

**PUBLISHED JULY 24, 2014**

**OFFICIAL PROCEEDINGS**

Excerpt from the minutes of the Duluth City Council meeting held on Monday, July 21, 2014, at 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

**ORDINANCE NO. 10318**

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$4,600,000 OF THE CITY OF DULUTH TO FINANCE IMPROVEMENTS TO WADE STADIUM AND SPIRIT MOUNTAIN RECREATION AREA UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The city council has determined it to be necessary and expedient and in the public interest: (i) that the city construct, furnish and equip improvements to Wade Stadium, including the stadium walls and facade, grandstand, lighting, concession facilities and field, with proper drainage, for a ballpark and public outdoor events facility (the "Wade Stadium project"); and (ii) that the Spirit Mountain recreation area authority acquire easements, licenses and other interests in real property and to engineer, design, permit and construct works and systems to transport water from the St. Louis River estuary for commercial and industrial use (the "Spirit Mountain project") (the Wade Stadium project and the Spirit Mountain project are collectively, the "projects").

1.02 Under the provisions of Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22, the city council may by ordinance provide for the issuance and sale of up to \$18,000,000 of general obligation bonds under Minnesota Statutes, Chapter 475, plus additional amounts to pay for costs of issuance and discount, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except no election shall be required unless required by the City Charter and except that the bonds shall not be included in the city's net debt. The proceeds of such general obligation bonds may be used to finance capital improvements to public facilities that support tourism and recreational activities in the portion of the city west of 34th Avenue West. The projects are of the nature contemplated by said law. The city has been awarded grants of state funds for each of the projects, including a \$2,300,000 grant for the Wade Stadium project and a \$3,400,000 grant for the Spirit Mountain project. Net proceeds of the general obligation bonds to be issued by the city in an amount of \$2,300,000 are allocated to pay a portion of project costs of the Wade Stadium project, and net proceeds of the general obligation bonds in an amount of \$2,100,000 are allocated to the Spirit Mountain project. The balance of the funds are allocated to costs of issuance and to the debt service account, each as to be set forth in future resolutions of the city council.

1.03 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation bonds of the city in an amount not to exceed \$4,600,000 to finance the projects, costs of issuance of the bonds and discount, as set forth above, 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.

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 provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city hereby creates and shall maintain the Wade Stadium and Spirit Mountain Recreation Area construction account (with subaccounts for each of the projects) in the capital improvement fund to which there shall be credited all or a portion of the proceeds of the bonds, as set forth above and as provided by

council resolution, together with any additional funds which may be available and are appropriated for the projects or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further 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. PLEDGE OF REVENUES; SALES TAX PLEDGE.

4.01 There shall be and is hereby pledged the proceeds of the additional one-half of one percent sales tax revenues, as authorized by Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, and Section 3, as amended, including Laws of Minnesota 2014, Chapter 308, Sections 21 and 22 (the "0.50% tourism taxes"), in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. An account for the receipts shall be established by council resolution, and such funds shall be paid when collected into such account. It is estimated that the 0.50% tourism taxes receipts herein pledged and appropriated to said debt service account will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the city's liability on the bonds is not limited to the 0.50% tourism taxes receipts so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the city, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise aggregate amount of the 0.50% tourism taxes receipts pledged for payment of principal and interest on such bonds for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 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.

5.02 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 6. EFFECTIVE DATE.

6.01 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: August 23, 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, Sipress and President Krug -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 21, 2014  
Approved July 21, 2014  
DON NESS, Mayor