



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Minutes

City Council

MISSION STATEMENT: *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

TOOLS OF CIVILITY: *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]*

Monday, July 20, 2015

7:00 PM

Council Chamber

ROLL CALL

Present: 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson. **Absent:** 1 – Jennifer Julsrud

PUBLIC HEARING - 7:00 PM - TIF Plan for the Point of Rocks TIF District as Proposed by the HRA.

At this time, 7:02 p.m. Chief Administrative Officer Dave Montgomery stated that the Housing and Redevelopment Authority has requested that the public hearing be pulled and that additional changes require this to be rescheduled.

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

1. **15-001** Minnesota office of administrative hearings order approving annexation of property from Rice Lake Township.

Attachments: [Order](#)

This Petition/Other Communication was received.

2. **15-002** Minnesota state auditor management and compliance report for Duluth Economic Development Authority for the year ended December 31, 2014.

Attachments: [Report](#)

This Petition/Other Communication was received.

3. **15-005** Park Point Marina Inn appeal of planning commission decision to approve the land use supervisor's decision regarding the 200 foot limit in a MU-W District at 1003 Minnesota Avenue.

Attachments: [Appeal](#)

This Petition/Other Communication was received.

4. **15-006** William M. Burns, attorney, representing several neighbors, appeal of the planning commission approval of a special use permit for a townhome development at Mississippi Avenue and Lyons Street.

Attachments: [Appeal](#)

This Petition/Other Communication was referred to the Planning and Economic Development

5. **15-017** Ken Zwak communication regarding the proposed reclassification of property along the east side of Rice Lake Road (15-055-O).

Attachments: [Email](#)

This Petition/Other Communication was received.

REPORTS FROM OTHER OFFICERS

6. **15-018** Clerk report regarding Ranked Choice Voting petition.

Attachments: [Ranked Choice Voting Petition Report](#)

This Other Officers Report was received.

REPORTS OF BOARDS AND COMMISSIONS

7. **15-003** Planning commission minutes of May 12, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

8. **15-004** Entertainment and convention center authority minutes of January 27, February 24 and March 31, 2015, meetings.

Attachments: [January 27, 2015](#)
[February 24, 2015](#)
[March 31, 2015](#)

This Board or Commission Report was received.

9. **15-007** Duluth transit authority: (a) Minutes of April 23, 2015, meeting; (b) April 2015 financial statement.
- Attachments: [Minutes](#)
 [Financial Statement](#)
- This Board or Commission Report was received.**
10. **15-008** Duluth airport authority minutes of May 19, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
11. **15-009** Spirit Mountain recreation area authority minutes of May 21, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
12. **15-010** Duluth economic development authority minutes of May 27, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
13. **15-011** Indigenous commission minutes of May 18, 2015, meeting.
- Attachments: [Minutes.pdf](#)
- This Board or Commission Report was received.**
14. **15-012** Civil service board minutes of March 3 and 23, 2015, meetings.
- Attachments: [Minutes_03032015](#)
 [Minutes_03232015](#)
- This Board or Commission Report was received.**
15. **15-013** Housing and redevelopment authority of Duluth audit report for the year ended September 30, 2014; and minutes of March 31, April 28, May 5 and May 26, 2015, meetings.
- Attachments: [Audit Report](#)
 [Minutes_03312015](#)
 [Minutes_04282015](#)
 [Minutes_05052015](#)
 [Minutes_05262015](#)

This Board or Commission Report was received.

16. 15-015 Library board minutes of May 26, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jay Cole commented on his support using the Central High School property for housing and multiple uses.

Jerry Schlafer spoke of his support for fair wages and benefits, but not at the cost of adversely affecting other workers.

RESOLUTION TABLED

COMMITTEE 2

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

17. 15-0315R RESOLUTION APPROVING A TAX INCREMENT FINANCING PLAN FOR THE POINT OF ROCKS TAX INCREMENT FINANCING DISTRICT AS PROPOSED BY THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA. (TABLED 6/1/2015)

RESOLUTION APPROVING A TAX INCREMENT FINANCING PLAN FOR THE POINT OF ROCKS TAX INCREMENT FINANCING DISTRICT AS PROPOSED BY THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA. (TABLED 6/1/2015)

CITY PROPOSAL:

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 Board of Commissioners of the Housing and Redevelopment Authority of Duluth (the "HRA") has heretofore established Project Area No. 1 and adopted a redevelopment plan therefor. It has been proposed by the HRA that the City approve a tax increment financing plan (the "TIF plan") for the Point of Rocks Tax Increment Financing District (the "District") within Project Area No. 1; all pursuant to and ..Body [Enter Body Here]469.047 and Sections 469.174 to 469.1794, all inclusive, as amended, (the "Act") all as reflected in the TIF plan attached to this resolution, and presented for the council's consideration.

1.02. The HRA has investigated the facts relating to the TIF plan and has caused the TIF plan to be prepared.

1.03. The HRA has performed all actions required by law to be performed prior to the establishment of the district and the adoption and

approval of the proposed TIF plan, 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 TIF plan by the city planning commission, approval of the TIF plan by the HRA and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the "reports") relating to the TIF plan and to the activities contemplated therein have heretofore been prepared by HRA staff and consultants and submitted to the council and/or made a part of the city files and proceedings on the TIF plan. The reports 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 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.

Section 2. Findings for the establishment of Point of Rocks Tax Increment Financing District.

2.01. The council hereby finds, based on information contained in the TIF plan, that the Point of Rocks Tax Increment Financing District is in the public interest and is a "housing district" under Minnesota Statutes, Section 469.174, Subd. 11 of the Act.

2.02. The council further finds, based on information contained in the TIF plan, that the proposed development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future, that the TIF plan conforms to the general plan for the development or redevelopment of the city as a whole; and that the TIF 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.

2.03. 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, as listed on Exhibit A.

Section 3. Public Purpose.

3.01. The adoption of the TIF plan conforms in all respects to the requirements of the act and will help fulfill a need to develop an area of the city which is already built up, to provide housing opportunities, to improve the tax base and to improve the general economy of the State 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 4. Approval of the TIF plan.

4.01. The TIF plan, as presented to the council on this date, including

without limitation the findings and statements of objectives contained therein, is hereby approved and shall be placed on file in the office of the HRA executive director.

4.02. The staff of the HRA, the HRA's advisors and legal counsel are authorized to proceed with the implementation of the TIF plan and to negotiate, draft, prepare and present to this council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

4.03 The auditor of St. Louis County is requested to certify the original net tax capacity of the district, as described in the TIF plan, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the HRA is authorized 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.

4.04. The HRA executive director is further authorized to file a copy of the TIF plan with the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

STATEMENT OF PURPOSE: This resolution approves the tax increment financing plan for the Point of Rocks Tax Increment Financing District, as required by the TIF act. The TIF district is a housing district and will provide housing, in part, for low and moderate income persons.

Attachments: [Tax Increment Financing Plan](#)

[Exhibit A](#)

[Memo](#)

A motion was made that this Resolution be withdrawn. The motion carried by a unanimous vote.

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

COMMITTEE 1

BY COUNCILOR FILIPOVICH (FINANCE)

18. 15-0432R RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND THE CONFIDENTIAL UNIT OF THE CITY OF DULUTH FOR THE YEARS 2015-2017.

RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND THE CONFIDENTIAL UNIT OF THE CITY OF DULUTH FOR THE YEARS 2015-2017.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the Confidential Unit of the City of Duluth containing the same terms and conditions, and being substantially the same as that attached hereto, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and the Confidential Unit of the City of Duluth have negotiated a successor collective bargaining agreement (CBA) to their current 2012-2014 CBA. The parties tentatively agreed to a 2015-2017 collective bargaining agreement on July 1, 2015, and the Confidential Unit membership ratified this 2015-2017 collective bargaining agreement on July 8, 2015. This three-year contract has wage increases of 2.25% in 2015, 2.75% in 2016, and 2.75% in 2017. This CBA expands family dental insurance eligibility and increases cafeteria plan contributions for employees utilizing other sources of hospital-medical insurance. This CBA recognizes the Assistant City Attorney assigned to labor relations as a "confidential employee," as mandated by Minn. Stat. 179A.03, Subd. 4.

Attachments: [Final Draft Confidential CBA for 2015-2017 CLEAN](#)
[Final Draft Confidential CBA redline for 2015-2017.7.16.2015](#)

This Resolution was adopted.

BY COUNCILOR HANSON (PURCHASING & LICENSING)

19. 15-0398R RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO SHOPKO STORES OPERATING CO, LLC (SHOPKO #114), 801 WEST CENTRAL ENTRANCE.

RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO SHOPKO STORES OPERATING CO, LLC (SHOPKO #114), 801 WEST CENTRAL ENTRANCE.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale 3.2 percent malt liquor license for the period ending April 30, 2016, subject to departmental approvals, and the payment of sales and property taxes:

Shopko Stores Operating Co. LLC (Shopko #114), 801 West Central Entrance.

STATEMENT OF PURPOSE: The off sale 3.2 malt liquor license application of Shopko was reviewed and approved by the police department. The Alcohol, Gambling and Tobacco Commission reviewed the application and is recommending approval.

This Resolution was adopted.

- 20. 15-0400R** RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE INTOXICATING LIQUOR LICENSE TO VARIOUS LICENSEES.
RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE INTOXICATING LIQUOR LICENSE TO VARIOUS LICENSEES.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Sir Benedicts IV, LLC (Sir Benedicts Tavern on the Lake), 805 East Superior Street, for July 25, 2015, serving from 9:00 a.m. to 5:00 p.m.;

The Duke Partners, LLC (Spurs on 1st), 220 West Superior Street, for August 28, 2015 (rain date September 11, 2015), serving from 8:00 p.m. to 12:00 a.m.;

Rustic Bar, Inc. (The Rustic Bar), 401 North Central Avenue, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

JMMP Enterprises, LLC (Kom-On-Inn), 332 North 57th Avenue West, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

D&D Enterprise of Cloquet (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

Red Herring, LLC (The Red Herring Lounge), 208 East First Street, for September 5, 2015, serving from 2:00 p.m. to 11:00 p.m.;

St. Louis County Heritage & Arts Center (Duluth Depot), 506 West Michigan Street, for September 3, 2015, serving from 4:00 p.m. to 7:00 p.m.

STATEMENT OF PURPOSE: The Alcohol, Gambling and Tobacco Commission have reviewed the applications at their July commission meeting and are recommending approval.

This Resolution was adopted.

- 21. 15-0401R** RESOLUTION APPROVING THE PERMANENT EXPANSION OF THE LICENSE PREMISES OF THE ON SALE BREWERY MALT LIQUOR LICENSE OF LAKE SUPERIOR BREWING COMPANY, LLC (LAKE SUPERIOR BREWING COMPANY), 2711 WEST SUPERIOR STREET.

RESOLUTION APPROVING THE PERMANENT EXPANSION OF THE LICENSE PREMISES OF THE ON SALE BREWERY MALT LIQUOR LICENSE OF LAKE SUPERIOR BREWING COMPANY, LLC (LAKE SUPERIOR BREWING COMPANY), 2711 WEST SUPERIOR STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council approves the following permanent expansion of the designated serving area of the on sale brewery malt liquor license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), 2711 West Superior Street, to include back driveway area.

STATEMENT OF PURPOSE: The application of Lake Superior Brewing Company has been reviewed by the police department, and the Alcohol, Gambling and Tobacco Commission at their July meeting is recommending the application for approval.

This Resolution was adopted.

- 22. 15-0404R** RESOLUTION ISSUING A TEMPORARY ON SALE 3.2 PERCENT MALT LIQUOR LICENSE TO AAD SHRINERS, (DULUTH HOT AIR BALLOON FESTIVAL), BAYFRONT PARK.

RESOLUTION ISSUING A TEMPORARY ON SALE 3.2 PERCENT MALT LIQUOR LICENSE TO AAD SHRINERS, (DULUTH HOT AIR BALLOON FESTIVAL), BAYFRONT PARK.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any further restrictions:

AAD Shriners, (Duluth Hot Air Balloon Festival), Bayfront Park, for September 18-20, 2015, with Ryan Kern, manager.

STATEMENT OF PURPOSE: The application of the AAD Shriners for a temporary 3.2 percent beer license has been reviewed by the police department, and the Alcohol, Gambling and Tobacco commission reviewed the application at their July 1st meeting and is recommending approval.

This Resolution was adopted.

- 23. 15-0405R** RESOLUTION APPROVING ISSUANCE OF TEMPORARY ON SALE INTOXICATING LIQUOR LICENSE TO LAKE SUPERIOR BREWING

COMPANY, LLC (TWIN PORTS BRIDGE FESTIVAL), BAYFRONT PARK.
RESOLUTION APPROVING ISSUANCE OF TEMPORARY ON SALE
INTOXICATING LIQUOR LICENSE TO LAKE SUPERIOR BREWING
COMPANY, LLC (TWIN PORTS BRIDGE FESTIVAL), BAYFRONT PARK.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Lake Superior Brewing Company, LLC (Twin Ports Bridge Festival), Bayfront Park, for September 11, 2015, serving from 3:00 p.m. to 11:00 p.m., with Don Hoag, manager.

STATEMENT OF PURPOSE: The application of Lake Superior Brewing for a temporary on sale intoxicating liquor license was reviewed by the police department, and the Alcohol, Gambling, and Tobacco commission reviewed the application at their July 1st meeting and is recommending approval.

This Resolution was adopted.

- 24. 15-0408R** RESOLUTION ISSUING AN ON SALE SUNDAY LICENSE TO BENT PADDLE BREWING COMPANY, (BENT PADDLE BREWING COMPANY), 1912 WEST MICHIGAN STREET.

RESOLUTION ISSUING AN ON SALE SUNDAY LICENSE TO BENT PADDLE BREWING COMPANY, (BENT PADDLE BREWING COMPANY), 1912 WEST MICHIGAN STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals:

Bent Paddle Brewing Company, (Bent Paddle Brewing Company), 1912 West Michigan Street.

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission reviewed the Sunday liquor license application for Bent Paddle Brewing at their July 1 meeting and is recommending approval.

This Resolution was adopted.

- 25. 15-0419R** RESOLUTION AUTHORIZING A CONTRACT WITH ROCK SOLID TRAIL CONTRACTING, LLC, FOR PHASE III CONSTRUCTION OF THE DULUTH TRAVERSE TRAIL IN THE AMOUNT OF \$103,716.

RESOLUTION AUTHORIZING A CONTRACT WITH ROCK SOLID TRAIL CONTRACTING, LLC, FOR PHASE III CONSTRUCTION OF THE DULUTH TRAVERSE TRAIL IN THE AMOUNT OF \$103,716.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to

contract with Rock Solid Trail Contracting, LLC, for the phase III construction of approximately 2.5 miles of new multi-use, bike-optimized natural surface trails in Enger and Central Park, in accordance with plans and specifications prepared by Barr Engineering, the consultant, dated February 2013, and the contractor's bid of \$103,716, payable from Parks Fund 205; Community Resources 130; Parks Capital 1220; Improvements Other than Buildings 5530; Project: CM205-Travrs - Cap Mtce Fund 205, Traverse Trail.

STATEMENT OF PURPOSE: This resolution authorizes a contract with Rock Solid Trail Contracting, LLC for the construction of approximately 2.5 miles of new multi-use, bike-optimized natural surface trails on public lands in Enger and Central Park for a total contract amount of \$103,716. This project is funded, in part, with a Federal Recreation Trail Program grant in the amount of \$96,750 with a match of \$32,250 from the Parks Fund.

This section of trail will be part of the Duluth Traverse Trail system which, once completed, will span the entire City of Duluth with 100 miles of trail.

The purchasing division posted the invitation to bid June 5, 2015, on the city's website and received two bids by the closing date. A committee consisting of City professional staff reviewed and verified each bid, and determined that Rock Solid Trail Contracting was the most qualified to do the work. The committee's review sheets are attached as Exhibit A. Rock Solid Trail Contracting's bid was under the budgeted amount of \$129,000. The bid tabulation is attached as Exhibit B.

Attachments: [Exhibit A](#)
[Exhibit B](#)

This Resolution was adopted.

BY COUNCILOR GARDNER (PERSONNEL)

26. 15-0394R RESOLUTION CONFIRMING THE APPOINTMENT OF ANNA TANSKI TO THE DULUTH AIRPORT AUTHORITY, REPLACING MICHAEL LUNDSTROM.

RESOLUTION CONFIRMING THE APPOINTMENT OF ANNA TANSKI TO THE DULUTH AIRPORT AUTHORITY, REPLACING MICHAEL LUNDSTROM.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Anna Tanski to the Duluth airport authority for a term expiring on July 1, 2018, replacing Michael Lundstrom, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Anna Tanski to the Duluth airport authority, replacing Michael Lundstrom.

Attachments: [Application](#)

This Resolution was adopted.

27. 15-0395R RESOLUTION CONFIRMING THE APPOINTMENT OF HEATHER RAND TO THE PLANNING COMMISSION, REPLACING DREW DIGBY.

RESOLUTION CONFIRMING THE APPOINTMENT OF HEATHER RAND TO THE PLANNING COMMISSION, REPLACING DREW DIGBY.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Heather Rand to the planning commission for a term expiring on March 31, 2016, replacing Drew Digby who resigned, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Heather Rand to the planning commission, replacing Drew Digby, who resigned.

Attachments: [Application](#)

This Resolution was adopted.

28. 15-0396R RESOLUTION CONFIRMING THE APPOINTMENT OF YVONNE M. SOLON TO THE SANITARY SEWER BOARD OF THE WESTERN LAKE SUPERIOR SANITARY DISTRICT, REPLACING ALBERT KATZ.

RESOLUTION CONFIRMING THE APPOINTMENT OF YVONNE M. SOLON TO THE SANITARY SEWER BOARD OF THE WESTERN LAKE SUPERIOR SANITARY DISTRICT, REPLACING ALBERT KATZ.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Yvonne M. Solon to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2017, replacing Albert Katz, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Yvonne M. Solon to the sanitary sewer board of the WLSSD, replacing Albert Katz.

Attachments: [Application](#)

This Resolution was adopted.

29. 15-0397R RESOLUTION CONFIRMING THE APPOINTMENT OF ERIK S. VIKEN TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY, REPLACING GREGORY BENSON.

RESOLUTION CONFIRMING THE APPOINTMENT OF ERIK S. VIKEN TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY, REPLACING GREGORY BENSON.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Erik S. Viken to the Spirit Mountain recreation area authority for a term expiring on June 30, 2018, replacing Gregory Benson who resigned, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Erik S. Viken to the Spirit Mountain recreation area authority, replacing Gregory Benson who resigned.

Attachments: [Application](#)

This Resolution was adopted.

30. 15-0437R RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF PROSECUTION ASSISTANT, INCLUDING A TITLE CHANGE TO PROSECUTION & TECHNOLOGY ASSISTANT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF PROSECUTION ASSISTANT, INCLUDING A TITLE CHANGE TO PROSECUTION & TECHNOLOGY ASSISTANT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

CITY PROPOSAL:

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of prosecution assistant, including a title change to prosecution & technology assistant, which were approved by the civil service board on July 7, 2015, are approved. This 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 131, \$3,828 to \$4,485 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.

STATEMENT OF PURPOSE: This existing classification has been revised to incorporate the need for technology experience. Although the job has not changed dramatically, the need for technology experience has increased due to how criminal evidence handling has changed over the last few years. There is no change in the rate of pay, which is Pay Range 131, pay rate of \$3,828 to \$4,485 per month.

Attachments: [Revised Strikeout Job Description.pdf](#)
[Draft Job Description \(clean version\).pdf](#)

This Resolution was adopted.

COMMITTEE 2**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 31. 15-0427R** RESOLUTION VACATING A PORTION OF STREET RIGHT-OF-WAY FOR VERMILION ROAD AT THE SOUTHEAST CORNER OF VERMILION ROAD AND ELK STREET (JOHN AND BONNIE GIBSON).
- RESOLUTION VACATING A PORTION OF STREET RIGHT-OF-WAY FOR VERMILION ROAD AT THE SOUTHEAST CORNER OF VERMILION ROAD AND ELK STREET (JOHN AND BONNIE GIBSON).
- CITY PROPOSAL:
- RESOLVED, that:
- (a) The city council finds a sufficient petition was filed with the city requesting the vacation 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 petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that this portion of the street easement is useless for all purposes; and
- (c) The city planning commission, at its Tuesday, June 9, 2015, regular meeting, recommended approval of the vacation petition; and
- (d) The city council of the city of Duluth approves the vacation of the platted road easement, maintaining a public utility easement, described below:
- LEGAL DESCRIPTION OF RIGHT-OF-WAY VACATION
- All that part of Vermilion Road (platted as Market Avenue), as dedicated on GREYSOLON FARMS 1ST DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, MN, bounded as follows:
- On the North: By the Westerly extension of the North line of Lot 12, Block 5, said GREYSOLON FARMS 1ST DIVISION OF DULUTH.
- On the East: By the Easterly right of way line of Vermilion Road (platted as Market Avenue) on said GREYSOLON FARMS 1ST DIVISION OF DULUTH.
- On the South: By the South line of Lot 9, Block 5 said GREYSOLON FARMS 1ST DIVISION OF DULUTH.
- On the West: By a line parallel with and distant 33.0 feet east of the center line of Vermilion Road (platted as Market Avenue) said GREYSOLON FARMS 1ST DIVISION OF DULUTH.
- Said parcel contains 17,773 square feet or 0.41 acres, more or less.
- (e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution showing the platted easement

to be vacated.

STATEMENT OF PURPOSE: The resolution vacates an approximately 475 long portion of street right of way for Vermilion Road. It was originally platted as Market Avenue and had a curvilinear, not straight, design. If the partial vacation is approved, Vermilion Road would still have a right of way width of 66 feet.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: May 7, 2015

Action Deadline: September 4, 2015

Petitioner:

John and Bonnie Gibson
4906 Vermilion Road
Duluth, MN 55803-1423

PL 15-083

Attachments: [Signed Exhibit](#)

[Staff Report and Attachments](#)

This Resolution was adopted.

BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

- 32. 15-0412R** RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$233,287 FROM SENIOR SERVICE AMERICA, INC. TO OPERATE THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM FROM JULY 1, 2015 THROUGH JUNE 30, 2016.

RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$233,287 FROM SENIOR SERVICE AMERICA, INC. TO OPERATE THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM FROM JULY 1, 2015 THROUGH JUNE 30, 2016.

CITY PROPOSAL:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with senior service America, inc. (ssai) to serve Duluth

residents age 55 and older with work experience training and services in the amount of \$233,287 for the period of July 1, 2015 through June 30, 2016. Monies received shall be deposited into Senior Program Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

STATEMENT OF PURPOSE: This resolution is to authorize city officials to accept a grant of \$233,287 from Senior Service America, Inc. (SSAI) to provide funds to service Duluth residents age 55 and over with work experience training and employment services.

The city has operated the senior community service employment program since 1977. This grant is a renewal of previous grants and is the same amount as the previous grant year. The grant requires a local contribution of \$30,265. This entire amount will be provided through in-kind contributions of local agencies and city supervisory time and/or indirect costs. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

These funds are allocated under Title V of the Older American Act. The fund will provide part-time work experience and training for a minimum of 37 senior citizens. The grant period is July 1, 2015 through June 30, 2016.

Attachments: [SCSEP Contract](#)

This Resolution was adopted.

COMMITTEE 3

BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

33. 15-0416R RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE WESTERN LAKE SUPERIOR SANITARY DISTRICT FOR RIDGEVIEW ROAD.

RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE WESTERN LAKE SUPERIOR SANITARY DISTRICT FOR RIDGEVIEW ROAD.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public roadway and utility purposes substantially in the form attached hereto, from the sanitary board of the Western Lake Superior Sanitary District, a non-profit and political corporation organized under the laws of the state of Minnesota (a/k/a the Western Lake Superior Sanitary District, a public corporation and political subdivision of the state of Minnesota) at no cost to the city.

STATEMENT OF PURPOSE: The purpose of this resolution is to accept the donation of an easement from the Western Lake Superior Sanitary

District to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard (“MnANG”) base in Duluth. The city will receive a combination of funds provided by the MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a “public right-of-way.”

Attachments: [Attachment to 15-0416R](#)

This Resolution was adopted.

34. 15-0418R RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE STATE OF MINNESOTA FOR RIDGEVIEW ROAD.

RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE STATE OF MINNESOTA FOR RIDGEVIEW ROAD.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public roadway and utility purposes from the state of Minnesota, a sovereign entity, acting by and through its department of administration, at no cost to the city, and enter into an easement agreement substantially in the form attached hereto, subject to the conditions thereof.

STATEMENT OF PURPOSE: The purpose of this resolution is to accept the donation of an easement from the state of Minnesota to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard (“MnANG”) base in Duluth. The city will receive a combination of funds provided by the MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a “public right-of-way.”

Attachments: [Attachment to 15-0418R](#)

This Resolution was adopted.

35. 15-0434R RESOLUTION AUTHORIZING APPLICATION TO THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR THE SCENIC BYWAY PROGRAM FOR RETAINING WALL RESTORATION AT VARIOUS SCENIC OVERLOOK FACILITIES ON SKYLINE PARKWAY SCENIC BYWAY IN THE AMOUNT OF \$800,000.

RESOLUTION AUTHORIZING APPLICATION TO THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR THE SCENIC BYWAY PROGRAM FOR RETAINING WALL RESTORATION AT VARIOUS SCENIC OVERLOOK FACILITIES ON SKYLINE PARKWAY SCENIC BYWAY IN THE AMOUNT OF \$800,000.

CITY PROPOSAL:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to restore the historic rock retaining walls at various scenic overlook facilities along Skyline Parkway in 2017;

(b) Transportation alternative grants are currently available for construction of scenic byway projects in 2017. Projects selected through this solicitation must meet the requirements of the transportation alternative definition and relate to surface transportation;

(c) To receive this money, the city must submit the application to the Minnesota department of transportation.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Skyline Parkway Scenic Byway historic retaining wall restoration at various scenic overlook facilities.

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 the city of Duluth estimates the grant amount to be \$800,000 and has matching funds available.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of transportation, the city of Duluth agrees to accept the grant award, and may enter into an agreement with the state of Minnesota for the above-referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson
City Auditor
City of Duluth
411 West First Street
Duluth, MN 55802

STATEMENT OF PURPOSE: This resolution will authorize submission of an application to the Minnesota department of transportation for the restoration of rock retaining walls at various scenic overlook facilities on Skyline Parkway. Because Skyline Parkway is a designated state scenic byway, it is eligible for scenic byway grants. This application includes work on the walls near Bardon's Peak, Hank Jensen Drive, Oneota and several

other locations on the west side of the parkway.

If awarded, the project would be funded with \$800,000 of federal highway grant funds, and the engineering (\$160,000) and city share (\$260,000) would be funded with permanent improvement funds.

Attachments: [HistoricRetainingWall_LocationMap](#)
[HistoricRetainingWall_wExhibit_BardonsPeak_v2](#)
[HistoricRetainingWall_wExhibit_Oneota_v2](#)
[HistoricRetainingWall_wExhibit_Section3TurnOut_v2](#)
[Scenic Byway Application \(15-0434R\)](#)

This Resolution was adopted.

BY COUNCILOR FOSLE (PUBLIC SAFETY)

36. 15-0399R RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE MINNESOTA DEPARTMENT OF COMMERCE IN THE AMOUNT OF \$193,942 FOR AN AUTO THEFT INVESTIGATOR.

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE MINNESOTA DEPARTMENT OF COMMERCE IN THE AMOUNT OF \$193,942 FOR AN AUTO THEFT INVESTIGATOR.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota department of commerce, in the amount of \$193,942, such funds to be used to employ an auto theft investigator within the Duluth police department, and to execute a grant agreement, substantially the same as the attached Exhibit A, funds to be deposited in fund number 215-200-2266-4220-02 (Duluth police grant fund, police department, Minnesota auto theft grant, state of MN operating).

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a grant from the Minnesota department of commerce in the amount of \$193,942. This is a two-year grant to support the auto theft prevention project. This is an increase of \$22,152 over the last two-year award. The grant monies will be applied toward the salary of an auto theft investigator within the Duluth police department. The grant period is July 1, 2015 through June 30, 2017.

Attachments: [Grant Contract \(Exhibit A\)](#)

This Resolution was adopted.

37. 15-0402R RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES IN WEST DULUTH IN CONJUNCTION WITH SPIRIT VALLEY DAYS AND SUBJECT TO CERTAIN CONDITIONS.

RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES IN WEST DULUTH IN CONJUNCTION WITH SPIRIT VALLEY DAYS AND SUBJECT TO CERTAIN CONDITIONS.

CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue from August 5-7, 2015, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for events in conjunction with Spirit Valley Days. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the Western Area Business and Civic Association to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

This Resolution was adopted.

- 38. 15-0403R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON THE 100 BLOCK OF WEST FIRST STREET IN CONJUNCTION WITH THE TWELVE HOLY APOSTLES FIRST STREET DANCE AND SUBJECT TO CERTAIN CONDITIONS.

RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON THE 100 BLOCK OF WEST FIRST STREET IN CONJUNCTION WITH THE TWELVE HOLY APOSTLES FIRST STREET DANCE AND SUBJECT TO CERTAIN CONDITIONS.

CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 100 block of West First Street on August 28, 2015, (rain date September 11, 2015) to coincide with the Twelve Holy Apostles special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the

licensee and approved by the administration

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for the 100 block of West First Street in conjunction with the Twelve Holy Apostles special event permit. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the race sponsors to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

This Resolution was adopted.

- 39. 15-0417R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON EAST FIRST STREET IN CONJUNCTION WITH THE CHAPERONE RECORDS ANNIVERSARY BLOCK PARTY AND SUBJECT TO CERTAIN CONDITIONS.

RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON EAST FIRST STREET IN CONJUNCTION WITH THE CHAPERONE RECORDS ANNIVERSARY BLOCK PARTY AND SUBJECT TO CERTAIN CONDITIONS.

CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 200 block of East First Street on September 5, 2015, from 2:00 p.m. to 11:00 p.m. to coincide with the Men As Peacemakers special events license for the Chaperone Records Anniversary Block Party, provided that all alcoholic beverages consumed outside of the designat-ed serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for the 200 block of East First Street on September 5, 2015. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the event sponsors to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

This Resolution was adopted.

- 40. 15-0431R** RESOLUTION APPROVING AGREEMENT WITH HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH FOR SERVICES AND

FUNDING OF ONE PUBLIC HOUSING COMMUNITY BASED POLICE OFFICER FOR FIVE YEARS AND ACCEPTING A TOTAL OF \$338,510.94 TO FUND SAID POSITION.

RESOLUTION APPROVING AGREEMENT WITH HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH FOR SERVICES AND FUNDING OF ONE PUBLIC HOUSING COMMUNITY BASED POLICE OFFICER FOR FIVE YEARS AND ACCEPTING A TOTAL OF \$338,510.94 TO FUND SAID POSITION.

CITY PROPOSAL:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement substantially the same as the attached Agreement with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) to accept a total of \$338,510.94 to fund one officer position for and over a period of five years, said officer will work with HRA to improve social conditions which may otherwise foster drug use, criminal activities, and other abuses or public disruptions at Duluth HRA public housing sites, said sum to be payable to Fund No. 215-200-2293-4263 (Duluth Police Grant Programs Fund, Police Department, COPS HRA, Housing & Redevelopment Authority).

STATEMENT OF PURPOSE: The purpose of this resolution is to approve an agreement with the Housing Redevelopment Authority of Duluth (HRA) for the services and funding for five years of a Public Housing Community Based Police Officer assigned primarily to HRA sites.

Attachments: [Agreement for Services-Community Based Police Officer HRA](#)

This Resolution was adopted.

BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

41. 15-0421R RESOLUTION AUTHORIZING AN AGREEMENT WITH HOISINGTON KOEGLER GROUP INC., FOR PROFESSIONAL SERVICES TO COMPLETE A MINI MASTER PLAN FOR VARIOUS CITY PARKS FOR AN AMOUNT NOT TO EXCEED \$75,000.

RESOLUTION AUTHORIZING AN AGREEMENT WITH HOISINGTON KOEGLER GROUP INC., FOR PROFESSIONAL SERVICES TO COMPLETE A MINI MASTER PLAN FOR VARIOUS CITY PARKS FOR AN AMOUNT NOT TO EXCEED \$75,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Hoisington Koegler Group Inc., (HKgl), agreement attached as Exhibit A, for professional services to complete mini master plans for various city parks, proposal attached as Exhibit B, for a total amount not to exceed \$75,000, payable from Tourism and Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1521 - half and half tax projects, neighborhood parks

and trails.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with HKgl for professional services to complete mini master plans for various neighborhood parks located within the St. Louis River corridor for a total amount not to exceed \$75,000. The parks are Norton, Fond du Lac, Riverside, Blackmer, Piedmont, Harrison, Merritt, Keene Creek, Historical, Smithville, and Grassy Point. Once the mini master plans are complete, the intent is that, subject to future council approval, each of the parks will be eligible for one-to-one matching grants up to \$50,000 for plan implementation, payable from the half and half tax.

The purchasing division posted the request for proposals May 27, 2015, on the city's website and received four proposals by the closing date. A committee consisting of city professional staff reviewed each proposal and determined that HKgl was the best consultant for this project. The committee evaluation forms for each vendor are attached as Exhibit C; the bid tabulation is attached as Exhibit D.

Attachments: [Exhibit A](#)
[Exhibit B](#)
[Exhibit C](#)
[Exhibit D](#)

This Resolution was adopted.

- 42. 15-0438R** RESOLUTION AUTHORIZING AN AGREEMENT WITH THE DULUTH AIRPORT AUTHORITY (DAA) TO INSURE CERTAIN DAA PROPERTY AND EQUIPMENT UNDER THE CITY'S PROPERTY INSURANCE POLICY.

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE DULUTH AIRPORT AUTHORITY (DAA) TO INSURE CERTAIN DAA PROPERTY AND EQUIPMENT UNDER THE CITY'S PROPERTY INSURANCE POLICY.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority (DAA), substantially in the form attached as Exhibit A, pursuant to which certain DAA property and equipment will be insured under the city's property insurance policy for the period from August 1, 2015 to February 16, 2016, and for which DAA shall pay the city in the amount of \$24,747, to be deposited in Fund No. 610-036-1659-4906 (self insurance liabilities, insurance accounts, insurance Airport, other insurance charges).

STATEMENT OF PURPOSE: This resolution authorizes the execution of an agreement with the Duluth airport authority (DAA) pursuant to which DAA-owned buildings and equipment will be insured under the city's

property insurance policy at a cost that will represent a substantial savings to DAA. The city has a blanket property policy with a \$100,000 deductible. The DAA's annual cost for the insurance (from February 16, 2015 to February 16, 2016) would be \$47,686. DAA will pay the city a prorated amount of \$24,747 for the period from August 1, 2015 to February 16, 2016. The buildings and equipment being insured are attached to the agreement as an Exhibit.

Attachments: [2015 Agreement with City 7-10-15](#)

This Resolution was adopted.

43. 15-0439R RESOLUTION AUTHORIZING ACCEPTANCE AND EXECUTION OF A HOST SITE AGREEMENT WITH THE MINNESOTA POLLUTION CONTROL AGENCY FOR A 2015-2016 PROGRAM YEAR GREENCORPS MEMBER.

RESOLUTION AUTHORIZING ACCEPTANCE AND EXECUTION OF A HOST SITE AGREEMENT WITH THE MINNESOTA POLLUTION CONTROL AGENCY FOR A 2015-2016 PROGRAM YEAR GREENCORPS MEMBER.

CITY PROPOSAL:

WHEREAS, the city of Duluth has applied to host an AmeriCorps member from the Minnesota GreenCorps, a program of the Minnesota pollution control agency (MPCA), for the 2015-2016 program year; and

WHEREAS, the MPCA has selected the city of Duluth, who is committed to implementing the proposed project as described in the host site application, and in accordance with the pre-scoped position description; and

WHEREAS, the MPCA requires that the city of Duluth enter into a host site agreement with the MPCA that identifies the terms, conditions, roles and responsibilities substantially the same as the form of Exhibit A.

BE IT RESOLVED, that the City of Duluth hereby agrees to enter into and sign a host site agreement with the MPCA to carry out the member activities specified therein and to comply with all of the terms, conditions, and matching provisions of the host site agreement.

FURTHER RESOLVED, that the proper city officials are authorized to accept a GreenCorps member from the Minnesota pollution control agency (MPCA) at no direct cost to the city and to execute a grant contract for the purpose of hosting a GreenCorps member for the 2015-2016 program year.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance, by the proper city officials, of an agreement with the Minnesota pollution control agency (MPCA) for the purpose of hosting a GreenCorps member for the 2015-2016 program year. The GreenCorps member will assist the

city of Duluth with our urban forestry program, specifically related to the impact of invasive terrestrial plants. The member will engage community volunteers in removal and disposal standards and will educate the public on the negative impacts of invasive species on our urban forest. The GreenCorps member will improve our public land for future generations to enjoy.

This Minnesota GreenCorps member will be assigned to the parks and recreation division to complete the tasks and assignments as outlined in the agreement. There is no direct cost or match for the city. The in-kind requirements are to provide day-to-day supervision (3.2 hours per week minimum); attend supervisor training; develop member work plan; approve timesheets; participate in site visits; complete performance evaluation and handle disciplinary measures; provide member workspace, computer access, supplies, material, desk telephone, access to copy machine, internet access for GreenCorps related reporting, and an email address; provide on-site safety training; provide name badge; and submit in-kind documentation of supervision.

This will be the third GreenCorps member hosted by the parks and recreation division. The first two GreenCorps members both served for two program years.

Attachments: [Agreement](#)

This Resolution was adopted.

- 44. 15-0440R** RESOLUTION CONVEYING OWNERSHIP OF THE JOE GOMER MONUMENT TO THE ST. LOUIS COUNTY HISTORICAL SOCIETY.
RESOLUTION CONVEYING OWNERSHIP OF THE JOE GOMER MONUMENT TO THE ST. LOUIS COUNTY HISTORICAL SOCIETY.

CITY PROPOSAL:

WHEREAS, pursuant to Resolution 14-0550, the city of Duluth ("city") accepted the donation of the Joe Gomer Monument from the Northland Veterans Service Committee ("NVSC"); and

WHEREAS, NVSC has worked out an arrangement pursuant to which the St. Louis County Historical Society has agreed to take ownership of the Joe Gomer Monument as well as the David Wheat Monument, both of which will be located in the Duluth International Airport terminal; and

WHEREAS, NVSC has requested the city convey the Joe Gomer Monument to the St. Louis County Historical Society.

NOW, THEREFORE, the city does hereby convey the ownership of the Joe Gomer Monument to the St. Louis County Historical Society.

STATEMENT OF PURPOSE: In November of 2014, the City of Duluth ("city") accepted a donation of the Joe Gomer Monument from the Northland

Veterans Service Committee (“NVSC”). The Joe Gomer Monument is located on the second floor of the Duluth International Airport. It was intended that the city would enter into an agreement with the Duluth Airport Authority that would require the city to maintain the Joe Gomer Monument at the City’s cost.

Subsequently, NVSC has been in contact with the Historical Society which has agreed to take ownership and maintenance responsibility of both the Joe Gomer Monument and the David Wheat Monument, which will also be located in the Airport. The purpose of this resolution is to convey the Joe Gomer Monument to the St. Louis County Historical Society. The Historical Society will be entering into a license agreement with the Airport Authority pursuant to which it will agree to maintain both monuments.

This Resolution was adopted.

END OF CONSENT AGENDA

The following entitled resolutions were also considered:

COMMITTEE 1

BY COUNCILOR HANSON (PURCHASING & LICENSING)

45. 15-0423R RESOLUTION OF SUPPORT FOR NAMING THE LITTLE LEAGUE FIELDS LOCATED BEHIND WADE STADIUM THE JOHN BAGGS LITTLE LEAGUE FIELDS.

RESOLUTION OF SUPPORT FOR NAMING THE LITTLE LEAGUE FIELDS LOCATED BEHIND WADE STADIUM THE JOHN BAGGS LITTLE LEAGUE FIELDS.

BY COUNCILOR HANSON:

WHEREAS, John Baggs was a baseball coach for the College of St. Scholastica for 17 years up until his death in 2009; and

WHEREAS, John Baggs brought the St. Scholastica baseball program from relative obscurity to national prominence; and

WHEREAS, the St. Scholastica baseball team won 12 straight Upper Midwest Conference Titles under the leadership of John Baggs and he was named Upper Midwest Conference Coach of the year ten times; and

WHEREAS, John Baggs was a beloved coach, mentor and leader in Duluth’s baseball community and inspired many local youth; and

WHEREAS, there is strong community support to honor Johns Baggs’ memory by naming a baseball field in his name.

WHEREAS, the Little League fields outside of Wade Stadium are currently unnamed.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Baggs’ remarkable coaching career and community involvement,

hereby supports the naming of the little league fields located behind Wade Stadium.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of John Baggs to the sport of baseball in Duluth. Accordingly, the city council supports the naming of the little league fields behind Wade Stadium in honor of Mr. Baggs.

Sponsors: Hanson

Councilor Sipress moved to table the resolution for response from the naming committee, community and the families involved.

The motion was seconded and carried by the following vote:

Yea: 6 - Councilor Filipovich, Gardner, Hanson, Russ, Sipress and President Larson

Nay: 2 - Councilors Fosle and Krug

Absent: 1 - Councilor Julsrud

- 46. 15-0424R** RESOLUTION OF SUPPORT FOR NAMING THE TWO SOFTBALL FIELDS OUTSIDE WADE STADIUM THE DICK SWANSON FIELDS.
RESOLUTION OF SUPPORT FOR NAMING THE TWO SOFTBALL FIELDS OUTSIDE WADE STADIUM THE DICK SWANSON FIELDS.

BY COUNCILOR HANSON:

WHEREAS, Dick Swanson has been a long time coach of youth sports in the city of Duluth; and

WHEREAS, Mr. Swanson was formerly the girls' basketball coach at both Duluth Denfeld and Duluth Central high schools; and

WHEREAS, Mr. Swanson is currently the coach of the Denfeld Hunter's softball team and has been the Denfeld high school softball coach for nearly twenty years; and

WHEREAS, Mr. Swanson has also coached numerous girls youth softball teams at the softball fields outside of Wade Stadium; and

WHEREAS, Mr. Swanson is recognized by the citizens of West Duluth as a leader and advocate of youth softball; and

WHEREAS, the softball fields outside of Wade Stadium are known as "Wade Fields" simply because of their location and have not been previously named.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Swanson's leadership and efforts promoting youth softball, hereby supports the naming of the two softball fields outside of Wade Stadium for Dick Swanson and requests that the proper city officials take the necessary steps to initiate the process of naming.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of Dick Swanson to the sport of softball in

West Duluth. Accordingly, the city council supports the naming of the two softball fields outside of Wade Stadium in honor of Mr. Swanson.

Sponsors: Hanson

Councilor Sipress moved to table the resolution for response from the naming committee, community and the families involved.

The motion was seconded and carried by the following vote:

Yea: 7 - Councilor Filipovich, Fosle, Gardner, Hanson, Russ, Sipress and President Larson

Nay: 1 - Councilor Krug

Absent: 1 - Councilor Julsrud

COMMITTEE 3

BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

47. 15-0430R RESOLUTION AWARDING A CONTRACT TO NORTHLAND CONSTRUCTORS OF DULUTH, LLC FOR CONSTRUCTION OF THE CROSS CITY TRAIL PHASE IV IN THE AMOUNT OF \$953,254.43.

RESOLUTION AWARDING A CONTRACT TO NORTHLAND CONSTRUCTORS OF DULUTH, LLC FOR CONSTRUCTION OF THE CROSS CITY TRAIL PHASE IV IN THE AMOUNT OF \$953,254.43.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Northland Constructors of Duluth, LLC, for construction of the Cross City Trail Phase IV in the amount of \$953,254.43, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0676TR, S.P. 118-090-021.

STATEMENT OF PURPOSE: This resolution will authorize award of a contract to Northland Constructors of Duluth, LLC, in the amount of \$953,254.43 for the construction of the Cross City Trail Phase IV. Northland Constructors was the only bidder to respond. The engineer's estimate was \$935,237.65; payable out of Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0676TR, S.P. 118-090-021, Requisition No. 15-0337.

TABULATION OF BIDS RECEIVED JULY 1, 2015:
Northland Constructors of Duluth, LLC, Duluth, MN - \$953,254.53

Attachments: [15-0430 Map](#)

A motion was made and seconded that this Resolution be adopted. The motion carried by the following vote:

Yea: 8 - Councilor Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson

Absent: 1 - Councilor Julsrud

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

COMMITTEE 1

BY COUNCILOR FILIPOVICH (FINANCE)

48. 15-059-O AN ORDINANCE AMENDING CHAPTER 8, SECTION 41, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ELIMINATING THE PROHIBITION AGAINST GRANTING ALCOHOLIC BEVERAGE LICENSES TO CITY OFFICIALS NOT EMPLOYED IN THE POLICE OR FIRE DEPARTMENTS.

AN ORDINANCE AMENDING CHAPTER 8, SECTION 41, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ELIMINATING THE PROHIBITION AGAINST GRANTING ALCOHOLIC BEVERAGE LICENSES TO CITY OFFICIALS NOT EMPLOYED IN THE POLICE OR FIRE DEPARTMENTS.

BY COUNCILOR FILIPOVICH::

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 41, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8 41. Types generally.

(a) With respect to intoxicating liquor, there shall be the following types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, on sale brewer taproom, on sale microdistillery cocktail room, temporary on sale, off sale and a brewery malt liquor off sale;

(b) On sale licenses authorize the licensee to sell intoxicating liquor at retail for consumption only on the licensed premises. The following additional requirements apply to specific types of on sale licenses:

(1) On sale culinary class licenses authorize on sales subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(2) On sale theater licenses authorize on sales each day of the week to persons attending events at the theater;

(3) On sale brewer taproom licenses authorize on sales of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this Chapter and Minnesota Statutes Section 340A.301,

subd. 6(b), or its successor. Notwithstanding Section 8-17 of this Chapter or Minnesota Statutes Section 340A.504, subdivision 3, a taproom may be open and may conduct on sale business on Sundays if authorized by the city in the license. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(4) On sale microdistillery cocktail room licenses authorize on sales of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the restrictions of Section 8-44(h) of this Chapter and Minnesota Section 340A.22 or its successor;

(5) Temporary on sale licenses authorize temporary on sales in connection with a social event sponsored by the licensee and only at the designated licensed premise;

(c) Except as provided herein, off sale licenses authorize the licensee to sell intoxicating liquor at retail in original packages only for consumption off the licensed premises. The following additional requirements apply to specific types of off sale licenses:

(1) Brewery malt liquor licenses permit breweries holding on sale licenses, or breweries that manufacture fewer than 3,500 barrels of malt liquor in a year, to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor, and this Chapter;

(2) Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, or its successor;

(d) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. Each type of 3.2 percent malt liquor license authorizes the licensee to sell 3.2 percent malt liquor subject to the following additional requirements applicable to the specific type of license:

(1) On sale licenses authorize the sale of 3.2 percent malt liquor at retail for consumption only on the licensed premises;

(2) Off sale licenses authorize the sale of 3.2 percent malt liquor at retail in original packages for consumption only off the licensed premises;

(3) Temporary on sale licenses authorize the sale of 3.2 percent malt liquor at retail for a limited period of time, and only at the designated licensed premise;

(e) No alcoholic beverage license of any type shall be granted ~~to any elective, appointed, executive or administrative officer of the city,~~ to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department, to any police chief, deputy chief of police, fire chief, deputy fire chief, fire marshal or deputy fire marshal, nor shall any such officer or employee engage in the business, be employed by an establishment licensed by the city, or have an ownership interest in such business licensed by the city.

STATEMENT OF PURPOSE: The purpose of this ordinance is to eliminate the prohibition against granting an alcoholic beverage license to elective, appointed, executive or administrative city officials who are not employed in the fire or police department and to have the city of Duluth's alcoholic beverage license requirements be consistent with state statutes.

Sponsors: Filipovich

This Ordinance was read for the first time.

Enactment No: 10416

COMMITTEE 2

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

49. 15-055-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-B 160 ACRES ALONG THE EAST SIDE OF RICE LAKE ROAD SOUTH OF RIDGEVIEW ROAD (JLH PROPERTIES OF DULUTH LLC).

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-B 160 ACRES ALONG THE EAST SIDE OF RICE LAKE ROAD SOUTH OF RIDGEVIEW ROAD (JLH PROPERTIES OF DULUTH LLC).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 160 acres of land located on the east side of Rice Lake Road south Ridgeview Road and as more particularly described as follows:

Northwest Quarter of Section 5, Township 50 North of Range 14 West of the Fourth Principle Meridian, Saint Louis County, Minnesota; be reclassified from Residential-Rural 1 (RR-1) to Mixed Use-Business Park (MU-B), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from RR-1 to MU-B for 160 acres of land on the east side of Rice Lake Road south of Ridgeview Road.

On May 12, 2015, the Duluth city planning commission held a public hearing on the proposal and tabled the matter to learn more about why the comprehensive plan future land use map designated the property general mixed use. The attached memo, in addition to the staff report, provides explanations. On June 9, 2015 the Duluth city planning commission voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council

approve the rezoning requested for the following reasons:

This proposed MU-B District is consistent with the comprehensive land use plan future land use map designation for the property of general mixed use. The planning commission review of the platting of the property and/or application of UDC development standards during staff review of development proposals for the site will allow for implementation of the purpose statement of the MU-B zone district through setting aside land for natural resources protections, buffering to protect surrounding properties from possible impacts, and the evaluation of transportation connections to the site.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. Therefore, the motion to approve the rezoning ordinance must prevail with an affirmative vote of 6/9 of the city council.

Date of application: April 10, 2015

Action deadline: August 8, 2015

Petitioner:

JLH Properties of Duluth LLC

4843 Rice Lake Road

Duluth, MN 55803

PL 15-064

Attachments: [Map Attachment](#)

[Staff Report and Attachments](#)

This Ordinance was read for the first time.

Enactment No: 10417

- 50. 15-056-O** 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 CONGDON PARK, LONGVIEW TENNIS COURTS, MORLEY PARK, OLD MAIN PARK AND WAVERLY PARK (CITY OF DULUTH).
- 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 CONGDON PARK, IONGVIEW tENNIS cOURTS, mORLEY PARK, OLD MAIN PARK AND WAVERLY PARK (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the city and as more particularly described as follows:

010-0710-00240
010-2710-03625
010-4120-00520
010-3320-00560
010-1380-03455
010-4450-00830
010-2610-01320

be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the park properties located on the eastern portion of the City including Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park and Waverly Park from the current zoning districts of Residential- Traditional(R-1) to Park and Open Space (P-1).

On February 11, 2015 the Duluth parks and recreation commission unanimously passed a resolution in support of the rezoning of city park property.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the comprehensive plan related to the proposed land use for this area.

The rezoning is consistent with the comprehensive-plan future land use map.

While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the special use permit process as required by Section 50-37.10, in order to increase their public benefit.

Material adverse impacts on nearby properties are not anticipated.

licable
ble

Petitioner:
City of Duluth
Planning Division
Room 208
City Hall
Duluth, Minnesota

PL 15-082

Attachments: [Zoning Map Attachment](#)
[Staff Report and Attachments](#)

This Ordinance was read for the first time.

Enactment No: 10418

- 51. 15-058-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR UNDERGROUND UTILITIES IN THE RIGHT OF WAY OF 5TH AVENUE EAST BETWEEN 2ND STREET AND 4TH STREET (ESSENTIA HEALTH)

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR UNDERGROUND UTILITIES IN THE RIGHT-OF-WAY OF FIFTH AVENUE EAST BETWEEN SECOND STREET AND FOURTH STREET (ESSENTIA HEALTH).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Essentia Health, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Private underground utilities to provide emergency power generation and communications wiring for the Essentia campus, to include the following: two underground concrete duct banks, electrical conduit, and a 4" PVC sump drain in the right of way of 5th Avenue E, approximately between the E 3rd Street alley and just south of E 4th Street, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street

construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

(c) Maintenance of the duct banks, conduit, and sump drain, and all other utilities in this right of way owned by permittee, will be the responsibility of the permittee, including performing locates when needed.

(d) Permittee shall provide the City with as-built information once improvements are installed.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance grants Essentia Health a concurrent use permit for right of way of 5th Avenue E, between the E 3rd Street alley and E 4th Street, for private underground utilities providing emergency power and communications.

On June 9, 2015, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays, and 0 abstentions to recommend that

the city council approve the request for a concurrent use of streets.

Petition received: May 1, 2015
Action deadline: August 29, 2015

Applicant
Essentia Health
Attn: John Rice
502 E 2nd Street
Duluth, MN 55805

PL 15-076

Attachments: [Legal Description](#)
[Exhibit](#)
[Staff Report and Attachments](#)

This Ordinance was read for the first time.

Enactment No: 10419

COMMITTEE 3

BY COUNCILOR FOSLE (PUBLIC SAFETY)

52. 15-057-O AN ORDINANCE AMENDING CHAPTER 33, SECTION 91, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO UNATTENDED MOTOR VEHICLES.

AN ORDINANCE AMENDING CHAPTER 33, SECTION 91, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO UNATTENDED MOTOR VEHICLES.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1: That Chapter 33, Section 91, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:
Sec. 33 91. Keys to be removed from unattended vehicles.

Except for police officers and other public safety employees engaged in the performance of their official duties, No person shall leave a motor vehicle, except a truck which is engaged in loading or unloading, unattended on any street, alley, used car lot or unattended parking lot without first stopping the engine, locking the ignition and removing all ignition keys from the vehicle; provided, however, that any violation of these provisions shall not mitigate the offense of stealing such motor vehicle, nor shall such violation be used to effect a recovery in any civil action for theft of such motor vehicle, or the insurance thereon, or have any other bearing in any civil action.

Whenever any police officer of the city shall find any such motor vehicle standing in violation of the foregoing provisions, such police officer is authorized and directed to remove therefrom the keys left therein and to deliver the same to the officer in charge at police headquarters.

Section 2: That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Chapter 33, Section 91, of the Duluth City Code to exempt police officers and other public safety officials from the requirements of the section while engaged in their official duties. This amendment is in response to the decision of the Minnesota Court of Appeals in *Briggs v Rasicot*, (A14-2022, Minn. App. 6/29/2015). In *Briggs* an officer left his squad running and unlocked during an attempted arrest. The suspect stole the squad and caused an accident resulting in death to an occupant of a civilian vehicle. The court held that the officer and the city that employed the officer were liable because the city code, which is similar to Section 91, did not exempt the officer from the requirements of the code. Because it is not practicable for officers and other public safety employees to always lock their vehicles while engaged in their official duties, it is necessary to amend Section 91 in order to avoid liability for the theft of a public safety vehicle.

This Ordinance was read for the first time.

Enactment No: 10420

The following entitled ordinance was read for the second time:

COMMITTEE 3

BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

53. 15-048-O AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC ROADWAY AND UTILITY PURPOSES ON CITY-OWNED PROPERTY RELATED TO RECONDITIONING AND RECONSTRUCTION OF RIDGEVIEW ROAD.

AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC ROADWAY AND UTILITY PURPOSES ON CITY-OWNED PROPERTY RELATED TO RECONDITIONING AND RECONSTRUCTION OF RIDGEVIEW ROAD.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for roadway and utility right-of-way purposes over city-owned property in St. Louis County, Minnesota, as legally described in the attached Exhibit.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date August 19 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to dedicate a 33 foot wide easement for roadway and utility purposes across city-owned property to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard base in Duluth. The city will receive a combination of funds provided by MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a "public right-of-way."

Attachments: [Exhibit](#)

A motion was made and seconded that this Ordinance be adopted. The motion carried by the following vote:

Yea: 8 - Councilor Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson

Absent: 1 - Councilor Julsrud

Enactment No: 10391

The meeting was adjourned at 7:27 p.m.