

COMMITTEE OF THE WHOLE

09-0342R

REPLACEMENT 3
AS AMENDED

RESOLUTION AMENDING RESOLUTION 89-0323 ESTABLISHING THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, SAID AMENDMENT RELATED TO THE EXECUTIVE DIRECTOR, DEDA PERSONNEL AND THE COMPOSITION OF MEMBERSHIP OF THE AUTHORITY.

CITY PROPOSAL:

RECITALS:

The council finds as follows:

(a) The Duluth City Council adopted Resolution 89-0323, on April 24, 1989, establishing the Duluth economic development authority (DEDA);

(b) The Duluth City Council adopted Resolution 98-0949, on December 21, 1998, amending the above-referenced resolution to require that four of the commissioners on DEDA be city councilors and to further require that a majority of the commissioners present at a meeting must be city councilors for action to be taken;

(c) The Duluth City Council adopted Resolution 99-0239, on March 22, 1999, further amending the above-referenced resolution to require that any expenditure by DEDA in excess of \$25,000 be approved by the city council;

(d) The Duluth City Council adopted Resolution 02-0606, on October 28, 2002, further amending the above-referenced resolution to require that if an action is taken by DEDA at a meeting in which council members do not constitute a majority of commissioners present and voting, then that action is not final and cannot be implemented unless and until it is approved by resolution of the Duluth City Council;

(e) The Duluth City Council adopted Resolution 04-0202 on March 22, 2004, further amending the above-referenced resolution to change the composition of the members of the authority to consist of nine members all of whom shall be members of the council with the term of the commissioners' appointments coinciding with their term of office as members of the city council, deleting the provision that an action taken by DEDA at a meeting in which council members do not constitute a majority of commissioners present and voting is not final and cannot be

implemented unless and until it is approved by resolution of the council, and further deleting the requirement that DEDA shall not enter into an agreement or contract involving an expenditure by DEDA of more than \$25,000 without the prior approval of the council;

(f) The Duluth City Council adopted Resolution 04-0215 on March 22, 2004, further amending the above-referenced resolution to provide that the executive director of the DEDA shall be appointed by the mayor, subject to approval by the city council and to provide that the executive director act at the direction of the commissioners;

(g) Resolution 89-0323, Resolution 98-0949, Resolution 99-0239, Resolution 02-0606, Resolution 04-0202 and Resolution 04-0215 are hereinafter collectively referred to as the DEDA establishment resolution;

(h) The Duluth City Council desires to further amend the DEDA establishment resolution.

NOW, THEREFORE, BE IT RESOLVED, that paragraph 4 of the DEDA establishment resolution is hereby amended to read as follows:

4. That the DEDA shall be governed by a board of commissioners ("commissioners") consisting of seven members, three of whom shall be members of the city council. All members shall be appointed by the mayor and approved by a majority vote of the council. The appointment of the council commissioners shall expire with their terms of office as members of the council and a vacancy shall be created. The term of the appointments of the non-council commissioners shall be governed by Minnesota Statutes Section 469.095, subdivision 2(c).

BE IT FURTHER RESOLVED, that paragraph 6 of the DEDA establishment resolution is hereby amended to read as follows:

6. The executive director of the DEDA shall be appointed by the mayor, subject to approval by the DEDA board, and the executive director shall act at the direction of the mayor and by policy set forth by the DEDA board.

FURTHER RESOLVED, that paragraph 7 of the DEDA establishment resolution is

hereby amended to read as follows:

7. That the mayor or his/her designees (the "administration") shall provide such city staff to the DEDA as the DEDA may request who, when acting in such capacity, shall report to the executive director; provided that the administration may require reasonable reimbursement by the DEDA for costs associated with the provision of such staff; and provide further that nothing in this paragraph shall preclude the DEDA from hiring such personnel as the DEDA may from time to time determine.

FURTHER RESOLVED, that the nine city councilors shall continue to be DEDA commissioners until such time as all seven commissioners are appointed and approved to take office pursuant to this resolution.

FURTHER RESOLVED, that the DEDA establishment resolution is hereby amended to add a new paragraph 19 to read as follows:

19. That DEDA shall not enter into an agreement involving an expenditure by DEDA of more than \$100,000 ~~\$50,000~~ without the prior approval of the council.

Resolution 09-0342, as amended, as adopted upon the following vote:

Yeas: Councilors Anderson, Cuneo, Eckenberg, Fedora and Gardner -- 5

Nays: Councilors Fosle, Krause, Stauber and Persident Gilbert -- 4

Approved May 26, 2009

Mayor

ADM/ATTY JC:GBJ:cjk 5/26/2009

STATEMENT OF PURPOSE: This resolution amends the resolution establishing DEDA. Since 2004, DEDA has been comprised of the nine city councilors. This resolution provides for seven DEDA commissioners, three of whom are city councilors.

While the mayor appoints the commissioners, the council must approve them. All members are appointed by the mayor and approved by a majority vote of the council. The term of the council commissioners shall coincide with their term in office as members of the council. The term of the non-council commissioners will eventually be six years pursuant to state statute.

Additionally this resolution clarifies the role and relationship of DEDA staff to the administration and the city. Historically, the city has provided city staff to serve as the executive director of DEDA and to fulfill other staff needs of the authority but the lines of authority and responsibility between the administration and DEDA staff have been unclear. The purpose of this amendment is make it clear that the executive director reports to the mayor and other city staff, when performing services for DEDA, report to the executive director.

Finally, this resolution provides that DEDA shall not enter into an agreement involving an expenditure by DEDA of more than \$50,000 without the prior approval of the council. In addition, council approval continues to be required for tax increment financing plans and amendments, DEDA's exercise of the power of eminent domain and DEDA's annual budget.