

PUBLISHED JANUARY 31, 2014

OFFICIAL PROCEEDINGS

Excerpt from the minutes of the Duluth City Council meeting held on Monday, January 27, 2014, at 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

ORDINANCE NO. 10274

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment. The city has applied for and received a commitment from the Minnesota Public Facilities Authority (the "Authority") for a loan for the improvements to the water utility system consisting of the West Duluth Reservoir Reconstruction Project (the "Project") as identified in the city's application to the Authority.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility through the Project, and determines that it is necessary to issue general obligation water utility revenue bonds or a note in the amount of \$5,745,000 for the purpose of paying costs of the Project.

1.03 The city has heretofore issued and sold the following: general obligation water utility revenue note dated August 25, 2003, now outstanding in the amount of \$336,340; general obligation water utility revenue note dated July 23, 2004, now outstanding in the amount of \$752,000; general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$750,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the water utility portion of such bonds now outstanding in the amount of \$395,000; general obligation utilities revenue bonds dated February 19, 2009, the water utility portion of such bonds now outstanding in the amount of \$152,000; general obligation water utility revenue note dated November 23, 2009, now outstanding in the amount of \$1,016,000; general obligation water utility revenue note dated September 14, 2010, now outstanding in the amount of \$1,118,000; general obligation utilities revenue refunding bonds dated November 23, 2010, the water utility portion of such bonds now outstanding in the amount of \$1,191,544; general obligation water utility revenue note dated December 14, 2010, now outstanding in the amount of \$2,793,000; and general obligation water utility revenue note dated November 29, 2011, now outstanding in the amount of \$1,480,000. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds and notes dated August 25, 2003, July 23, 2004, December 19, 2006, December 13, 2007, February 19, 2009, November 23, 2009, September 14, 2010, November 23, 2010, December 14, 2010, and November 29, 2011.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds or a note of the city of Duluth in the amount of \$5,745,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved

and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. CERTIFICATE OF PROCEEDINGS.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: March 2, 2014)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ and President Krug -- 8
Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 27, 2014
Approved January 27, 2014
DON NESS, Mayor