

AGENDA FOR THE DULUTH CITY COUNCIL MEETING

REPLACEMENT

Monday, April 13, 2009, 7:00 p.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES - December 15, 2008.

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The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

- * 09-0413-01 Jeff Jackson, et al. (three signatures), petition to vacate Bayview Avenue between Lot 1, Block 6 and Lot 12, Block 7, Oakland Addition to Duluth. -- Assessor
- * 09-0413-02 Sarah Seidelmann, et al. (six signatures), petition to vacate Lester Street Alley from 51st Avenue East to 52nd Avenue East, Block 151, Crosby Park Addition. -- Assessor

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REPORTS FROM OTHER OFFICERS

- * 09-0413-03 Assessor letters of sufficiency of petitions to vacate:
 - (a) Bayview Avenue between Lot 1, Block 6 and Lot 12, Block 7, Oakland Addition to Duluth;
 - (b) Lester Street Alley from 51st Avenue East to 52nd Avenue East, Block 151, Crosby Park Addition;
 - (c) Part of 11th Street and St. Louis Avenue, Plat of Upper Duluth. -- Received
- * 09-0413-04 Building official submitting appeal, by St. Louis County, of heritage preservation commission's denial to issue a permit for deconstruction of the St. Louis County jail located at Mesaba Avenue and West Second Street (Application No. 109966). -- Committee 2 (planning and economic development)
- * 09-0413-05 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Lincoln Park Business Group on July 18, 2009. -- Received
- * 09-0413-13 Police department grant coordinator: Recovery Act: Edward Byrne Memorial justice assistance grant (JAG) formula program: Local solicitation application for city council review. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- * 09-0413-06 Commission on disabilities minutes of March 4, 2009, meeting. -- Received
- * 09-0413-07 Duluth airport authority minutes of February 17, 2009, meeting. -- Received
- * 09-0413-08 Entertainment and convention center authority minutes of March 16, 2009, building committee meeting. -- Received

- * 09-0413-09 Heritage preservation commission minutes of March 24, 2009, meeting. -- Received
- * 09-0413-10 Housing and redevelopment authority minutes of: (a) November 25; (b) December 23, 2008; (c) January 27 (annual) (d) January 27 (regular), 2009, meetings. -- Received
- * 09-0413-11 Tree commission minutes of: (a) November 21, 2008; (b) January 20; February 17, 2009, meetings. -- Received
- * 09-0413-12 Spirit Mountain recreation area authority minutes of February 19, 2009, meeting. -- Received

* Listed only, not copied.

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REPORTS OF COUNCIL COMMITTEES
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OPPORTUNITY FOR CITIZENS TO BE HEARD
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RESOLUTIONS TABLED

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-0131R - RESOLUTION DENYING A REQUEST TO AMEND CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, ONE-FAMILY RESIDENTIAL, AND S, SUBURBAN, TO C-5, PLANNED COMMERCIAL, FOR PROPERTY LOCATED ON BOTH SIDES OF SUNDBY ROAD, NORTH OF PAGE STREET (MISSION DEVELOPMENT LLC/ARROWHEAD COMMERCIAL PARTNERS, LLC).
 (REPLACEMENT)
 (TABLED 2/23 FOR COMMITTEE MEETING)

BY PRESIDENT GILBERT (COMMITTEE OF THE WHOLE)

09-0160R - RESOLUTION AUTHORIZING CONSENT DECREE IN SETTLEMENT OF THE CLAIM OF UNITED STATES, ET AL.
 (TABLED 3/9 FOR 4/6 COMMITTEE MEETING)

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

All matters listed under the consent agenda are considered routine and/or noncontroversial and will be enacted by one unanimous motion. If a councilor requests, or a citizen wishes to speak on an item on the consent agenda, it will be removed and handled separately.

COMMITTEE 1

BY COUNCILOR FEDORA (FINANCE)

09-0204R - RESOLUTION AUTHORIZING THE ASSESSMENT ROLL LEVIED TO DEFRAID THE ASSESSABLE PORTION OF SIDEWALK PATCH 2008.

COMMITTEE 1

BY COUNCILOR FEDORA

(FINANCE)

09-0224R - RESOLUTION APPROVING THE BUDGET FOR THE FISCAL YEAR MAY 1, 2009, TO APRIL 30, 2010, IN THE AMOUNT OF \$4,731,717 AND THE CAPITAL REPAIR AND REPLACEMENT BUDGET FOR THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY.

NEW 09-0242R - RESOLUTION RECOMMENDING COLLECTION EFFORTS BE INITIATED AGAINST SINEX AVIATION TECHNOLOGIES, INC., DBA EMPOWER MX.

BY COUNCILOR KRAUSE

(PURCHASING & LICENSING)

09-0207R - RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH MERCURY ASSOCIATES, INC., FOR PROFESSIONAL SERVICES IN EVALUATING AND DETERMINING THE APPROPRIATENESS OF THE CURRENT CITY FLEET REPLACEMENT PLAN AT AN AMOUNT NOT TO EXCEED \$24,420.

09-0211R - RESOLUTION APPROVING ISSUANCE OF A TEMPORARY ON SALE INTOXICATING LIQUOR LICENSE TO LAKE SUPERIOR BREWING COMPANY, LLC (EARTH DAY), LEIF ERICKSON PARK.

09-0212R - RESOLUTION APPROVING THE TRANSFER OF THE ON SALE INTOXICATING LIQUOR LICENSE, ON SALE SUNDAY LICENSE AND 2:00 A.M. BEVERAGE LICENSE FROM BLUE SKY DULUTH, INC. (OLY'S DULUTH PUB), 323 WEST FIRST STREET, TO LIVE BAR, INC. (LIVE DOWNTOWN), SAME ADDRESS.

09-0213R - RESOLUTION ISSUING AN ON SALE INTOXICATING LIQUOR LICENSE TO DULUTH LODGING, INC. (COMFORT INN WEST), 3900 WEST SUPERIOR STREET.

NEW 09-0241R - RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH EVOLVING SOLUTIONS, INC., FOR THE PURCHASE AND INSTALLATION OF A STORAGE AREA NETWORK, VMWARE AND BACKUP SOLUTION AT AN AMOUNT NOT TO EXCEED OF \$167,579.85.

BY COUNCILOR GARDNER

(PERSONNEL)

09-0198R - RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE CIVIL SERVICE CLASSIFICATION OF ELECTRICIAN.

09-0199R - RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE CIVIL SERVICE CLASSIFICATION OF SENIOR PLANNER.

09-0200R - RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE CIVIL SERVICE CLASSIFICATION OF MASTER ELECTRICIAN.

09-0201R - RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE CIVIL SERVICE CLASSIFICATION OF EMPLOYMENT TECHNICIAN.

09-0202R - RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF COMMUNICATIONS AND POLICY OFFICER AND SPECIFYING CONTRACT BENEFITS FOR SAME.

09-0214R - RESOLUTION CONFIRMING THE APPOINTMENTS OF MEMBERS TO SERVE ON CITY BOARDS AND COMMISSIONS.

09-0215R - RESOLUTION CONFIRMING THE APPOINTMENT OF DREW DIGBY TO THE PLANNING COMMISSION, REPLACING GILBERT HARRIES.

COMMITTEE 1

BY COUNCILOR GARDNER (PERSONNEL)

09-0216R - RESOLUTION CONFIRMING THE REAPPOINTMENTS OF HENRY BANKS, HEATHER RAND AND JOHN VIGEN TO THE PLANNING COMMISSION.

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-0203R - RESOLUTION AUTHORIZING ADOPTION OF THE AMENDED COMMUNITY DEVELOPMENT PROGRAM CITIZENS PARTICIPATION PLAN.

09-0209R - RESOLUTION AUTHORIZING THE REIMBURSEMENT TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY OF 20 PERCENT OF THE REPAYMENT RECEIVED ON A WORK OUT AGREEMENT WITH SINEX AVIATION TECHNOLOGIES D/B/A EMPOWERMX.

09-0234R - CONDITIONAL RESOLUTION OF INTENT TO APPROVE PROPERTY EXCHANGE WITH KOHL'S DEPARTMENT STORES, INC.

09-0236R - RESOLUTION ACCEPTING A PUBLIC RIGHT-OF-WAY EASEMENT ON PROPERTY OWNED BY LAKE SUPERIOR CENTER AUTHORITY.

BY COUNCILOR ECKENBERG (INTERGOVERNMENTAL RELATIONS)

09-0205R - RESOLUTION AUTHORIZING MEMORANDUM OF UNDERSTANDING WITH ST. LOUIS COUNTY FOR CIVIC CENTER RETAINING WALL REPAIR.

BY PRESIDENT GILBERT (COMMITTEE OF THE WHOLE)

09-0217R - RESOLUTION ENDORSING DOMESTIC SPENDING OF FEDERAL ECONOMIC RENEWAL GRANTS.

COMMITTEE 3

BY COUNCILOR FOSLE (PUBLIC WORKS & UTILITIES)

09-0179R - RESOLUTION APPROVING A ST. LOUIS COUNTY PROJECT PROVIDING FOR IMPROVEMENT OF HAINES ROAD FROM MORRIS THOMAS ROAD TO AIRPORT ROAD WITHIN THE CORPORATE LIMITS OF THE CITY OF DULUTH

09-0196R - RESOLUTION AUTHORIZING AN AMENDMENT TO A CONTRACT FOR A TRANSPORTATION STUDY ALONG LONDON ROAD (T.H. 61) IN DULUTH, PERTAINING TO RESOLUTION 07-0444, AT NO ADDITIONAL COST.

09-0206R - RESOLUTION APPROVING SETTLEMENT OF CLAIM OF TRAVIS L. CARLSON IN THE AMOUNT OF \$11,971.35.

09-0210R - RESOLUTION AUTHORIZING AN AGREEMENT WITH ST. LOUIS COUNTY FOR PROFESSIONAL SERVICES IN CONNECTION WITH PAINTING LANE LINES ON CITY STREETS AT A COST NOT TO EXCEED \$60,000.

COMMITTEE 3

BY COUNCILOR FOSLE

(PUBLIC WORKS & UTILITIES)

09-0218R - RESOLUTION AUTHORIZING AN AGREEMENT WITH ST. LOUIS COUNTY AND THE CITY OF HERMANTOWN FOR SIGNAL INSTALLATION, STREET LIGHTS, SIGNING AND TRAFFIC CONTROL AT THE INTERSECTIONS OF MAPLE GROVE ROAD (CSAH 6) AT MALL DRIVE AND BURNING TREE ROAD.

09-0219R - RESOLUTION AMENDING CONTRACT 20596 FOR PROFESSIONAL ENGINEERING SERVICES WITH SALO ENGINEERING, INC., FOR ENGINEERING SERVICES AND FIELD DATA COLLECTION FOR 2008-2010 CONSTRUCTION PROJECTS IN THE ESTIMATED AMOUNT OF \$6,720.08 FOR A NEW TOTAL OF \$21,720.08.

09-0229R - RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH VIELE CONTRACTING, INC., FOR THE PURCHASE AND DELIVERY OF CLASS 5 GRAVEL, 3/4 INCH WASHED ROCK, RIP-RAP AND BEDDING SAND FOR PUBLIC WORKS AND UTILITIES AND STREET MAINTENANCE PROJECTS IN YEAR 2009 FOR A TOTAL AMOUNT OF \$172,849.50.

09-0231R - RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH GROEBNER AND ASSOCIATES, INC., FOR THE PURCHASE AND DELIVERY OF 400 HARDCASE TEMPERATURE-COMPENSATED GAS METERS IN THE AMOUNT OF \$28,659.15.

09-0240R - RESOLUTION AUTHORIZING AN AGREEMENT WITH MSA PROFESSIONAL SERVICES, INC. FOR ENGINEERING SERVICES FOR DESIGN AND CONSTRUCTION OF THE EAST INTERCEPTOR SANITARY SEWER OVERFLOW STORAGE FACILITY.

BY COUNCILOR CUNEO

(PUBLIC SAFETY)

09-0235R - RESOLUTION APPROVING AGREEMENT WITH SAFE HAVEN SHELTER FOR BATTERED WOMEN, INC., FOR SERVICES RELATED TO THE DOMESTIC ABUSE INTERVENTION PROJECT IN THE AMOUNT OF \$30,303.

BY COUNCILOR ANDERSON (RECREATION, LIBRARIES & AUTHORITIES)

09-0192R - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH LAKE SUPERIOR GIRLS FASTPITCH, A MINNESOTA NONPROFIT CORPORATION, FOR A PERIOD ENDING ON AUGUST 1, 2013.

09-0208R - RESOLUTION ACCEPTING OPPORTUNITY ONLINE HARDWARE GRANT IN A TOTAL AMOUNT OF \$65,000 FOR THE PURCHASE AND INSTALLATION OF 40 PUBLIC COMPUTERS AT THREE LIBRARY LOCATIONS AND COMMITTING LOCAL MATCH. **(REPLACEMENT)**

END OF CONSENT AGENDA

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The following entitled resolutions are also for consideration at this meeting:

COMMITTEE 1

BY COUNCILOR FEDORA (FINANCE)

09-0220R - RESOLUTION AUTHORIZING CITY OFFICIALS TO TRANSFER \$20,000 FROM THE TOURISM TAX FUND BALANCE TO THE CAPITAL IMPROVEMENT FUND 450 FOR LAKEWALK TRAIL.

09-0223R - RESOLUTION AUTHORIZING THE WRITE OFF OF AN UNCOLLECTIBLE DEBT IN THE AMOUNT OF \$48,306, RELATING TO A FORGIVABLE LOAN WITH INVISION OF DULUTH, INC., D/B/A CONNECTING POINT.

09-0225R - RESOLUTION CALLING FOR THE PREPAYMENT AND REDEMPTION OF GENERAL OBLIGATION STREET IMPROVEMENT BONDS, SERIES 2001D OF THE CITY OF DULUTH, MINNESOTA AND TRANSFERRING MONIES FROM THE COMMUNITY INVESTMENT TRUST FUND THEREFOR.

09-0226R - RESOLUTION TRANSFERRING MONIES FROM COMMUNITY INVESTMENT TRUST FUND FOR THE STREET RECONSTRUCTION, PRESERVATION AND MAINTENANCE PROGRAM.

09-0227R - RESOLUTION TRANSFERRING MONIES TO STREET IMPROVEMENT DEBT SERVICE FUND FROM THE COMMUNITY INVESTMENT TRUST FUND TO CANCEL 2009 DEBT SERVICE TAX LEVY.

BY COUNCILOR GARDNER (PERSONNEL)

NEW 09-0243R - RESOLUTION CONFIRMING THE APPOINTMENT OF DAVID MONTGOMERY AS THE CHIEF FINANCIAL OFFICER FOR THE CITY OF DULUTH.

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-0228R - RESOLUTION AUTHORIZING THE ACCEPTANCE OF \$1,600,000 IN NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDING FROM MINNESOTA HOUSING FINANCE AGENCY AND AUTHORIZING CONTRACTS WITH APPROPRIATE AGENCIES.

09-0233R - RESOLUTION OF COUNCIL INTENT RELATING TO VARIANCES FROM RENTAL LICENSE RESTRICTIONS IN THE PROTECTION ZONE.

09-0237R - RESOLUTION DENYING AN APPLICATION FOR VARIANCE FROM THE SIGN CODE BY AH ZEPPA FAMILY FOUNDATION FOR PROPERTY LOCATED AT 222 EAST SUPERIOR STREET.

09-0238R - RESOLUTION GRANTING AN APPLICATION FOR SIGN CODE VARIANCE BY AH ZEPPA FAMILY FOUNDATION FOR PROPERTY LOCATED AT 222 EAST SUPERIOR STREET.

COMMITTEE 3

BY COUNCILOR CUNEO (PUBLIC SAFETY)

09-0230R - RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH ELK RIVER FORD FOR THE PURCHASE AND DELIVERY OF TEN 2009 FORD CROWN VICTORIA INTERCEPTOR VEHICLES FOR USE AS FULLY-MARKED POLICE SQUADS IN THE AMOUNT OF \$226,083.60.

COMMITTEE 3

BY COUNCILOR CUNEO (PUBLIC SAFETY)

09-0232R - RESOLUTION TEMPORARILY ALLOWING PARKING ON HARBOR DRIVE UNDER CERTAIN CONDITIONS.

BY COUNCILOR ANDERSON (RECREATION, LIBRARIES & AUTHORITIES)

09-0195R - RESOLUTION AUTHORIZING THE CITY TO ACCEPT A GIFT FROM ST. LOUIS COUNTY IN THE AMOUNT OF \$12,500 TO SUPPORT THE CONSTRUCTION OF THE DULUTH SKATE PARK.

09-0239R - RESOLUTION DESIGNATING A CERTAIN AREA FOR USE AS AN OFF-LEASH DOG AREA.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-006-O - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 27 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, ONE-FAMILY RESIDENTIAL, AND S, SUBURBAN, TO C-5, PLANNED COMMERCIAL, FOR PROPERTY LOCATED ON BOTH SIDES OF SUNDBY ROAD, NORTH OF PAGE STREET (MISSION DEVELOPMENT, LLC/ARROWHEAD COMMERCIAL PARTNERS, LLC). (REPLACEMENT)
(TABLED 3/9 FOR COMMITTEE MEETING)

The following entitled ordinances are to be read for the first time:

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-014-O - AN ORDINANCE REPEALING SECTION 29A-32.1(h) OF THE DULUTH CITY CODE, 1959, AS AMENDED; PROVIDING FOR A VARIANCE FROM THE RENTAL LICENSE RESTRICTION PROVIDED FOR IN SECTIONS 29A-32.1(a) AND 29A-32.1(b) OF CHAPTER 29A.

09-015-O - AN ORDINANCE AMENDING SECTION 2-132 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ESTABLISHING THE MEMBERSHIP OF THE ENVIRONMENTAL ADVISORY COUNCIL.

COMMITTEE 3

BY COUNCILOR CUNEO (PUBLIC SAFETY)

09-013-O - AN ORDINANCE MODIFYING PARKING REGULATIONS, ALLOWING FOR USE OF DIFFERENT PARKING METERING EQUIPMENT, AMENDING SECTIONS 33-101, 33-102, 33-104, 33-106, 33-107, 33-108, 33-109, 33-110, 33-111 AND 33-112 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

09-016-O - AN ORDINANCE REPEALING CHAPTER 6, ARTICLE V, AND AMENDING SECTIONS 6-3, 6-4, 6-12, 6-27, 6-39, 6-82, 6-84, 6-85, 6-86, 6-87 AND 6-96 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE ANIMAL HUMANE BOARD.

The following entitled ordinance is to be read for the second time:

COMMITTEE 2

BY COUNCILOR STAUBER (PLANNING & ECONOMIC DEVELOPMENT)

09-010-O - AN ORDINANCE GRANTING TO HERITAGE FOUNDATION, INC., (AKA DULUTH AREA FAMILY YMCA) A CONCURRENT USE PERMIT FOR A SKYWALK INTO AND OVER THE RIGHT-OF-WAY OF THE WEST FIRST STREET ALLEY FOR PROPERTY LOCATED AT 302 WEST FIRST STREET.

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COUNCILOR QUESTIONS AND COMMENTS

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