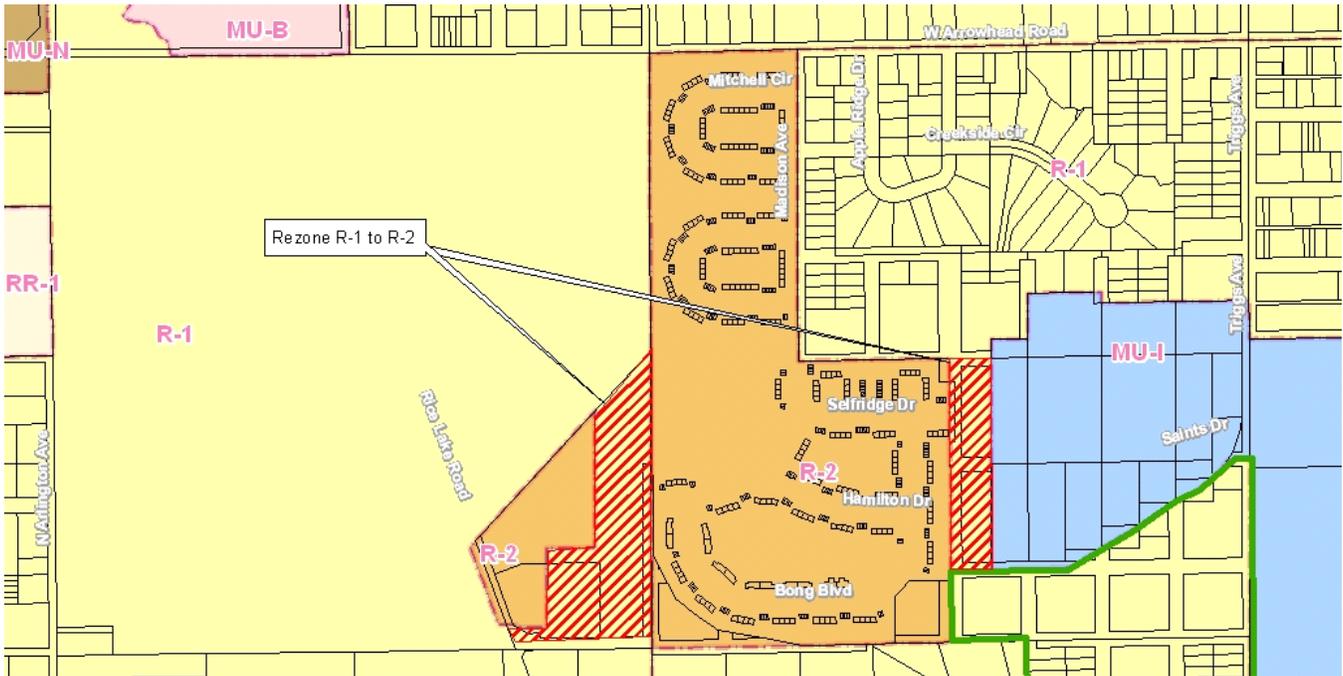


Exhibit A
(Ref. File No. 12-172)

Section 2. That the 77 acres of the subject property located east of Rice Lake Road and west and south of the St. Scholastica campus, and as more particularly described in Exhibit B and by the following parcel identification numbers:

- | | | |
|----------------|----------------|----------------|
| 010-1980-05090 | 010-4330-04970 | 010-4330-02010 |
| 010-1980-05290 | 010-4330-04940 | 010-4330-02020 |
| 010-1980-05270 | 010-4330-04950 | 010-4330-01990 |
| 010-1980-05320 | 010-4330-04920 | 010-4330-02000 |
| 010-1980-05070 | 010-4330-04930 | 010-4330-01970 |
| 010-1980-05200 | 010-4330-04900 | 010-4330-01980 |
| 010-1980-06740 | 010-4330-04910 | 010-4330-01950 |
| 010-1980-06840 | 010-4330-04880 | 010-4330-01960 |
| 010-1980-06940 | 010-4330-04890 | 010-4330-01930 |
| 010-1980-07040 | 010-4330-04860 | 010-4330-01940 |
| 010-4330-00010 | 010-4330-04870 | 010-4330-02090 |
| 010-4330-00020 | 010-4330-00060 | 010-4330-02250 |
| 010-4330-00030 | 010-4330-00070 | 010-4330-02410 |
| 010-4330-00040 | 010-4330-00080 | 010-2290-00210 |
| 010-4330-00050 | 010-4330-00090 | 010-2290-00220 |
| 010-4330-04340 | 010-4330-00100 | 010-2290-00230 |
| 010-4330-04620 | 010-4330-00110 | 010-2290-00240 |
| 010-4330-04630 | 010-4330-00210 | 010-2290-00250 |
| 010-4330-04600 | 010-4330-00220 | 010-0010-00200 |
| 010-4330-04610 | 010-4330-00230 | 010-0010-00180 |
| 010-4330-04580 | 010-4330-00240 | 010-2290-00080 |

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-4330-04590	010-4330-00250	010-2290-00070
010-4330-04560	010-4330-00260	010-2290-00050
010-4330-04570	010-4330-00270	010-2290-00060
010-4330-04540	010-4330-00280	010-2290-00040
010-4330-04550	010-4330-00300	010-2290-00030
010-4330-04520	010-4330-00290	010-2290-00010
010-4330-04530	010-4330-01610	010-2290-00020
010-4330-04500	010-4330-01770	010-2290-00140
010-4330-04510	010-4330-02070	010-2290-00100
010-4330-04640	010-4330-02080	010-2290-00110
010-4330-04660	010-4330-02050	010-2290-00120
010-4330-04840	010-4330-02060	010-2710-03780
010-4330-04980	010-4330-02030	
010-4330-04960	010-4330-02040	

be reclassified from R-1, to R-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:

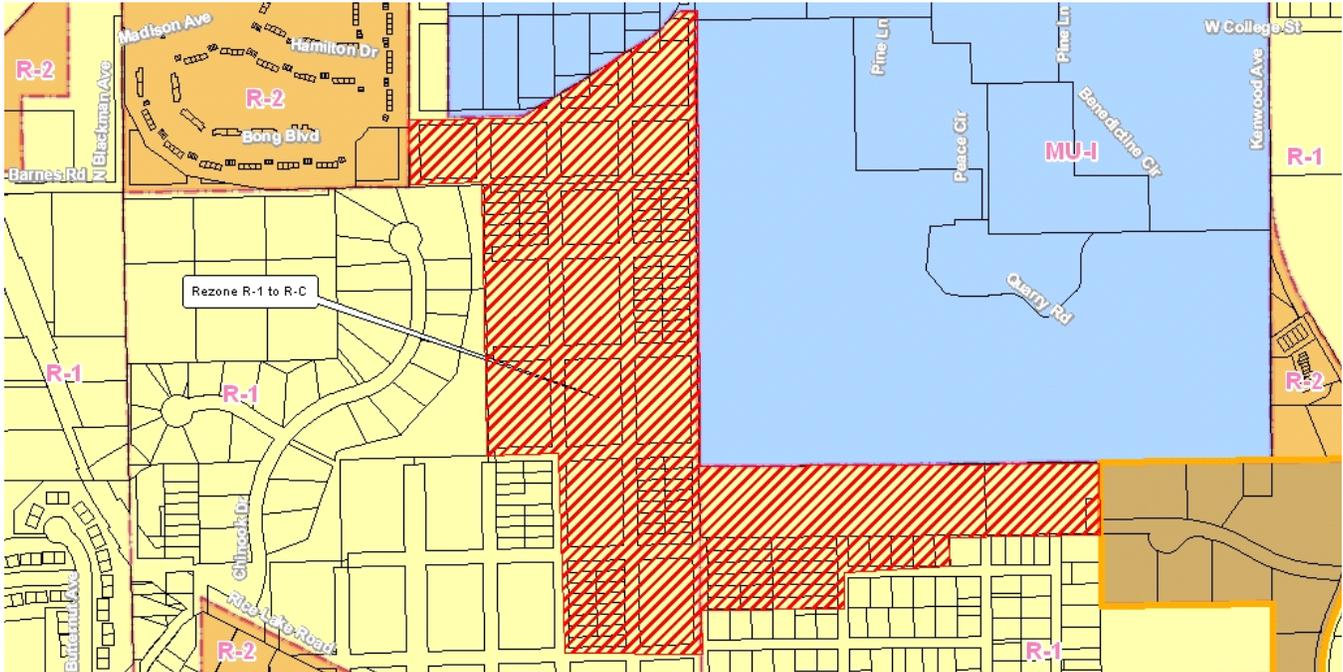


Exhibit B
(Ref. File No. 12-172)

Section 3. That the 23 acres of the subject property located west of Kenwood Avenue and south of the St. Scholastica campus, and as more particularly described in Exhibit C and by the following parcel identification numbers:

010-0010-00010	010-4426-00010
010-4426-00070	010-4426-00050
010-4426-00080	010-4426-00040
010-4426-00090	010-2710-03841
010-4426-00060	010-2710-03843

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

be reclassified from MU-N, 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:

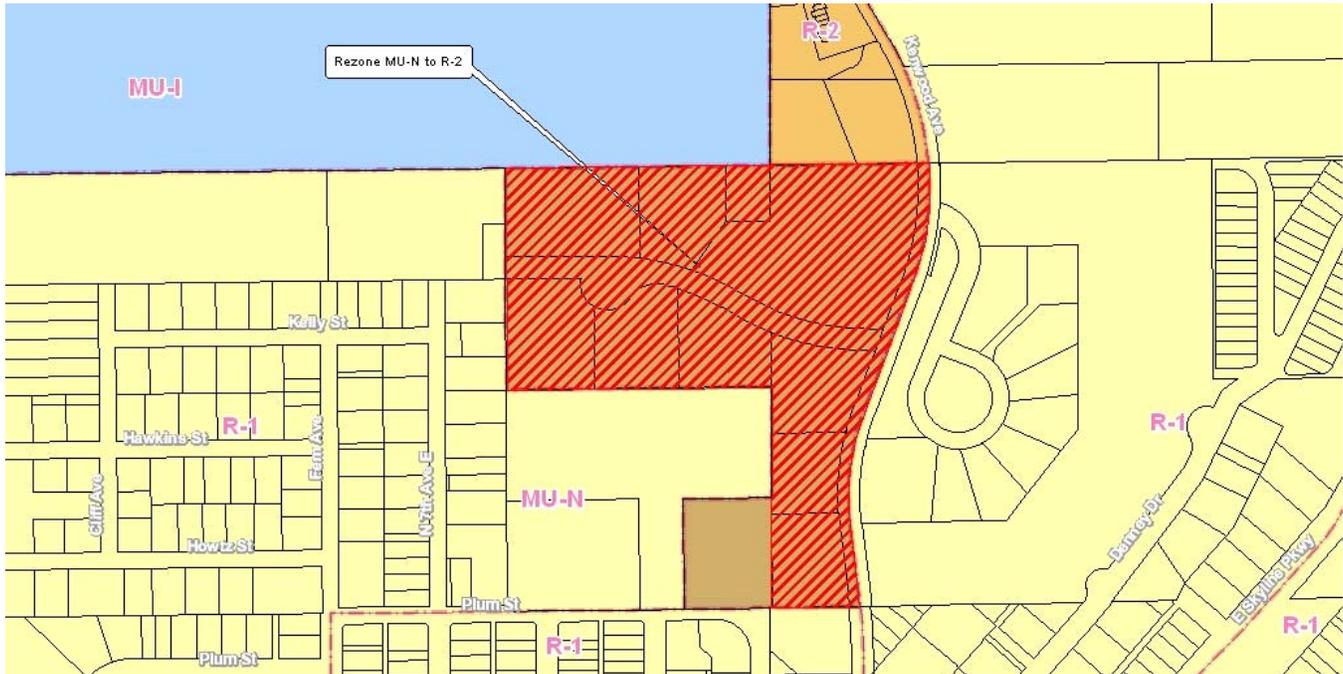


Exhibit C
(Ref. File No. 12-172)

Section 4. That the 27 acres of the subject property located east of Rice Lake Road and north of Pecan Avenue, and as more particularly described in Exhibit D and by the following parcel identification numbers:

010-4330-06820	010-0540-02100	010-0540-01830
010-4330-06980	010-0540-02080	010-0540-01840
010-4330-07140	010-0540-02060	010-0540-02410
010-2290-00510	010-0540-02030	010-0540-02390
010-2290-00520	010-0540-02040	010-0540-02370
010-2290-00530	010-0540-02010	010-0540-02350
010-2290-00600	010-0540-02020	010-0540-02330
010-2290-00610	010-0540-01990	010-0540-02310
010-2290-00620	010-0540-02000	010-0540-02290
010-2290-00630	010-0540-01970	010-0540-02270
010-2290-00640	010-0540-01980	010-0540-02250
010-2290-00650	010-0540-01950	010-0540-02230
010-2290-00660	010-0540-01960	010-0540-02210
010-2290-00150	010-0540-01930	010-0540-02190
010-2290-00160	010-0540-01940	010-0540-02170
010-2290-00170	010-0540-01910	010-0540-02150
010-2290-00180	010-0540-01890	010-0540-02130
010-0540-01520	010-0540-01870	
010-0540-02120	010-0540-01850	

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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

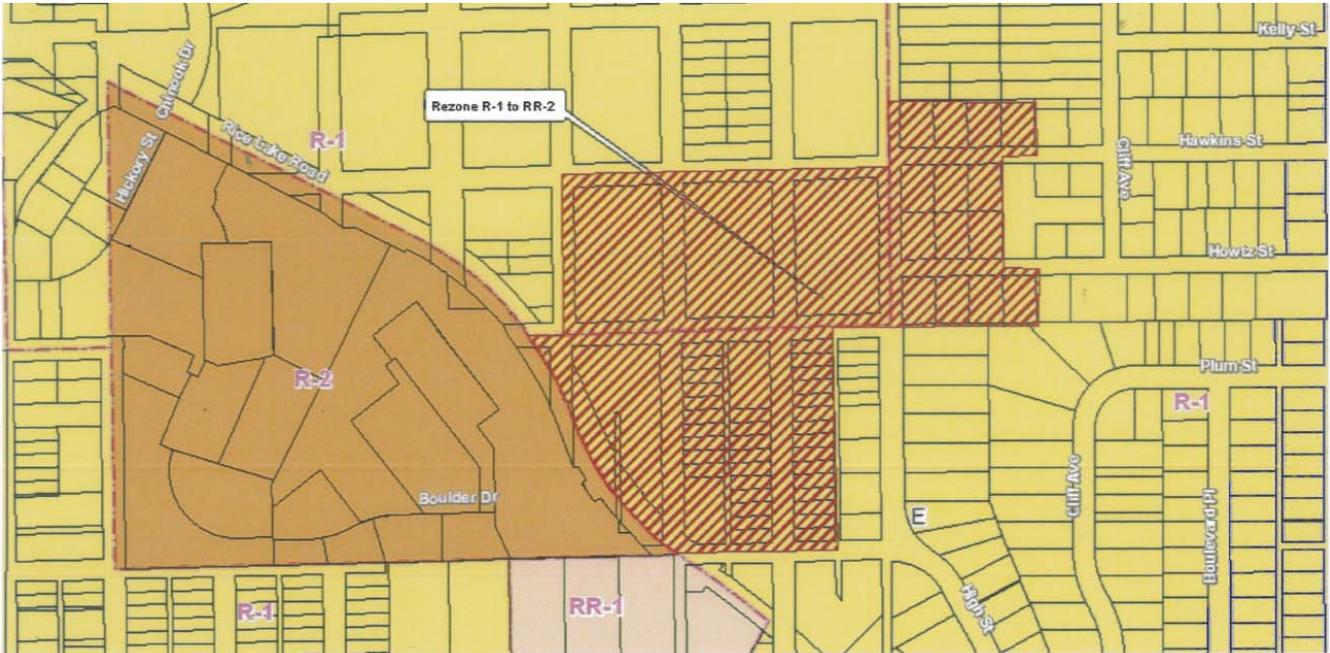


Exhibit D
(Ref. File No. 12-172)

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 4, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

ORDINANCE NO. 10215

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

The city of Duluth does ordain:

Section 1. That the 17 acres of the subject property located along East Ninth Street from North Sixth Avenue East to west of North 11th Avenue East, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of East Ninth Street, where these parcels abut roadways:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-0780-00090	010-2790-00560	010-3850-07220
010-0780-00070	010-2790-00570	010-3850-07190
010-0780-00050	010-3490-03290	010-3850-07160
010-0780-00110	010-3490-03310	010-3850-07130
010-0780-00120	010-3490-03350	010-3850-07230
010-0780-00130	010-3490-03330	010-3850-07240
010-0780-00140	010-3490-03360	010-3850-07260
010-0780-00150	010-3490-03370	010-3850-07270
010-0780-00160	010-3490-03383	010-3850-07290
010-0780-00180	010-3490-03385	010-3850-07300
010-0780-00190	010-3490-03390	010-3490-02340
010-0780-00200	010-2790-00160	010-3490-02320
010-0780-00100	010-2790-00140	010-3490-02300
010-2790-00490	010-2790-00120	010-3490-02250
010-2790-00480	010-2790-00100	010-3490-02240
010-2790-00510	010-2790-00080	010-3490-02200
010-2790-00460	010-2790-00070	010-3490-02220
010-2790-00455	010-2790-00060	010-3490-02190
010-2790-00450	010-2790-00050	010-3490-02640
010-2790-00440	010-2790-00040	010-3490-02630
010-2790-00430	010-2790-00030	010-3490-02570
010-2790-00420	010-3850-07510	010-3490-02610
010-2790-00410	010-3850-07520	010-3490-02590
010-2790-00400	010-3850-07540	010-3490-03000
010-2790-00390	010-3850-07610	010-3490-02980
010-2790-00370	010-3850-07600	010-3490-02960
010-2790-00350	010-3850-07590	010-1350-07610
010-2790-00330	010-3850-07580	010-3490-03010
010-2790-00520	010-3850-07570	010-3490-03030
010-2790-00720	010-3850-07710	010-3490-03050
010-2790-00740	010-3850-07680	010-3490-03060
010-2790-00750	010-3850-07650	010-3490-03070
010-2790-00760	010-3850-07740	010-3490-03080
010-2790-00770	010-3850-07780	010-3490-03090
010-2790-00780	010-3850-07820	010-3490-03120
010-2790-00790	010-3850-07840	010-3490-03110
010-2790-00810	010-3850-07850	010-3490-03140
010-2790-00820	010-3850-07890	010-3490-03020
010-2790-00830	010-3850-07910	010-1350-07640
010-2790-00580	010-3850-07920	

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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

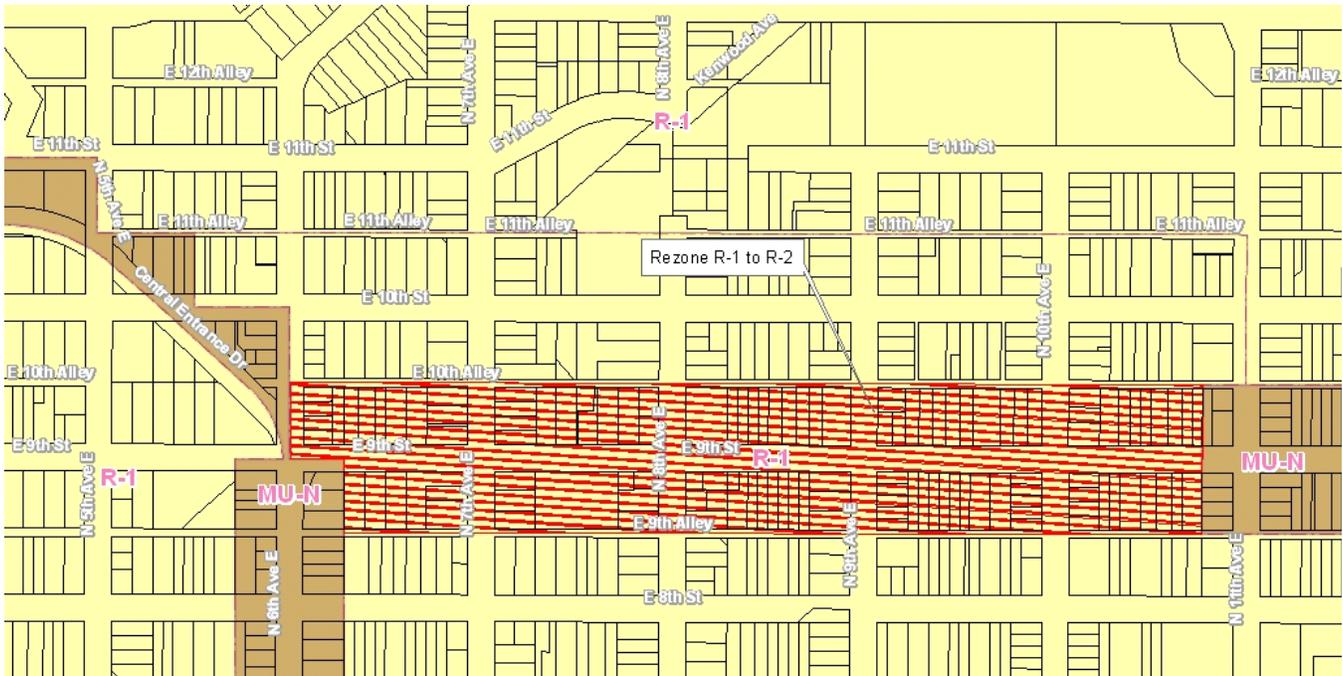


Exhibit A
(Ref. File No. 12-173)

Section 2. That the 28 acres of the subject property located Along East Fifth Street and East Sixth Street from east of North Sixth Avenue East to North 11th Avenue East, and as more particularly described in Exhibit B and by the following:

The below parcels, extending to the centerline of East Fifth Street, East Sixth Street and North 11th Avenue East, where these parcels abut roadways:

010-3850-01540	010-3850-01400	010-3830-18090
010-3850-01560	010-3850-01410	010-3830-18120
010-3850-01570	010-3850-01420	010-3830-18160
010-3850-01580	010-3850-01440	010-3830-18200
010-3850-01590	010-3850-01450	010-3830-18170
010-3850-01600	010-3850-01460	010-3830-18210
010-3850-01620	010-3850-01470	010-3830-18190
010-3850-01630	010-3850-01480	010-3830-18206
010-3850-01640	010-3850-01490	010-3830-18220
010-3850-01660	010-3850-01500	010-3850-00920
010-3850-01695	010-3850-01510	010-3850-00910
010-3850-01670	010-3830-18440	010-2710-06380
010-3850-01680	010-3830-18470	010-3850-00900
010-3850-01690	010-3830-18480	010-2710-06390
010-3850-00270	010-3830-18490	010-3850-00930
010-3850-00290	010-3830-18500	010-3850-00940
010-3850-00310	010-3830-18510	010-3850-00950
010-3850-00320	010-3830-18520	010-3850-00960
010-3850-00330	010-3830-18530	010-3850-00970
010-3850-00340	010-3830-18540	010-3850-01000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-3850-00350	010-3830-18550	010-3850-01010
010-3850-00360	010-3830-18560	010-3850-01020
010-3850-00370	010-3830-18570	010-3850-01030
010-3850-00380	010-3830-18580	010-0160-00380
010-3850-00390	010-3830-18640	010-0160-00400
010-3850-00410	010-3830-18610	010-0160-00425
010-3850-00430	010-3850-00570	010-0160-00410
010-3850-00440	010-3850-00540	010-3490-00110
010-3850-00450	010-3850-00510	010-0160-00440
010-3830-18670	010-3850-00480	010-0160-00430
010-3830-18680	010-3850-00580	010-0160-00450
010-3830-18660	010-3850-00590	010-0160-00460
010-3830-18690	010-3850-00610	010-0160-00470
010-3830-18700	010-3850-00630	010-3850-01060
010-3830-18710	010-3850-00660	010-3850-01070
010-3830-18720	010-3850-00670	010-3850-01090
010-3830-18730	010-3850-00730	010-3850-01100
010-3830-18740	010-3850-00690	010-3850-01110
010-3830-18750	010-3850-00700	010-3850-01120
010-3830-18760	010-3830-18280	010-0160-00390
010-3830-18790	010-3830-18250	010-0160-00540
010-3830-18810	010-3830-18230	010-3850-01050
010-3830-18820	010-3830-18300	010-1010-00960
010-3830-18860	010-3830-18320	010-1010-00970
010-3830-18840	010-3830-18330	010-1010-00980
010-3830-18870	010-3830-18340	010-3830-18010
010-3850-01150	010-3830-18350	010-3830-18020
010-3850-01160	010-3830-18360	010-3830-18030
010-3850-01130	010-3830-18370	010-3830-18050
010-3850-01170	010-3830-18390	010-1030-01950
010-3850-01180	010-3830-18435	010-3490-00050
010-3850-01200	010-3830-18410	010-3490-00040
010-3850-01190	010-3830-18420	010-0160-00575
010-3850-01210	010-3830-18430	010-0160-00550
010-3850-01240	010-3850-00740	010-0160-00560
010-3850-01250	010-3850-00760	010-0160-00555
010-3850-01260	010-3850-00770	010-3490-00305
010-3850-01270	010-3850-00790	010-3490-00280
010-3850-01282	010-3850-00800	010-3490-00300
010-3850-01290	010-3850-00810	010-3490-00310
010-3850-01360	010-3850-00820	010-3490-00320
010-3850-01300	010-3850-00840	010-3490-00330
010-3850-01340	010-3850-00850	010-3490-00340
010-3850-01320	010-3850-00860	010-3490-00350
010-3850-01370	010-3850-00870	010-3490-00360
010-3850-01380	010-3850-00880	010-0160-00590
	010-3830-18070	010-3850-01280

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

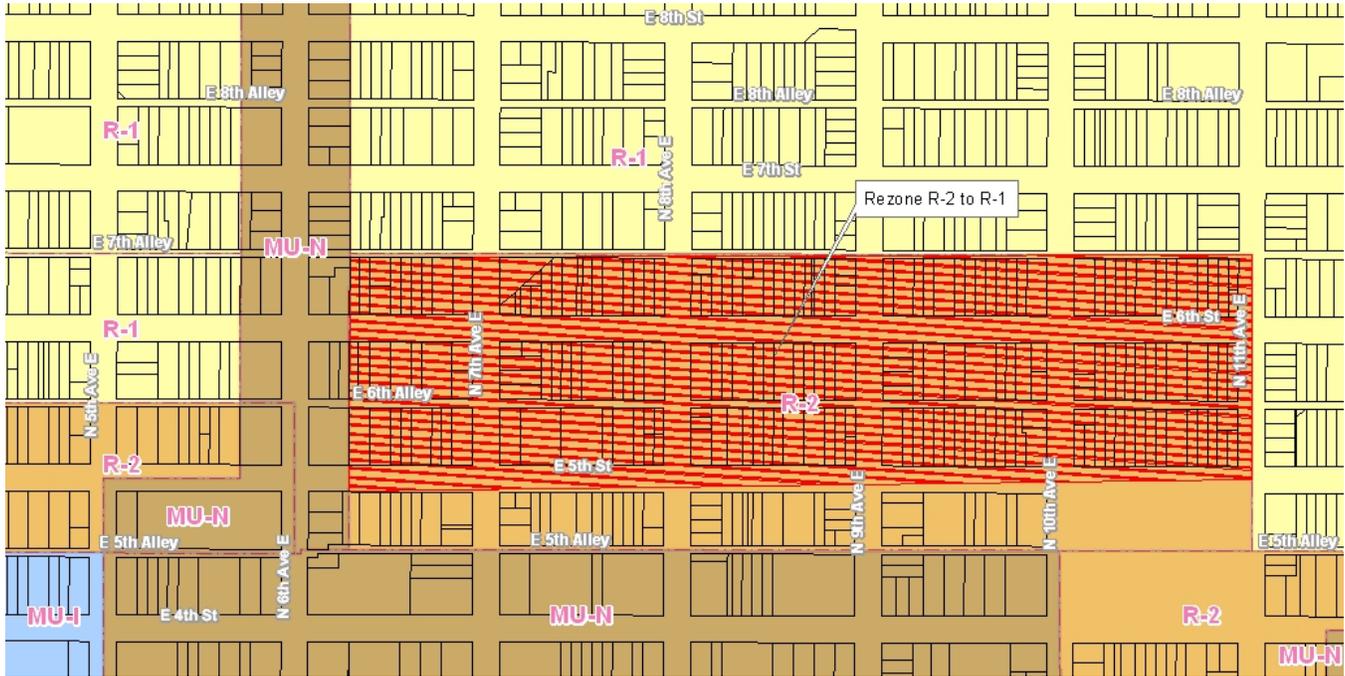


Exhibit B
(Ref. File No. 12-173)

Section 3. That the 2.35 acres of the subject property located north of East Third Street between Sixth and Seventh Avenues East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of North Sixth Avenue East and East Third Street, where these parcels abut roadways:

010-3830-10710	010-3830-10600
010-3830-10540	010-3830-10620
010-3830-10560	010-3830-10640
010-3830-10595	010-3830-10650
010-3830-10570	010-3830-10670
010-3830-10580	010-3830-10690
010-3830-10590	

be reclassified from 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit C
(Ref. File No. 12-173)

Section 4. That the 9.8 acres of the subject property located between East First Street and East Second Street, from west of North Seventh Avenue East to North Ninth Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Second Street and East First Street, North Seventh Avenue East, North Eighth Avenue East, and North Ninth Avenue East, where these parcels abut roadways:

010-3830-03920	010-3830-05580	010-3860-00210
010-3830-03965	010-3830-05600	010-3830-05780
010-3830-03955	010-3830-05620	010-3830-05800
010-3830-03980	010-3830-05640	010-3830-05810
010-3830-04000	010-3830-05650	010-3830-05820
010-3830-04010	010-3830-05695	010-3830-05980
010-3830-04020	010-3830-05675	010-3830-05930
010-3830-04070	010-3830-05730	010-3830-05860
010-3830-05550	010-3830-05770	010-3830-06010
010-3830-05530	010-3860-00040	010-3830-03870
010-3830-05520	010-3860-00020	010-3830-03880
010-3830-05510	010-3860-00090	010-3830-06205
010-3830-05490	010-3860-00130	010-3830-06200
010-3830-05420	010-3860-00160	010-3830-06230
010-3830-05450	010-3860-00180	010-3830-06240
010-3830-05480	010-3860-00220	

be reclassified from MU-N, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit D

(Ref. File No. 12-173)

Section 5. That the 1.4 acres of the subject property located northeast of the intersection of East First Street and North 12th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street and North 12th Avenue East, where these parcels abut roadways:

010-0190-01350

010-0190-01325

010-0190-01340

010-0190-01320

010-0190-01300

be reclassified from 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

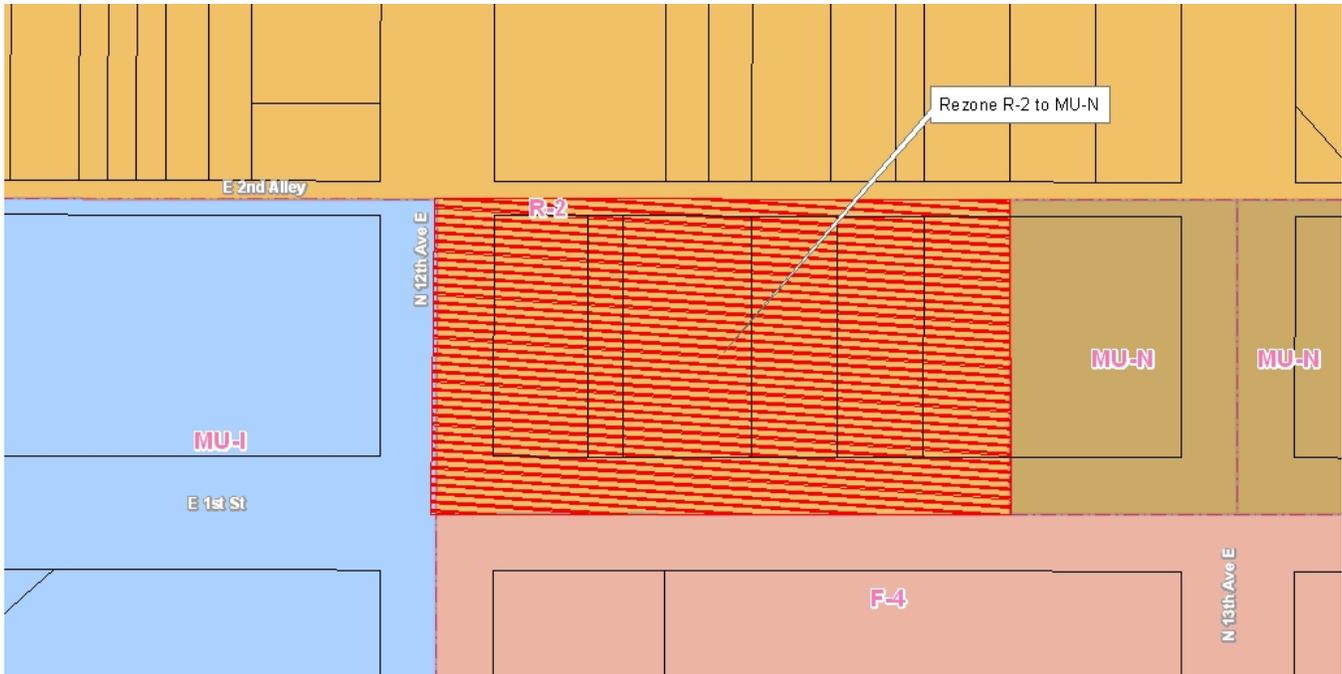


Exhibit E
(Ref. File No. 12-173)

Section 6. That the 18 acres of the subject property located along East Fourth Street from North 14th Avenue East to North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Fourth Street North 14th Avenue East, North 15th Avenue East, North 16th Avenue East, North 17th Avenue East, North 18th Avenue East and North 19th Avenue East, where these parcels abut roadways:

010-1480-04310	010-1480-06940	010-1480-07860
010-1480-04320	010-1480-06950	010-1480-07850
010-1480-04330	010-1480-06960	010-1480-07840
010-1480-04340	010-1480-06970	010-1480-07830
010-1480-04350	010-1480-06990	010-1480-07800
010-1480-04280	010-1480-06980	010-1480-07790
010-1480-04250	010-1480-07010	010-1480-07880
010-1480-04260	010-1480-07000	010-1480-07870
010-1480-04300	010-1480-07020	010-1480-07873
010-1480-04720	010-1480-06880	010-1480-07875
010-1480-04740	010-1480-06930	010-1480-08080
010-1480-04750	010-1480-06935	010-1480-08100
010-1480-04730	010-1480-06920	010-1480-08110
010-1480-04760	010-1480-06900	010-1480-08120
010-1480-04780	010-1480-06860	010-1480-08130
010-1480-06680	010-1480-07130	010-1480-08140
010-1480-06690	010-1480-07160	010-1480-08160
010-1480-06700	010-1480-07190	010-1480-08170
010-1480-06730	010-1480-07210	010-1480-08190
010-1480-06710	010-1480-07220	010-1480-08300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-1480-06720	010-1480-07230	010-1480-08310
010-1480-06650	010-1480-07610	010-1480-08320
010-1480-06670	010-1480-07600	010-1480-08330
010-1480-06640	010-1480-07590	010-1480-08340
010-1480-06620	010-1480-07580	010-3830-15780
010-1480-06610	010-1480-07570	010-3830-15810
010-1480-06600	010-1480-07560	010-2200-01160
010-1480-06580	010-1480-07540	010-2200-01180
010-1480-06560	010-1480-07550	010-2200-01165
010-1480-06850	010-1480-07520	

be reclassified from 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:

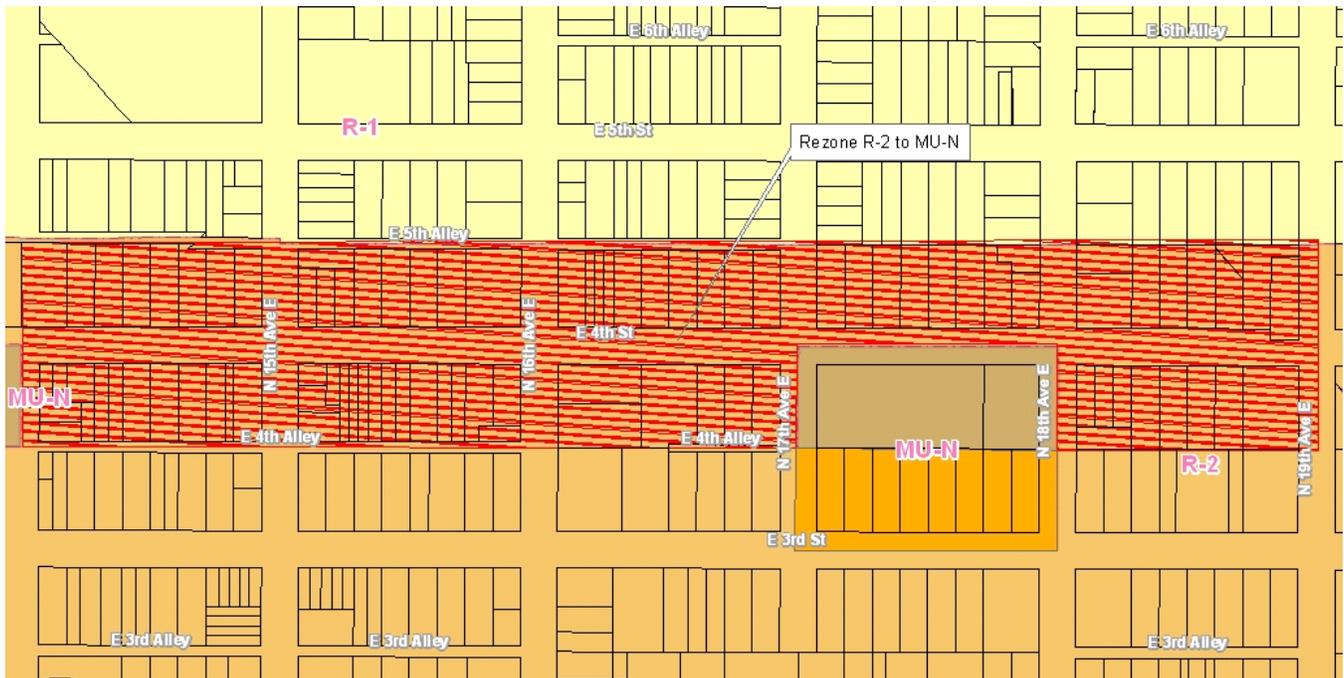


Exhibit F
(Ref. File No. 12-173)

Section 7. That the 4.5 acres of the subject property located along East First Street from East of North 13th Avenue East to North 15th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street North, North 14th Avenue East and North 15th Avenue East, where these parcels abut roadways:

010-0190-01440	010-1480-05490
010-1480-04880	010-1480-05480
010-1480-04890	010-1480-05470
010-1480-05210	010-1480-05410
010-1480-05400	010-1480-05420
010-1480-05390	010-1480-05440

be reclassified from 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit G
(Ref. File No. 12-173)

Section 8. That the two acres of the subject property located along East Third Street between North 17th Avenue East and North 18th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Third Street, North 17th Avenue East and North 18th Avenue East, where these parcels abut roadways:

- | | |
|----------------|----------------|
| 010-1480-04640 | 010-1480-04600 |
| 010-1480-04630 | 010-1480-04580 |
| 010-1480-04610 | 010-1480-04570 |

be reclassified from MU-N, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit H
(Ref. File No. 12-173)

Section 9. That the 3.1 acres of the subject property located along an area centered on the intersection of East Superior Street and North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Superior Street, Greysolon Road and North 19th Avenue East, where these parcels abut roadways:

010-1480-00650	010-1480-01040
010-1480-00995	010-1480-01050
010-1480-01010	010-1480-01860
010-1480-01030	010-1480-02180

be reclassified from MU-N, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

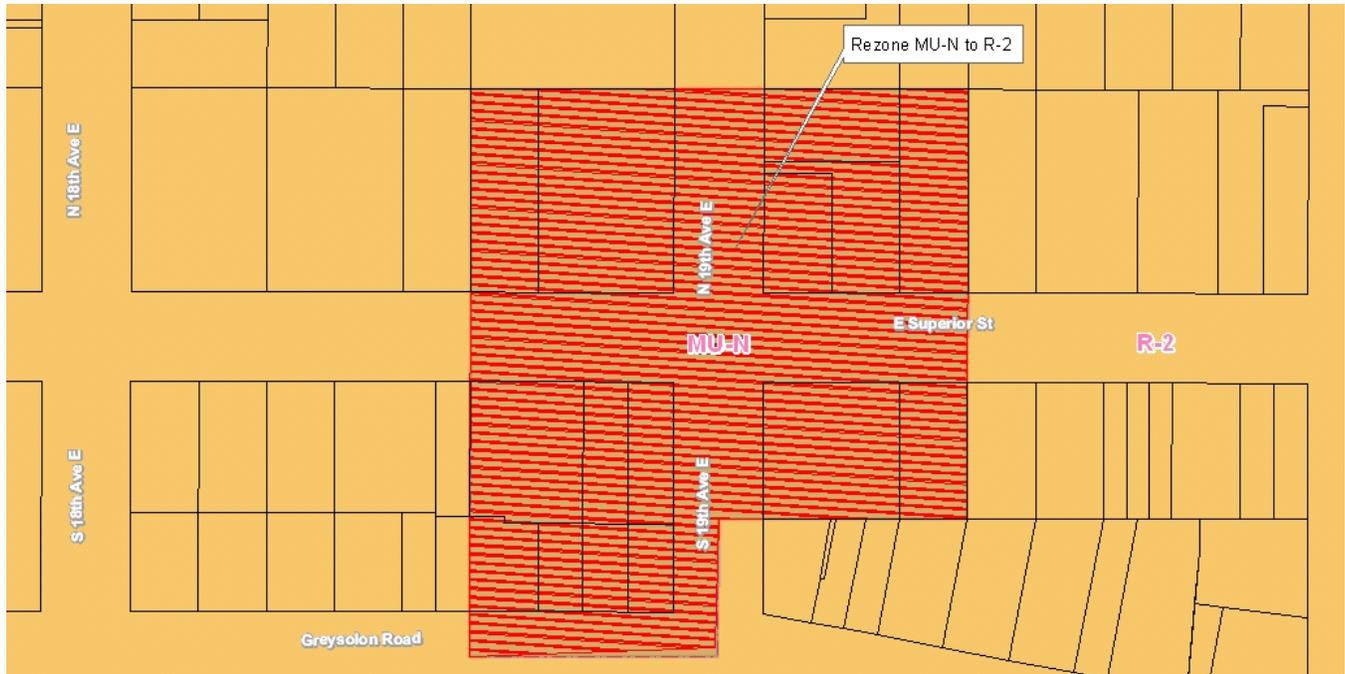


Exhibit I
(Ref. File No. 12-173)

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 4, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

ORDINANCE NO. 10216

AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is granted to Gregory Kamp/Coldwell Banker and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following: a canopy located 2.5 feet from the property line, as shown in Public Document No. 13-0401-16, and described below:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence North 3742'25" West on the northeasterly line of Block 21 for a distance of 291.00 feet to the point of beginning; thence continuing North 3742'25" West for a distance of 2.50 feet; thence South 5217'35" West on a line parallel with the northwesterly line of Block 21 for a distance of 50.15 feet to the southwesterly line of Lot 8, Block 21; thence South 3742'25" East for a distance of 2.50 feet; thence North 5217'35" East on a line parallel with the northwesterly line of Block 21 for a distance of 50.15 feet to the point of beginning.

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

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

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

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

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

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

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its agents, representatives, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engage in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

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

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 13-0401-16; and

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

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

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

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

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

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 3, 2013)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

ORDINANCE NO. 10217

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

The city of Duluth does ordain:

Section 1. That the 29 acres of the subject properties located at 1100 West Gary Street, and as more particularly described in Exhibit A and by the following:

010-2730-00535
010-2730-00538

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

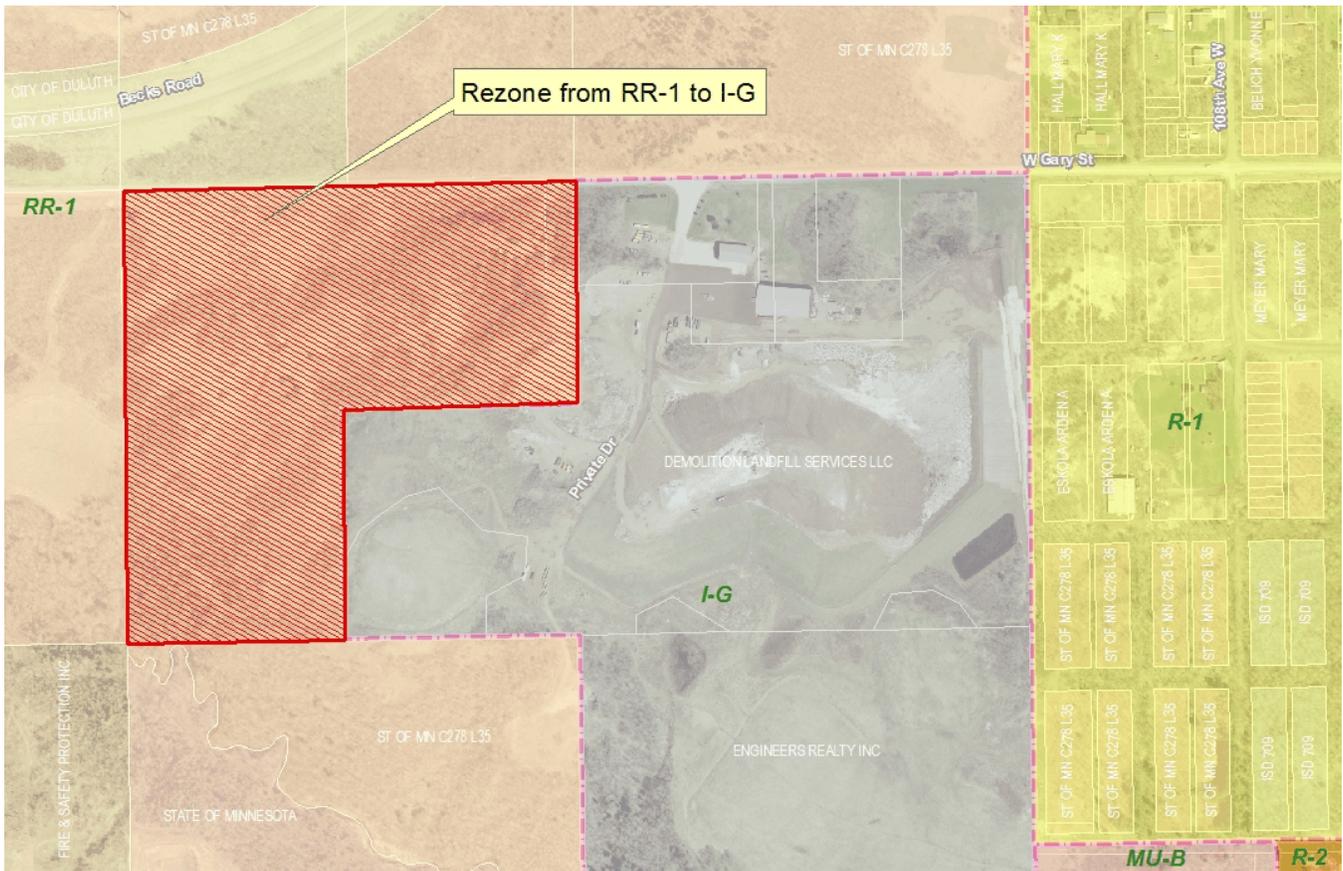


Exhibit A
(Ref. File No. 13-014)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

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ORDINANCE NO. 10218

AN ORDINANCE AMENDING ORDINANCE NO. 10198
EXTENDING THE CLOSING DATE AND CORRECTING THE
LEGAL DESCRIPTION RELATING TO THE SALE OF THE
ENDION STATION.

The city of Duluth does ordain:

Section 1. That Ordinance No. 10198 is hereby amended to extend until June 1, 2013, the date by which the closing on the sale to Old City Hall, LLC of the property legally described below (the Endion Station) must occur after which time said ordinance authorizing the sale shall be null and void.

Section 2. That Ordinance No. 10198 is hereby further amended to correct the legal description of the property to be conveyed by replacing it with the following:

That part of Lots 30 and 31, Block 1, INDUSTRIAL DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet to the point of beginning of the property to be described; thence North 75 degrees 01 minutes 17 seconds East, a distance of 85.07 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 8.47 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 10.71 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 13.88 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 11.52 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 27.65 feet; thence South 75 degrees 01 minutes 17 seconds West, a distance of 130.11 feet; thence North 10 degrees 58 minutes 48 seconds West, a distance of 24.77 feet; thence North 24 degrees 50 minutes 11 seconds East a distance of 32.92 feet to the point of beginning and there terminating.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

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

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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ORDINANCE NO. 10219

AN ORDINANCE AMENDING ORDINANCE NO. 10201 AUTHORIZING THE DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

The city of Duluth does ordain:

Section 1. That the legal description as made part of Ordinance No. 10201 is hereby replaced with the following:

An easement for Street and Utility purposes lying in, under, over, upon, across and along that part of Lots 30 and 31, Block 1, INDUSTRIAL DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet to the point of beginning of the easement to be described; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet; thence South 24 degrees 50 minutes 11 seconds West, a distance of 32.92 feet; thence South 10 degrees 58 minutes 48 seconds East, a distance of 24.77 feet; thence South 75 degrees 01 minutes 17 seconds West, a distance of 19.01 feet to the point of beginning and there terminating.

Section 2. That the proper city officials are authorized to execute all documents necessary with regard to said easement.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

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

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

Nays: None -- 0

Abstention: Councilor Larson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 2013
Approved April 1, 2013
DON NESS, Mayor

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