

**MINUTES OF THE REGULAR MEETING
OF THE DULUTH CITY COUNCIL**

March 23, 2015

Duluth City Council meeting held on Monday, March 23, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of council meetings held on January 12 and 26, 2015, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

15-0323-04 Lori Glad communication regarding the proposed Fourth Street reconstruction project (15-0154R). -- Received

15-0323-05 William Lynch communication regarding the proposed conveyance of property in Lakeside (15-014-O). -- Received

15-0323-01 The following communications regarding the proposed recreation and tourism projects in the St. Louis River corridor (15-0160R, 15-0161R and 15-0175R): (a) Susan Darley-Hill; (b) Duluth Cross-Country Ski Club; (c) Healthy Duluth; (d) Lake Superior Water Trail Association; (e) William Lynch; (f) Margaret Torgerson. -- Received

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REPORTS FROM OTHER OFFICERS

15-0323-02 Clerk application for excluded bingo to the Minnesota gambling control board from Order of Ahepa Chapter #267 on May 3 and November 15, 2015. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

15-0323-03 Planning commission minutes of February 10, 2015, meeting. -- Received

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At this time, 7:02 p.m., the public hearing regarding the proposed modification to Development District No. 17; approving the adoption of a modification to the tax increment financing (TIF) plans for TIF district Nos. 15, 19, 21, 24, 25, 26 and 27; and approving the establishment of TIF District No. 28 and the adoption of a TIF plan therefor was called to order.

No one appeared who wished to be heard so at this time, 7:03 p.m., the public hearing was closed and the regular order of business was resumed.

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REPORT OF COUNCIL OPEN ISSUES

Councilor Fosle presented the March 2015 Duluth Distinguished Artists award to Todd Eckart for his accomplished skill to inspire others with his bygone era and current music performances.

Todd Eckart thanked the council and gave a musical sampling of days gone by.

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RESOLUTION TABLED

Councilor Julsrud moved to remove Resolution 15-0130, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule to adopt a filing fee for appeals to the city council of stormwater utility fee adjustment denials, from the table, which motion was seconded by Councilor Gardner and carried unanimously.

Councilor Fosle moved to amend the resolution to change the fee from “\$350” to “\$200,” which motion was seconded by Councilor Gardner and carried upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Sipress and President Larson -- 7

Nays: Councilors Julsrud and Russ -- 2

Resolution 15-0130, as amended, was adopted as follows:

RESOLVED, that Resolution 14-0599 adopting license, permit, fine, penalty and other charges for 2015 be amended by adopting the following filing fee for appeals to the city council of the director of public works decisions to deny utility fee adjustments described and established pursuant to Section 43-67 of the Duluth City Code, 1959, as amended; said new adopted filing fee shall be effective upon the effective date of Ordinance File No. 15-016.

Public Works and Utilities	
Fee Name	New 2014 Fee
Appeals to city council - stormwater utility fee	\$200.00

Resolution 15-0130, as amended, was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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Councilor Julsrud moved to suspend the rules to consider Ordinance 15-016 at this time, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

15-016-O (10360) - AN ORDINANCE AMENDING SECTION 43-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO REQUIRE THE PAYMENT OF A FILING FEE WHEN APPEALING THE DENIAL OF A STORMWATER UTILITY FEE ADJUSTMENT BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES.

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

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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.)

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

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale intoxicating liquor license, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Restaurant Company (Grandma's Saloon and Grill Canal Park), 522 Lake Avenue South, for June 20, 2015.

Resolution 15-0143 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale wine license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Loy Krathong, Inc. (Sala Thai Restuarant), 114 West First Street, transferred from 4023 Woodland Avenue.

Resolution 15-0144 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2015, subject to departmental approvals and the payment of sales and property taxes:

Lester Park Golf Management, Inc. (Lester Park Golf Course), 1860 Lester River Road, with Billy Casper Golf, LLC, 100 percent owner.

Resolution 15-0145 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Enger Park Golf Management, LLC (Enger Park Golf Course), 1801 West Skyline Parkway, with Billy Casper Golf, LLC, 100 percent owner.

Resolution 15-0146 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the abolishment of the wellness coordinator job classification from the confidential bargaining unit, which was approved by the chief administrative officer on February 26, 2015, is approved.

Resolution 15-0133 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of wellness coordinator, which were approved by the civil service board on June 3, 2014, and which are filed with the city clerk as Public Document No. 15-0323-06, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 128, \$3,400 to \$3,986 per

month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0134 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of animal services technician, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 21, \$2,822 to \$3,277 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0135 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of animal control officer, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-08, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 24, \$3,157 to \$3,685, to Pay Range 27, \$3,537 to \$4,140 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0136 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of animal shelter leadworker, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-09, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 30, \$3,976 to \$4,704, to Pay Range 31, \$4,140 to \$4,879 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0137 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby reappoints Robert Prusak (at large) to the Duluth public utilities commission for a term expiring on March 31, 2018.

Resolution 15-0150 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BY COUNCILOR GARDNER:

RESOLVED, that the reappointment of Linda Krug (city councilor) by the city council president to the Duluth parking commission for a term expiring on March 31, 2018, is hereby confirmed.

Resolution 15-0151 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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BE IT RESOLVED, by the City Council (the "Council") of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Recitals.

1.01. The City has heretofore established Development District No. 17 and adopted the Development Program therefor. It has been proposed by the Duluth economic development authority ("DEDA") and the City that the City adopt a Modification to the Development Program for Development District No. 17 (the "Development Program Modification"); approve the adoption of a Modification to the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27 therein (the "TIF Plan Modifications"); and approve the establishment of Tax Increment Financing District No. 28 (the "District") therein and the adoption of a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification, the TIF Plan Modifications, and the TIF Plan are referred to collectively herein as the "Program and Plans"); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082 and Sections 469.174 to 469.1794, all inclusive, as amended, (the "Act") all as reflected in the Program and Plans, and presented for the Council's consideration.

1.02. The DEDA and City have investigated the facts relating to the Program and Plans and have caused the Program and Plans to be prepared.

1.03. The DEDA and City have performed all actions required by law to be performed prior to the establishment of the District and the adoption and approval of the proposed Program and Plans, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the District, a review of and written comment on the Program and Plans by the City Planning Commission, approval of the Program and Plans by the DEDA, and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the "Reports") relating to the Program and Plans and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the Council and/or made a part of the City files and proceedings on the Program and Plans. The Reports, including the redevelopment qualifications reports and planning documents, include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution. The Council hereby confirms, ratifies and adopts the Reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.05. The City is expanding the boundaries of Development District No. 17 to include the District and is modifying the Development Program therefor.

Section 2. Findings for the Adoption and Approval of the Development Program Modification.

2.01. The Council approves the Development Program Modification, and specifically finds that: (a) the land within the Project area as expanded would not be available for redevelopment without the financial aid to be sought under this Development Program; (b) the Development Program, as modified, will afford maximum opportunity, consistent with the needs of the City as a whole, for the development of the Project by private enterprise; and (c) the

Development Program, as modified, conforms to the general plan for the development of the City as a whole.

Section 3. Modification to the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27.

3.01. The DEDA and City have previously established Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27 within Development District No. 17.

3.02. Pursuant to Minnesota Statutes, Section 469.175, Subd. 4(b)(1), the enlargement of Development District No. 17 is deemed to be a modification of the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27.

3.03. The TIF Plan Modifications are amended to provide for the enlargement of Development District No. 17 as described in the Development Program Modification.

Section 4. Findings for the Establishment of Tax Increment Financing District No. 28.

4.01. The Council hereby finds that the District is in the public interest and is a "redevelopment district" under Minnesota Statutes, Section 469.174, Subd. 10(a)(1) of the Act.

4.02. The Council further finds that the proposed redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan, that the Program and Plans conform to the general plan for the development or redevelopment of the City as a whole; and that the Program and Plan will afford maximum opportunity consistent with the sound needs of the City as a whole, for the development or redevelopment of the District by private enterprise.

4.03. The Council further finds, declares and determines that the City made the above findings stated in this Section and has set forth the reasons and supporting facts for each determination in writing, attached hereto as Exhibit A, Public Document No. 15-0323-10.

Section 5. Public Purpose.

5.01. The adoption of the Program and Plans conform in all respects to the requirements of the Act and will help fulfill a need to stimulate the redevelopment of underutilized, blighted or obsolete land uses including rehabilitation or demolition of substandard structures, to encourage the development of commercial areas in the City that result in higher quality development or redevelopment and private investment, to achieve development on sites which would not be developed without assistance, and to enhance and diversify the City of Duluth's tax base; and thereby serves a public purpose. For the reasons described in Exhibit A, the City believes these benefits directly derive from the tax increment assistance provided under the TIF Plan. A private developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by a developer are incidental and do not outweigh the primary public benefits.

Section 6. Approval and Adoption of the Program and Plans.

6.01. The Program and Plans, as presented to the Council on this date, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established, and adopted and shall be placed on file in the office of the Director of Business and Economic Development, and the establishment of the District is hereby approved.

6.02. The staff of the City, the City's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program and Plans.

6.03. The Auditor of St. Louis County is requested to certify the original net tax capacity of the District, as described in the Program and Plans, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the City is authorized and directed to forthwith transmit this request to the County Auditor in

such form and content as the Auditor may specify, together with a list of all properties within the District, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

6.04. The Director of Business and Economic Development is further authorized and directed to file a copy of the Program and Plans with the Commissioner of the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

Resolution 15-0157 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth does hereby approve, pursuant to the provisions of Resolution No. 10-0229, the development agreement between the Duluth economic development authority (DEDA) and Lift Bridge Partners, LLC, (developer) for the development of the 21st Avenue East and London Road mixed use project, a copy of which agreement is on file in the office of the city clerk as Public Document No. 15-0323-11.

Resolution 15-0158 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds sufficient petitions were filed with the city requesting the vacations described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petitions were duly referred to the city planning commission and such commission gave due notice of public hearings and did consider same in public hearings and the city planning commission found that the unimproved rights-of-way are useless for all purposes; and

(c) The city planning commission, at its Tuesday, January 13, 2015, and Tuesday, March 10, 2015, regular meetings, recommended approval of the vacation petitions; and

(d) The city council of the city of Duluth approves the vacations of the following described utility and platted road easements described below and as described and depicted on Public Document No. 15-0323-12:

VACATION LEGAL DESCRIPTION (UTILITY):

All that part of the 20 foot wide utility right of way as shown in Condemnation Plat Book 1 on Page 94 and also recorded as Register's File No. 5708, and as Register's File No. 220, said utility right-of-way is located in Block 25 of ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said parcel contains 8,024 square feet or 0.18 acres, more or less.

VACATION LEGAL DESCRIPTION (SOUTH STREET):

That part of the Northwesterly 33.00 feet of South Street as dedicated on ENDION DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying Northeasterly of the Southeasterly extension of the Northeasterly line of Lot 15, Block 25, said ENDION DIVISION and lying Southwesterly of the Southeasterly extension of the Northeasterly line of Block 25, said ENDION DIVISION. Said parcel contains 9920.3 sq. ft. or 0.23 acres more or less;

and

That part of the Northwesterly 33.00 feet of South Street as dedicated on ENDION DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying Northeasterly of the Southeasterly extension of the Northeasterly line of the Southwesterly 30.00 feet of Lot 16, Block 25, said ENDION DIVISION and lying Southwesterly of the

Southeasterly extension of the Northeasterly line of Lot 15, Block 25, said ENDION DIVISION. Said parcel contains 2320.3 sq. ft. or 0.05 acres more or less;

(e) The vacations are conditioned upon:

(1) The relocation of the municipal utility lines with an easement granted to the city over Lot 16, Block 25, Endion Division, and permission granted by MnDOT to construct municipal utilities in the south half of South Street;

(2) The proposed new utilities built to city standards and in a manner approved by the city engineer; and

(3) Record drawing are submitted and accepted by the city engineer;

(f) The vacation shall not be recorded in the St. Louis County recorder's office until the conditions of paragraph (e) above are met.

Resolution 15-0178 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to the MIF loan agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 15-0323-13(a) and promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 15-0323-13(b) with Northstar Machine and Tool, Inc., d.b.a. Northstar Aerospace ("Northstar").

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the grant agreement with the state of Minnesota, such amendment to reflect the amendment to the MIF loan agreement and promissory note modification agreement with Northstar.

Resolution 15-0179 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the following portions of the streets named below to be improved as part of the city's 2015 street preservation project, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans with the special assessment board, together with a recommendation as to what portion of the costs should be paid by special assessment and what portion of the costs should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands with should be included in the special assessment:

Woodland Avenue from Fourth Street to Kent Road;

Woodland Avenue from Calvary Road to Martin Road;

46th Avenue West from Grand Avenue to Eighth Street;

Pecan Avenue from Central Entrance to Rice Lake Road;

40th Avenue East from London Road to Superior Street;

Raleigh Street from Central Avenue to Grand Avenue;

West Skyline Parkway from Seventh Street to Mesaba Avenue.

Resolution 15-0163 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of an easement for street and highway, pedestrian and utility purposes from the Board of Education of Independent School District No. 709 over a portion of previously vacated Ensign

Street, Huseby's Division, First Addition, as shown on Public Document No. 15-0323-14, a copy of which is on file in the office of the city clerk.

Resolution 15-0166 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of an easement for street and highway, pedestrian and utility purposes from Christ Lutheran Church, a Minnesota nonprofit corporation, over a portion of previously vacated Ensign Street in the NE 1/4 of the NW 1/4 of the SE 1/4 of Section 30, Township 50N, Range 14W, as shown on Public Document No. 15-0323-15, a copy of which is on file in the office of the city clerk.

Resolution 15-0167 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a drainage and utility easement from Kwik Trip, Inc., a Wisconsin corporation, in the form of Public Document No. 15-0323-16, on file in the office of the city clerk, dedicating to the general public a drainage and utility easement over part of Lots 17 and 18, Block 1, Duluth Heights Fifth Division, at no cost to the city.

Resolution 15-0168 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into amendments to city contract numbers 21494 and 21495, copies of which are on file in the office of the city clerk as Public Documents No. 15-0323-17(a) and 15-0323-17(b), with the Minnesota public facilities authority relating to water and wastewater projects in the Riverside neighborhood, extending the time for drawdown of funds to June 30, 2016.

Resolution 15-0171 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of the 2015 high pressure gas mains and services at various locations in the amount of \$1,054,056.21, payable out of Gas Utility Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1391.

Resolution 15-0172 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, as of August 1, 2016, both sides of Fourth Street between Sixth Avenue East and Seventh Avenue East are designated no parking zones, pursuant to Section 33-97(a) of the Duluth City Code, 1959, as amended.

Resolution 15-0174 was unanimously adopted.
Approved March 23, 2015
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public

Document No. 15-0323-18, with the College of St. Scholastica for the non-exclusive use of Wade Stadium for their baseball program with rent payments payable to Fund 210 (special projects), Agency 030 (finance), Object 3190 (special league), Revenue Source 4625-04 (rent of athletic fields baseball fields).

Resolution 15-0152 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0323-19, with the St. James Home of Duluth Inc., d/b/a Woodland Hills, for the lease of space in the Washington Recreation Center with monthly rent of \$750 with an annual increase of five percent, payable to into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings).

Resolution 15-0153 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the DNR regional trail program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$500,000 including the grant amount of \$250,000; matching funds as follows: \$250,000 from the 1/2 and 1/2 tourism tax.

Resolution 15-0159 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding of through the local trail connections program on behalf of city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$300,000 including the grant amount of \$150,000; matching funds as follows: \$150,000 from the 1/2 and 1/2 tourism tax.

Resolution 15-0160 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into service agreements with the Over the Hill Nightriders Snowmobile Club and the Drift Toppers Snowmobile Club, substantially in the form of those on file in the office of the city clerk as Public Document Nos. 15-0323-20(a) and 15-0323-20(b), for trail maintenance and grooming services as required by the Minnesota department of natural resources trail grant for an amount not to exceed the amount of the grant award, payable from 110-121-1217-2145-4226 (general-public administration-maintenance operations-park maintenance-snowmobile trail grant).

Resolution 15-0173 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a ten-year lease agreement extension substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0323-21, with Ohana Holdings, LLC, for leased premises at Mount Royal with rent payments payable from Fund 110 (general), Agency 121 (public administration), Object 1218 (library services), Revenue Source 5412 (building rental).

Resolution 15-0176 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth does hereby accept in trust for the general public a perpetual public right of use of that property legally described as Outlot A and Outlot F, Eastridge Estates, St. Louis County, Minnesota, from Beacon Bank for the purpose set forth in the instrument of dedication, on file in the office of the city clerk as Public Document No. 15-0323-22 and attached hereto as Exhibit A.

Resolution 15-0180 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to purchase of a 2015 Freightliner chassis, State Contract No. 77947, for a total amount of \$114,066, payable as follows:

\$28,516.50 - Water 510, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$85,549.50 - Sewer 530, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580.

Resolution 15-0156 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase equipment and supplies from Crysteel Truck Equipment to outfit a city plow/sander truck, all installation and labor will be provided by the vendor, State Contract No. 80239, for a total amount not to exceed \$120,032.67; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0162 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase a 2016 International 7500 SFA 4x2 (SA537) plow truck cab and chassis from Northstar International, State Contract No. 77941, the cab and chassis portion of this request is \$93,862.79; Minnesota motor vehicle tax is \$6,101.08; and the license, registration and plate fees are \$145, for a total amount of \$100,108.87; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0164 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase a Case Wheel Loader Model 821F from Titan Machinery, Inc., a national joint powers alliance contract vendor, for a total amount of \$218,326.53; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0165 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

Resolution 15-0149, by Councilor Gardner, appointing _____ and _____ to the civil service board, replacing Portia Johnson and Michelle Hooey, was introduced.

Councilor Gardner moved to amend the title and body of the resolution to replace the blank lines with the names "Shelly M. Marquardt" and "Renee K. Van Nett," which motion was seconded and carried unanimously.

Resolution 15-0149, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby appoints Shelly M. Marquardt and Renee K. Van Nett to the civil service board for terms expiring on March 31, 2020, and 2021, respectively, replacing Portia Johnson and Michelle Hooey, whose terms have expired.

Resolution 15-0149, as amended, was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

Resolution 15-0154, of support for typical section on the Fourth Street reconstruction project, 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.

Councilor Sipress moved to amend the resolution by adding the following paragraph:

"BE IT FURTHER RESOLVED, that the city reserves the right to review and approve the tree replanting plan for Fourth Street as part of the municipal consent for the project;"

which motion was seconded and discussed.

Michelle Peterson, Ann Redelfs, Rod Klein, Mark Anderson and Myrna Matheson spoke of their concerns of this project, especially associated with the tree removal, and presented pictures supporting their viewpoint (Public Document No. 15-0323-26).

The amendment carried unanimously.

Resolution 15-0154, as amended, was adopted as follows:

RESOLVED, that the Duluth City Council supports the following typical section for the reconstruction of Fourth Street from Sixth Avenue East to Wallace Avenue (City Project No. 1360, S.P. 069-609-40):

(a) 46 feet in width, where parking will remain on both sides, to include two 11-foot driving lanes, two seven-foot parking lanes and two five-foot bike lanes;

(b) 39 feet in width, where parking will remain on one side to include two 11-foot driving lanes, one seven-foot parking lane and two five-foot bike lanes;

In general, existing parking areas to remain, with the exception of the 600 block, where parking is proposed to be prohibited from both sides.

BE IT FURTHER RESOLVED, that the city reserves the right to review and approve the tree replanting plan for Fourth Street as part of the municipal consent for the project.

Resolution 15-0154, as amended, was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the council hereby expresses its intent to cause the following portion of the streets named below to be improved and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost shall be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands which should include the special assessment:

Eastridge Boulevard from Minnesota Highway 61 to Montauk Lane;

Montauk Lane from Eastridge Boulevard to cul-de-sac.

Resolution 15-0155 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 15-0323-23, with Center for Energy and Environment for services related to the institution of a collaborative energy financing program in the city of Duluth with costs to be paid to the city with regard thereto to be deposited in Miscellaneous Operating Revenue Fund 520, Department 500, Division 1900, Account 4809.

Resolution 15-0169 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative office is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding through the DNR outdoor recreation program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$200,000 including the grant amount of \$100,000; matching funds as follows: \$100,000 from the 1/2 and 1/2 tax.

Resolution 15-0161 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

Resolution 15-0175, of support to continue planning and design or recreation and tourism projects in the St. Louis River corridor, was introduced by Councilor Sipress for discussion.

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

Dave Johnson, Brad Massengill, Chad Salmela, Brian Hayden, Greg Petry, Dave Pagel, Noah Hobbs, Karl Erbach, Pamela Schmidt, Carole Newkumet, Jena Vogtman, Mike Casey, Waylon Munch, Jim Perkins and Lucas Kramer spoke of their support for the resolution.

Resolution 15-0175 was adopted as follows:

WHEREAS, the state of Minnesota authorized the city of Duluth to impose a 1/2 of one percent food and beverage tax and a 1/2 of one percent hotel-motel tax for the purpose of funding an \$18 million bond issue for capital improvements to public facilities to support tourism and recreational activities in that part of Duluth lying west of 34th Avenue West; and

WHEREAS, pursuant to Section 42A-44 of the Duluth City Code, 1959, as amended, the city council in July of 2014 imposed the tax to be used for the state-authorized purposes; and

WHEREAS, contingent upon approval by the Minnesota state legislature in 2015, the authorized investment area will be amended to extend to 14th Avenue West; and

WHEREAS, the citizens of Duluth have, through nearly two dozen public plans and numerous meetings, conceived of an array of widely supported recreation and tourism-related capital projects in the authorized investment area; and

WHEREAS, the city of Duluth has developed and announced preliminary concept plans, cost estimates and financing goals for a slate of proposed recreation and tourism capital projects in the extended investment area, referenced in Public Document No. 15-0323-25; and

WHEREAS, in order to justify further investment of time and money in developing plans for these projects, the city of Duluth seeks confirmation that the projects and funding levels are generally in keeping with the city council's intent.

NOW, THEREFORE, BE IT RESOLVED, that the city council supports moving forward with the specified projects and funding levels as generally laid out.

Resolution 15-0175 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-018 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1 FOR GROSVENOR SQUARE, KELSO PARK, PORTMAN COMMUNITY RECREATION CENTER, RUSSELL SQUARE AND WASHINGTON SQUARE (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-019 - AN ORDINANCE AMENDING SECTION 50-37.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ADMINISTRATIVE ADJUSTMENTS OF THE LAND USE SUPERVISOR.

- - -

INTRODUCED BY COUNCILOR RUSS

15-020 - AN ORDINANCE AMENDING SECTION 50-20.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, USE SPECIFIC STANDARDS OF MAJOR UTILITY OR WIRELESS TELECOMMUNICATIONS FACILITY.

- - -

INTRODUCED BY COUNCILOR RUSS

15-021(a) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2 AND 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

- - -

INTRODUCED BY COUNCILOR RUSS

15-021(b) - AN ORDINANCE ADDING SECTION 50-17.5, AND AMENDING SECTIONS 50-13.3, 50-19.1, 50-19.8 AND 50-41.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR A NEW AIRPORT ZONE DISTRICT.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-014 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO KNUTSON CUSTOM CONSTRUCTION, LLC, FOR RESIDENTIAL REDEVELOPMENT.

Councilor Russ moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNICLOR JULSRUD

15-015 (10361) - AN ORDINANCE REDEDICATING A STREET EASEMENT OVER A PORTION OF VACATED EIGHTH AVENUE WEST.

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

- - -

INTRODUCED BY COUNICLOR JULSRUD

15-017 (10362) - AN ORDINANCE AMENDING SECTION 43-65 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO INCORPORATE THE DEFINITION OF IMPERVIOUS SURFACE PROVIDED FOR IN SECTION 50-41.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 9:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10360

AN ORDINANCE AMENDING SECTION 43-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO REQUIRE THE PAYMENT OF A FILING FEE WHEN APPEALING THE DENIAL OF A STORMWATER UTILITY FEE ADJUSTMENT BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES.

The city of Duluth does ordain:

Section 1. That Section 43-67 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-67. Utility fee adjustments.

(a) Any person liable for the payment of stormwater utility fees on nonresidential property may, subject to the limitations set forth in the Section, apply to the director for a utility fee adjustment if the person believes the utility fee to be incorrect. The request for adjustment shall be made in writing and shall state, in detail, the grounds upon which relief is sought. The director may require the applicant for relief to submit, at applicant's expense, supplemental information including, but not limited to, survey data certified by a registered land surveyor and engineering reports certified by a registered professional engineer. The director may grant an adjustment if it is found that:

(1) A substantial error was made in the calculation of the impervious area on the nonresidential property;

(2) The stormwater runoff from the property never enters any facility of the stormwater drainage system;

(3) The property is subject to stormwater management practices that significantly improve the quantity or quality of the stormwater runoff from the property;

(b) Adjustments and denials of adjustments shall be made in writing by the director. No adjustment shall be made retroactively, except for initial appeals filed within six months of the effective date of this ordinance;

(c) Any person denied an adjustment by the director may appeal the denial to the city council by filing written notice of appeal with the city clerk within 30 days of receipt of the director's decision and by paying a filing fee in an amount established pursuant to Section 31-8 of this Code. The city council shall hear the appeal and affirm, modify or reverse the decision of the director, applying the standards for granting adjustments set forth in this Section.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 23, 2015
Approved March 23, 2015
DON NESS, Mayor

- - -

ORDINANCE NO. 10361

**AN ORDINANCE REDEDICATING A STREET EASEMENT
OVER A PORTION OF VACATED EIGHTH AVENUE WEST.**

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of vacated Eighth Avenue West in St. Louis County, Minnesota, legally described on, and as shown on, Public Document No. 15-0323-24, on file in the office of the city clerk.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

Passed March 23, 2015

Approved March 23, 2015

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10362

**AN ORDINANCE AMENDING SECTION 43-65 OF THE DULUTH
CITY CODE, 1959, AS AMENDED, TO INCORPORATE THE
DEFINITION OF IMPERVIOUS SURFACE PROVIDED FOR IN
SECTION 50-41.9 OF THE DULUTH CITY CODE, 1959, AS
AMENDED.**

The city of Duluth does ordain:

Section 1. That Section 43-65 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-65. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Budget. The budget of the stormwater utility. The budget shall include yearly operating and maintenance costs, capital costs, debt service and amounts necessary to meet unanticipated costs.

Capital costs. Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to:

- (a) Acquisition of all property, real or personal and all interests in connection therewith, including all rights-of-way and easements therefor;
- (b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;
- (c) Architectural, engineering, legal and other professional services;
- (d) Expenses of obtaining permits or approvals before construction or other project charges which become due during construction;
- (e) Any miscellaneous expenses incidental to a project.

Debt service. The principal and interest necessary to pay an indebtedness of the city related to the stormwater utility in any year.

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or ERU. The average impervious area of residential property per dwelling unit located within the city.

ERU rate. A utility fee charged on each ERU as established by resolution of the Duluth public utilities commission as provided herein.

Impervious area. For purposes of this Section, "impervious area" shall mean the same as "impervious surface" as defined in Section 50-41.9 of the Duluth City Code, 1959, as may be amended.

Nonresidential property. Developed property that is classified by the city assessor as property types 3 and 5 pursuant to Minnesota Statutes Section 273.13. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Residential property. Developed property that is classified by the city assessor as land use types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Stormwater drainage system or system. The existing constructed and natural stormwater drainage facilities and channels of the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Stormwater utility or utility. The utility created by this article to operate, maintain and improve the stormwater drainage system.

Utility fee. A utility fee authorized by Minnesota law and this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

Yeas: Councilors Filipovich, Fosle, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Gardner -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 23, 2015
Approved March 23, 2015
DON NESS, Mayor

- - -