

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

June 15, 2015

Duluth City Council meeting held on Monday, June 15, 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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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0615-01 Minnesota state auditor: (a) Audit report for Duluth airport authority for the years ended December 31, 2014, and 2013; (b) Management and compliance report for city of Duluth for the year ended December 31, 2014. -- Received

15-0615-02 The following communications regarding the proposed planning study of the city's official controls related to vacation dwelling units and imposing a moratorium on new permits for vacation dwelling units pending completion of the study (15-047-O): (a) Patricia Burns; (b) Theresa Hanson; (c) Jim and Rachel Moseley. -- Received

15-0615-12 The following communications regarding the proposed Grand Avenue Nordic Center mini-master plan (15-0358R): (a) Gloria DeSmedt; (b) Jay Thompson. -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0615-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth Amateur Hockey Association on January 12, 2016; (b) Holy Family Catholic Church on September 19, 2015. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0615-04 Civil service board minutes of February 3, 2015, meeting. -- Received

15-0615-05 Duluth economic development authority minutes of April 22, 2015, meeting. -- Received

15-0615-06 Duluth Seaway Port authority minutes of: (a) December 11, 2014, special meeting; (b) January 29, 2015, meeting. -- Received

15-0615-07 Duluth transit authority March 2015 financial statement. -- Received

15-0615-08 Heritage preservation commission minutes of April 28, 2015, meeting. -- Received

15-0615-09 Library board minutes of April 28, 2015, meeting. -- Received

15-0615-10 Planning commission minutes of April 14, 2015, meeting. -- Received

15-0615-11 Spirit Mountain recreation area authority board minutes of April 16, 2015, meeting. -- Received

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**REPORT OF COUNCIL OPEN ISSUES**

To Councilor Sipress' inquiry, Chief Administrative Officer David Montgomery reviewed

the rationale and intent of hiring a consultant to review options for a possible relocation for the main public library.

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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, by the city council of the city of Duluth, Minnesota, as follows:

#### **Section 1. Recitals.**

1.01 The city has previously issued certain obligations in the years 2004 and 2006 through and including 2009 of which at least one maturity remains outstanding as of the date of this resolution (the "obligations").

1.02 Continuing disclosure certificates of the city for each series of the Obligations pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5), as amended (the "rule"), were set forth in a corresponding continuing disclosure certificate dated the date of issue for the obligations.

1.03 The city's continuing disclosure certificates require the city to file its annual reports within 180 days of the end of its fiscal year.

1.04 The city desires to amend such continuing disclosure certificates to change the deadline to the October 1 immediately following the close of each fiscal year of the city, which is December 31.

1.05 The city may amend the certificates without the consent of bondholders if it is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the obligations, or the type of business conducted; and the certificates, as amended, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the rule at the time of the original issuance of the obligations, after taking into account any amendments or interpretations of the rule, as well as any change in circumstance; and the amendment does not, in the opinion of nationally recognized bond council, materially impair the interests of the holders or beneficial owners of the obligations.

#### **Section 2. Authorization.**

2.01 The mayor and the clerk are authorized to execute the comprehensive amended and restated continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 15-0615-13.

Resolution 15-0330 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-14, which is levied to collect delinquent sewer, water, stormwater, street maintenance and street lights utility fees payable during the period of January 1, 2014, to December 31, 2014, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 15-0339 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-15, which is levied to collect delinquent property violation administration penalty citations for the period of April 1, 2014, to April 1, 2015, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 15-0343 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-16, which is levied to collect delinquent solid waste collection fees payable during the period of March 1, 2014, to June 1, 2015, as provided for in Chapter 24 of the City Charter, is hereby confirmed.

Resolution 15-0351 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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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:

Alpine Bar & Lounge, Inc. (Alpine Bar & Lounge), 1308 Commonwealth Avenue, for June 26-28, 2015, from 7:00 p.m. to midnight on June 26, 2015, from 6:00 p.m. to 1:00 a.m. on June 27, 2015, and 11:00 a.m. to 3:00 p.m. on June 28, 2015.

PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, for June 20, 2015, serving from 8:00 a.m. to 3:00 p.m.

The Lake Effect Restaurant, Inc. (Lake Avenue Café), 394 Lake Avenue South, for June 19 and 20, 2015, with music and serving ceasing at 1:15 a.m.

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, in conjunction with Grandma's Marathon, for June 20, 2015, with the serving ceasing at 2:00 a.m.

Shotz Bar, Inc. (Shotz Bar), 1321 Commonwealth Avenue, for June 27, 2015, from 6:00 p.m. to 1:00 a.m.

Bergey's, LLC (Bergey's), 2232 West Superior Street, for June 27, 2015, from 12:00 p.m. to 8:00 p.m.

Chaser's of Duluth, Inc. (Bedrock Bar), 2013 West Superior Street, for June 20, 2015, from 6:00 p.m. to 9:00 p.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 20, 2015, serving from 8:00 a.m. to 2:00 p.m.

Up North Taps, LLC (7 West Taphouse), 7 West Superior Street, for July 8, 2015, serving from 11:00 a.m. to 8:00 p.m.

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 10, 2015, serving from 6:00 p.m. to 12:00 a.m.

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for July 10, 2015, (rain date July 17, 2015), serving from 6:00 p.m. to 12:00 a.m.

Resolution 15-0331 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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

AAD Shriners, (KIA of Duluth Drag Races and Car Show), 435 Garfield Avenue, for September 12 - 13, 2015, with Ryan Kern, manager.

Resolution 15-0332 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 7-9, 2015, serving from 11:00 a.m. to 10:00 p.m. with Clark Coole, manager.

Minnesota Craft Brewer's Guild, (All Pints North), Bayfront Park, for July 25, 2015, from 3:00 p.m. to 7:00 p.m., with Amanda Buhman, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 23-26, 2015, with Clint Johnson, manager.

Resolution 15-0333 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council approves the following permanent expansion of the designated serving area of the 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:

Lemon's Reef, (The Reef Bar), 2002 London Road, to include outside patio area in parking lot.

Resolution 15-0334 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council issues the following permanent expansion of the designated serving area of the on sale wine license and on sale 3.2 percent malt liquor license for the period ending August 31, 2015, and April 30, 2016, respectively, subject to departmental approvals and the payment of sales and property taxes:

Big Lake, LLC (Toasty's), 1032 East Ninth Street, to include the fenced in yard and deck.

Resolution 15-0335 was unanimously adopted.

Approved June 15, 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 stock of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals;

Cool Asian Bistro, Inc. (Cloud 9 Asian Bistro), 308 Lake Avenue South, with Ming Hui Zheng, 30 percent stockholder, Martin Ma, 35 percent stockholder, and Meilan Lin, 35 percent stockholder.

Resolution 15-0348 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale wine license and issues a 3.2 percent malt liquor license for the period

beginning September 1, 2015, and ending August 31, 2016, and April 30, 2016, respectively, subject to departmental approvals, and further subject to the liquor control commissioner:

MUY! Pizza Minnesota, LLC (Pizza Hut), 902 Woodland Avenue, to include outside patio area.

Resolution 15-0349 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale microdistillery liquor license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Vikre Distillery, LLC (Vikre Distillery), 525 Lake Avenue South.

Resolution 15-0350 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Kraus-Anderson Community Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0357 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase an Elgin Pelican NP street sweeper from MacQueen Equipment, Inc., Minnesota State Contract 83362, for a total amount of \$187,268, payable from Capital Equipment 250; Public Administration 015; Fiscal Year 2015; Capital Equipment 5580; Project: CE250-v1504 - Capital Equipment Fund 250, maintenance ops vehicles.

Resolution 15-0362 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council issues the following permanent expansion of the designated serving area of the 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:

The Greens Duluth, Inc. (The Break Room), 501 East Fourth Street, to include the patio in the back of building.

Resolution 15-0363 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of permitting services leadworker, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, 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 32, \$4,316 to \$5,087 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 15-0340 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of water quality specialist, including a title change to utility resources specialist, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31, \$4,140 to \$4,879, per month.

Resolution 15-0341 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of utility operations program coordinator, including a title change to utility programs coordinator, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 33, \$4,493 to \$5,305, per month.

Resolution 15-0342 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of construction services information and communications specialist, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, 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 132, \$3,986 to \$4,692 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 15-0347 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the reappointments by Mayor Ness of Kenneth D. Butler and Patrick Mullen to the Duluth airport authority for terms expiring on July 1, 2018, are confirmed.

Resolution 15-0367 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Rondi Watson (at large) for a term expiring on June 30, 2018, replacing Walter Kramer, is confirmed.

Resolution 15-0368 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness to the Duluth transit authority of Wayne Nelson (at large) and Anthony Orman (District 1) for terms expiring on June 30, 2018, are confirmed.

Resolution 15-0369 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the appointment to the Spirit Mountain recreation area authority by Mayor Ness of Kathryn Ferguson, for a term expiring on June 30, 2018, replacing Neale Roth, is confirmed.

Resolution 15-0370 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the reappointment to the Spirit Mountain recreation area authority by Mayor Ness of Todd Torvinen for a term expiring on June 30, 2017, is confirmed.

FURTHER RESOLVED, that the reappointment to the Spirit Mountain recreation area authority by Mayor Ness of Jane Gilbert-Howard for a term expiring on June 30, 2018, is also confirmed.

Resolution 15-0371 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Marcia Podratz to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2017, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Ness of Paul Thomsen to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2018, is also confirmed.

Resolution 15-0372 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a one year license agreement, substantially in the form of the attached document, with the Duluth economic development authority (DEDA), to allow the city to operate DEDA Lot B in Bayfront for vehicular parking and to allow the city use of DEDA-owned property adjacent to Lot B for Bayfront Festival Park-related purposes.

FURTHER RESOLVED, that this license agreement is at no cost to the city.

Resolution 15-0237 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the redevelopment grant agreement, substantially in the form of that attached as Exhibit A, with the state of Minnesota acting through the department of employment and economic development ("DEED") to revise certain line items and amounts within said

agreement with no change in the total grant amount or required match, and to extend the grant period by six months, to December 31, 2015, all related to the Pier B project.

Resolution 15-0346 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to the provisions of Minnesota Statutes Section 645.021 Subd. 2, the city council of the city of Duluth hereby approves the provisions of Laws of Minnesota, Chapter 9, Article 2, Section 9.

RESOLVED FURTHER, that the city clerk shall file with the secretary of state a certificate stating the essential facts necessary to valid approval, including a copy of the resolution of approval, in that form of certificate prescribed by the attorney general in accordance with the requirements of Minnesota Statutes Section 645.021 Subd. 3.

Resolution 15-0325 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth does hereby accept the conveyance of an easement from Lift Bridge Partners LLC for public utility purposes substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0615-17 and attached as Exhibit A hereto over property legally described in said Exhibit A in connection with a mixed use development located at the southeast corner of 21st Avenue East and London Road.

Resolution 15-0295 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2015 street preservation project - Woodland Avenue from Fourth Street to Kent Road and from Calvary Road to Martin Road in the amount of \$1,109,159.69, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1044.

Resolution 15-0323 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase 23 traffic cabinets along with installation from Traffic Control Corporation, Minnesota State Contract 70760, for a total amount of \$394,955, payable from Street Lighting Utility 550, Public Administration 120, Capital Equipment 5580.

Resolution 15-0324 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2015 street preservation project - reconditioning of Skyline Parkway and Glenwood Street repairs in the amount of \$263,972.38, payable out of Street



System Fund 440, Department/Agency 038 (special assessments), Object 5530 (improvements other than buildings), City Project No. 1382.

Resolution 15-0327 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2015 street preservation project - reconditioning of 46th Avenue West, 40th Avenue East and Pecan Avenue in the amount of \$624,373.12, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1336.

Resolution 15-0328 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from the Housing and Redevelopment Authority of Duluth in the form of Public Document No. 15-0615-18 on file in the office of the city clerk, and attached hereto as Exhibit A dedicating to the general public a triangular street and utility easement over the southwest corner of Lot 34, East Second Street Duluth Proper First Division.

Resolution 15-0329 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Four Star Construction, Inc., for the reconstruction of retaining walls at 1720 New Street and 2305 West Fourth Street in the amount of \$96,171.20, payable out of Permanent Improvement Fund 411, Department 035 (capital project accounts, Object 5530 (improvements other than buildings), City Project Nos. 1303 and 1308.

Resolution 15-0345 was unanimously adopted.

Approved June 15, 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 Downtown 12 inch gas main and existing water main replacement in the amount of \$1,444,707.21, payable out of Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1408.

Resolution 15-0352 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth Bethel Society, Inc., substantially in the form of that attached hereto, accepting an easement for street and utility purposes over that property in St. Louis County, Minnesota, described below and agreeing to reimburse the Duluth Bethel Society, Inc., for costs of constructing a retaining wall adjacent to West First Street in an amount of not to exceed

\$53,000, payable from the Permanent Improvement Fund 411, Department 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1366.

Resolution 15-0355 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from Christopher and Amanda Carlson, joint tenants, in the form that is attached hereto as Exhibit A, dedicating to the general public a street and utility easement over the northwesterly five feet of Lot 13, MACDOUGALL'S SUBDIVISION OF BLOCK 95, DULUTH PROPER SECOND DIVISION, at no cost to the city.

Resolution 15-0361 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from Robert and Sheila Matthews, joint tenants, in the form that is attached hereto as Exhibit A, dedicating to the general public a street and utility easement over the northwesterly ten feet of Lot 369, Block 122, DULUTH PROPER Second Division, at no cost to the city.

Resolution 15-0364 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from PRK Properties of Duluth, LLC, that is attached hereto as Exhibit A, dedicating to the general public a street and utility easement over the northwesterly ten feet of Lot 371, Block 122, DULUTH PROPER Second Division, at no cost to the city.

Resolution 15-0365 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a mutual aid agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0615-19, with the city of St. Paul, Minnesota, to facilitate cooperation and assistance between their respective police departments, payable from Fund No. 110-160-1610-5441 (general fund, police department, administration and investigation, other services and charges).

Resolution 15-0321 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages on the sidewalk in front of Little Angie's Cantina, 11 East Buchanan Street, starting approximately at 3:00 p.m. until 2:00 a.m. in conjunction with Grandma's Marathon on June 20, 2015, to coincide with the Greater Downtown Council's 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.

Resolution 15-0337 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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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 in conjunction with Downtown Sidewalk Days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

July 8, 2015	Superior Street from Third Avenue East to Fifth Avenue West	4:00 p.m. to 8:00 p.m.
July 10, 2015	First Street between Third Avenue West and Fourth Avenue West and between First Avenue West and Second Avenue West	6:00 p.m. to midnight
July 11, 2015	Superior Street from First Avenue West to Second Avenue West	5:00 p.m. to midnight

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.

Resolution 15-0338 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a one year use and operation agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0615-20, with Arrowhead Youth Soccer Association of Northeastern Minnesota for the use of the city's Jean Duluth and Arlington soccer fields with maintenance fee payments of \$15,000 due in two installments of 50% each due on July 1 and September 1 payable into Fund 205-130-1221-4625 (parks, community resources, park's maintenance, rent of athletic fields).

Resolution 15-0322 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Valley Youth Centers of Duluth (VYC) to provide out of school time youth programming in the city's far west neighborhoods, at the Gary New Duluth recreation building.

FURTHER RESOLVED, that payment of \$20,000 for the first year, and \$20,000 per year thereafter to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 15-0356 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to the Greater Minnesota regional parks and trails commission for designation of the Grand Avenue Nordic Center as a regional park or trail on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the designation, and the financial, technical and managerial capacity to ensure that, if designated, the city has the expertise to apply for grant funding, which involves a separate application and review process.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid designation, the city of Duluth agrees that the proper city officials are authorized to enter into an agreement with the Greater Minnesota regional parks and trails commission.

Resolution 15-0359 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to the five-year management agreement with Billy Casper Golf, LLC, a Virginia limited liability company, for the operation, maintenance and improvement of the Lester Park and Enger Park golf courses, substantially in the form of that attached hereto as Attachment A, allowing Lester Park Golf Management, LLC, to utilize the on sale intoxicating liquor license granted to the city for the Lester Park Golf Course as authorized by Law of Minnesota 2015, Chapter 9, Article 2, Section 9.

Resolution 15-0374 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0358, granting approval of the Grand Avenue Nordic Center mini-master plan and updating the location of the Nordic center in the Spirit Mountain recreation area master plan, 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.

Gary Gottfried, Jay Thompson, Shanna Thompson, John Strunk and Catharine Strunk expressed their concerns.

Chad Salmela, Duluth Nordic Ski Club, expressed support for the resolution.

The council discussed this resolution at length.

Resolution 15-0358 was adopted as follows:

RESOLVED, that the city council hereby approves the Grand Avenue Nordic Center mini-master plan, in partnership with the Duluth Cross Country Ski Club and the Spirit Mountain recreation area authority and also approves updating the Spirit Mountain recreation area master plan.

Resolution 15-0358 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Hanson -- 2

Approved June 15, 2015

DON NESS, Mayor

- - -

Resolution 15-0373, by Councilor Gardner, affirming the city of Duluth's commitment to use the Minnesota office of the state auditor to conduct city audits, was introduced for discussion.

Councilor Gardner moved to suspend the rules to hear from a speaker on the resolution, which motion was seconded and unanimously carried.

Tamara Jones requested support for the resolution.

Resolution 15-0373 was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, Minnesota has one of the most well respected systems of local government in the nation and part of that success is directly attributed to the strong oversight and enforcement programs of the Minnesota office of the state auditor; and

WHEREAS, the state auditor is an officer provided for in the Minnesota Constitution and is responsible for insuring the financial integrity and accountability of local governments; and

WHEREAS, the office of the state auditor insures that local governments hold themselves to the highest standards through audits, education, training and enforcement. The state auditor also establishes uniform reporting standards which insure that tax dollars are spent appropriately; and

WHEREAS, the office of the state auditor conducts an annual audit for the city of Duluth and issues an annual independent auditor's report. In addition the state auditor performs single audits which are required for the city to qualify for federal grants; and

WHEREAS, recent legislation allowing private accounting companies to conduct government audits undermines state oversight of local government accounting practices.

THEREFORE BE IT RESOLVED, that the Duluth City Council supports the continued use of the Minnesota office of the state auditor to conduct the financial audits for the city of Duluth.

Resolution 15-0373 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

Resolution 15-0336, granting an interim use permit for a vacation dwelling unit at 127 Chester Parkway (Grobe Family Supplemental Needs Trust and Beth Grobe Magomolla), was introduced by Councilor Russ for discussion.

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

Leon and Britt Rohrbaugh expressed their concerns about this resolution.

Resolution 15-0336 failed unanimously (Public Document No. 15-0615-21).

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Resolution 15-0366, authorizing agreement with Burns & McDonnell for architect & engineering services related to the Cirrus Building project in the amount not to exceed \$456,500, was introduced by Councilor Russ for discussion.

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

Todd Gustafson, Shawn Hansen, Tamara Jones and Cathy Schuyler expressed concerns on the approval of this resolution.

Bill King, Cirrus, answered councilors' questions and requested support for the resolution.

Councilors discussed this resolution at length.

Resolution 15-0366 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Burns & McDonnell, substantially in the form of that on file in the office of the

city clerk as Exhibit A, to provide architect and engineering services pertaining to the development, design and construction of the Cirrus building project in the amount not to exceed \$456,500, payable from Fund 412-030-5520 (Cirrus building, finance department, buildings and structures).

Resolution 15-0366 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Hanson, Julsrud, Krug, Russ and President Larson -- 7

Nays: Councilors Gardner and Sipress -- 2

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative officer is hereby authorized to apply to the Lessard-Sams Outdoor Heritage Council for funding through the Outdoor Heritage Fund 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 permanent maintenance.

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 Outdoor Heritage Council.

FURTHER RESOLVED, the total grant amount of \$1,077,500 is equal to the estimated city of Duluth total project cost of \$1,077,500.

Resolution 15-0353 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

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## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

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

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FILIPOVICH

15-046 (10389) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

- - -

BY COUNCILORS RUSS, GARDNER AND SIPRESS

15-047 (10390) - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

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

Ken Aparicio, Cameron Fryer and Tim Allen expressed support for the ordinance.  
Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 9:45 p.m.

JEFFREY J. COX, City Clerk

- - -

#### **ORDINANCE NO. 10389**

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That ordinance 10347 passed and approved December 15, 2014, is hereby amended by appropriating an additional \$1,500,000 from the general fund's fund balance as follows:

Department 121 - Public administration \$575,000

Department 132 - Planning and construction services \$100,000

Department 160 - Police \$60,000

Department 700 - Transfers and other functions \$765,000

Section 2. That this ordinance shall take effect immediately upon its passage.  
(Effective date: June 15, 2015)

Councilor Filipovich 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 June 15, 2015  
Approved June 15, 2015  
DON NESS, Mayor

- - -

#### **ORDINANCE NO. 10390**

BY COUNCILORS RUSS, GARDNER AND SIPRESS:

AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

The city of Duluth does ordain:

Section 1. Statement of legislative intent.

By ordinance dated December 17, 2012 (Ord. No. 10192), the Duluth City Council approved, for the first time, regulations governing short-term vacation dwelling units as interim permitted uses under Chapter 50 of the Legislative Code, currently codified at Duluth City Code §§ 50-19.8 and 50-20.3.U, as amended.

Following the opportunity of the council and city planning staff to observe the new controls in operation, along with the evolving impact and growth of short-term rental websites such as "Airbnb" and "VRBO," the council deems it necessary to commence a planning study of existing controls in order to, without limitation:

- Review existing enforcement measures for vacation/short-term rental violations;
- Consider the creation of a municipal vacation/short-term rental registry;
- Consider limitations on locations of vacation/short-term rentals;
- Consider requirements regarding the proximity of a caretaker or manager for vacation/short-term rentals;
- Review and consider other potential regulatory requirements for vacation/short-term rentals;
- Review and consider new enforcement measures or regulations for vacation/short-term rentals; and
- Review the Unified Development Chapter (UDC) for possible amendment relating to the locations of vacation/short-term rentals.

The council further finds that it is necessary to temporarily preserve the status quo regarding the city's current regulation of vacation dwelling units under Chapter 50 of the Legislative Code until the above-described planning study can be completed.

Accordingly, the council finds that an interim ordinance proscribing new permits for vacation dwelling units under Chapter 50 of the Legislative Code within the boundaries of the city for a period not to exceed 12 months is necessary to protect the planning process and to guard the health, safety and welfare of the city's residents.

Section 2. Planning study authorized.

Pursuant to Minn. Stat. § 462.355, subd. 4, the Duluth City Council hereby authorizes a planning study of the city's official controls regulating vacation dwelling units under Chapter 50 of the Legislative Code for the purpose of protecting the planning process and the health, safety and welfare of its citizens.

Section 3. Moratorium imposed.

The city of Duluth hereby proscribes the issuance of new permits for vacation dwelling units under Chapter 50 of the Legislative Code within the boundaries of the city pending completion of the planning study and any related zoning enactments described in Section 1. This moratorium shall be effective until the expiration of 12 months following the effective date of its enactment, or until such earlier time as the council may have taken action to amend its official controls as a result of the planning study described in Section 1.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 17, 2015)

Councilor Russ 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 June 15, 2015  
Approved June 15, 2015  
DON NESS, Mayor

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