



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Final

### 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 provide increased opportunities for civil discourse leading to positive resolutions for the issues that face our city. We know that when we have civility, we get civic engagement, and because we can't make each other civil and we can only work on ourselves, we state that today I will: pay attention, listen, be inclusive, not gossip, show respect, seek common ground, repair damaged relationships, use constructive language, and take responsibility. [Approved by the council on May 14, 2018]*

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Monday, September 23, 2019

7:00 PM

Council Chamber

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#### ROLL CALL

- Present:** 8 - Councilor Gary Anderson, Councilor Zack Filipovich, Councilor Arik Forsman, Councilor Barb Russ, Councilor Joel Sipress, Councilor Renee Van Nett, Councilor Em Westerlund and President Noah Hobbs
- Absent:** 1 - Councilor Jay Fosle

#### PLEDGE OF ALLEGIANCE

PLEDGE OF ALLEGIANCE

#### PUBLIC HEARING

PUBLIC HEARING

1. [19-177](#) Public Hearing - to consider approval of the tax abatement and the development agreement with Roers Lake and First LLC which includes the provision of a business subsidy in the form of tax abatement

**Indexes:**

**Attachments:** [Public Notice for Lake and First project](#)

This Informational Report was received.

#### APPROVAL OF MINUTES

APPROVAL OF MINUTES

- 2. [19-176](#) Meeting Minutes of the Duluth City Council

**Indexes:**

**Attachments:** [City Council Meeting - September 9, 2019](#)

**These Minutes were approved.**

REPORTS FROM THE ADMINISTRATION

REPORTS FROM THE ADMINISTRATION

REPORTS FROM OTHER OFFICERS

REPORTS FROM OTHER OFFICERS

REPORTS OF BOARDS AND COMMISSIONS

REPORTS OF BOARDS AND COMMISSIONS

- 3. [19-173](#) Alcohol, Gambling and Tobacco Commission Meeting Minutes

**Indexes:**

**Attachments:** [AGT Minutes](#)

**This Board or Commission Report was received.**

- 4. [19-174](#) Duluth Parking Commission Resolutions

**Indexes:**

**Attachments:** [August 2019 DPC Resolutions](#)  
[September 2019 DPC Resolutions](#)

**This Board or Commission Report was received.**

- 5. [19-175](#) Library Board Meeting Minutes

**Indexes:**

**Attachments:** [Minutes Library Board](#)

REPORTS OF COUNCIL COMMITTEES

REPORTS OF COUNCIL COMMITTEES

REPORTS OF COUNCIL OPEN ISSUES

REPORTS OF COUNCIL OPEN ISSUES

OPPORTUNITY FOR CITIZENS TO BE HEARD

OPPORTUNITY FOR CITIZENS TO BE HEARD

CONSENT AGENDA

CONSENT AGENDA

BY COUNCILOR ANDERSON (FINANCE)

BY COUNCILOR ANDERSON (FINANCE)

- 6. [19-0630R](#) RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HKM, P.A. INCREASING THE CONTRACT AMOUNT BY \$13,925 FOR A CONTRACT AMOUNT NOT TO EXCEED \$62,211.

Indexes:

Attachments: [Exhibit A](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

- 7. [19-0637R](#) RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2020.

Indexes:

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

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

- 8. [19-0638R](#) RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2020.

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

- 9. [19-0639R](#) RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, HOUSING AND

REDEVELOPMENT AUTHORITY, FOR THE YEAR 2020.

Indexes:

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

**This Resolution was adopted unanimously.**  
**Absent: Councilor Fosle**

BY COUNCILOR FOSLE (PURCHASING & LICENSING)

BY COUNCILOR FOSLE (PURCHASING & LICENSING)

10. [19-0628R](#) RESOLUTION APPROVING ISSUANCE OF AN ON SALE INTOXICATING LIQUOR LICENSE AND SUNDAY LICENSE TO NOBLE POUR, LLC (NOBLE POUR), 1907 WEST SUPERIOR STREET

Indexes:

- Attachments: [Attachment A](#)

**This Resolution was adopted unanimously.**  
**Absent: Councilor Fosle**

11. [19-0663R](#) RESOLUTION IN THE MATTER OF THE ON SALE INTOXICATING LIQUOR LICENSE OF JOEL'S LLC D/B/A MEXICO LINDO, 600 EAST SUPERIOR STREET, SUITE 201, DULUTH, MINNESOTA 55802.

Indexes:

- Attachments: [Notice of September 4, 2019 Hearing -Mexico Lindo](#)  
[Exhibit B - Report to City Council - Mexico Lindo](#)

**This Resolution was adopted unanimously.**  
**Absent: Councilor Fosle**

BY COUNCILOR FORSMAN (PERSONNEL)

BY COUNCILOR FORSMAN (PERSONNEL)

12. [19-0653R](#) RESOLUTION CONFIRMING THE APPOINTMENT OF TAMMY WALKER TO THE DULUTH CITIZEN REVIEW BOARD.

**This Resolution was adopted unanimously.**  
**Absent: Councilor Fosle**

13. [19-0654R](#) RESOLUTION CONFIRMING THE REAPPOINTMENT OF MICHELLE MCDONALD TO THE COMMISSION ON DISABILITIES.

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 14. [19-0655R](#) RESOLUTION CONFIRMING THE APPOINTMENT OF MARK HAKES TO THE DULUTH HUMAN RIGHTS COMMISSION

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 15. [19-0672R](#) RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF FIRE SYSTEMS PLANS EXAMINER, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

Indexes:

Attachments: [Exhibit A](#)

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

- 16. [19-0629R](#) RESOLUTION GRANTING A TAX ABATEMENT FOR THE FIRST STREET LOFTS PROJECT, AUTHORIZING A TAX ABATEMENT AGREEMENT WITH ST. LOUIS COUNTY, AND FURTHER AUTHORIZING A DEVELOPMENT AGREEMENT WITH ROERS LAKE & FIRST LLC.

Indexes:

Attachments: [Business Subsidy Agreement Pre-Approval](#)

[Exhibit A](#)

[Exhibit B](#)

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 17. [19-0651R](#) RESOLUTION VACATING PARTS OF PLATTED SELLWOOD AVENUE IN THE PLAT OF IRONTON FIRST AVENUE, ALSO KNOWN AS 84TH AVENUE WEST, COMMONWEALTH AVENUE ALSO KNOWN AS 85TH AVENUE AND BESSEMER STREET, AND RETAINING A UTILITY EASEMENT AND PUBLIC RECREATIONAL WALKWAY AND UTILITY EASEMENT OVER A PORTION OF THE VACATION AREA OF 85TH AVENUE WEST, AND ALLEY BETWEEN 84TH AND 85TH AVENUE WEST.

Indexes:

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

This Resolution was returned to Administration.

- 18. [19-0652R](#) RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE MINNEAPOLIS FOUNDATION IN THE AMOUNT OF \$750 IN SUPPORT OF CENSUS 2020

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 19. [19-0657R](#) RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 1004 MINNESOTA AVENUE (PETRA PROPERTIES).

**Indexes:**

**Attachments:** [Attachment 1](#)

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 20. [19-0662R](#) RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT IN THE F-8 DOWNTOWN MIX ZONING DISTRICT AT 30 NORTH FIRST AVENUE WEST (JASON TALY AND RACHEL WAGNER).

**Indexes:**

**Attachments:** [Attachment 1](#)

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

BY COUNCILOR FILIPOVICH (PUBLIC WORKS & UTILITIES)

BY COUNCILOR FILIPOVICH (PUBLIC WORKS & UTILITIES)

- 21. [19-0643R](#) RESOLUTION DEDICATING EASEMENTS FOR UTILITY AND ACCESS PURPOSES OVER, UNDER, AND ACROSS PROPERTY IN THE PLAT OF WILLARD AND PIPER'S DIVISION.

**Indexes:**

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

This Resolution was adopted unanimously.  
Absent: Councilor Fosle

- 22. [19-0646R](#) RESOLUTION DEDICATING AN EASEMENT FOR STREET AND UTILITY

PURPOSES OVER, UNDER, AND ACROSS PROPERTY ADJACENT TO THE PLATTED RIGHT-OF-WAY OF SIXTH AVE. E IN THE PLAT OF NORTON'S DIVISION OF DULUTH.

**Indexes:**

**Attachments:** [Exhibit A.pdf](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

23. [19-0647R](#) RESOLUTION TO RESCIND THE DESIGNATION AND ESTABLISHMENT AS A ONE-WAY STREET FOR THAT PART OF THE SEGMENT OF WEST FIRST STREET BETWEEN 22nd AVENUE WEST AND 30th AVENUE WEST.

**Indexes:**

**Attachments:** [19-0674R Map](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

24. [19-0650R](#) RESOLUTION AUTHORIZING MNDOT AGREEMENT NO. 1035319 FOR THE BRIGHTON BEACH TRAIL EXTENSION PROJECT UNDER STATE PROJECT NO. 118-090-024 WITH THE CITY MATCHING CONTRIBUTION LIMITED TO \$2,829.20.

**Indexes:**

**Attachments:** [19-0650R Attachment 1](#)  
[19-0650R Map](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

BY COUNCILOR VAN NETT (PUBLIC SAFETY)

BY COUNCILOR VAN NETT (PUBLIC SAFETY)

25. [19-0601R](#) RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MADDEN, GALANTER, HANSEN, LLP EXTENDING THE TERM OF THE AGREEMENT TO DECEMBER 31, 2021, AND INCREASING THE CONTRACT AMOUNT BY \$20,000 FOR A CONTRACT AMOUNT NOT TO EXCEED \$60,000.

**Indexes:**

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

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

26. [19-0649R](#) RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE PARTNER AGREEMENT BETWEEN THE CITY OF DULUTH AND PROGRAM FOR AID TO VICTIMS OF SEXUAL ASSAULT, INC., REGARDING THE FY 2016 NATIONAL SEXUAL ASSAULT KIT INITIATIVE TO VICTIMS OF SEXUAL ASSAULT, TO EXTEND THE TERM OF THE AGREEMENT FROM SEPTEMBER 30, 2019 TO SEPTEMBER 30, 2020.

**Indexes:**

**Attachments:** [Amendment to Partner Agreement](#)

Councilor Westerlund abstained stating that PAVSA is her current employer.

**This Resolution was adopted by the following vote:**

**Yea:** 7 - Councilor Anderson, Councilor Filipovich, Councilor Forsman, Councilor Russ, Councilor Sipress, Councilor Van Nett and President Hobbs

**Absent:** 1 - Councilor Fosle

**Abstain:** 1 - Councilor Westerlund

27. [19-0659R](#) RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT AMENDMENT WITH MINNESOTA DEPARTMENT OF TRANSPORTATION FOR LEASE OF ADDITIONAL SPACE ON ANTENNA TOWER

**Indexes:**

**Attachments:** [Exhibit A - Agreement 98282 Amendment # 2](#)  
[Agreement 98282 Amendment # 2 Exhibit B1](#)  
[Agreement 98282 City and MnDOT](#)

**This Resolution was adopted unanimously.**

**Absent: Councilor Fosle**

28. [19-0661R](#) RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY IN THE AMOUNT OF \$264,750 FOR THE 2020 TOWARDS ZERO DEATHS PROJECT.

**Indexes:**

**Attachments:** [Document A](#)

**This Resolution was adopted unanimously.**

**Absent: Councilor Fosle**

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

29. [19-0642R](#) RESOLUTION AUTHORIZING A ONE-YEAR AGREEMENT WITH



DULUTH AMATEUR HOCKEY ASSOCIATION FOR LEASE OF THE CITY'S FRYBERGER ARENA FOR NOMINAL CONSIDERATION.

**Indexes:**

**Attachments:** [Exhibit 1.pdf](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

30. [19-0644R](#) RESOLUTION AUTHORIZING AN AMENDMENT TO A LICENSE AGREEMENT WITH COMMUNITY ACTION DULUTH FOR THE CONTROL AND REMOVAL OF INVASIVE SPECIES WITHIN MULTIPLE CITY PARKS AND RECREATIONAL AREAS.

**Indexes:**

**Attachments:** [Exhibit 1.pdf](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

31. [19-0645R](#) RESOLUTION ACCEPTING PERMANENT EASEMENT FOR PUBLIC MULTI-USE TRAIL PURPOSES FROM THE MARSHALL SCHOOL OVER PROPERTY NEAR CENTRAL ENTRANCE AND PECAN AVENUE AT NO COST TO THE CITY.

**Indexes:**

**Attachments:** [Exhibit 1.pdf](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

32. [19-0648R](#) RESOLUTION ACCEPTING PERMANENT EASEMENT FOR PUBLIC MULTI-USE TRAIL PURPOSES FROM THE REGENTS OF THE UNIVERSITY OF MINNESOTA OVER THE UNIVERSITY OF MINNESOTA DULUTH CAMPUS AND BAGLEY NATURE AREA.

**Indexes:**

**Attachments:** [Exhibit 1.pdf](#)

**This Resolution was adopted unanimously.  
Absent: Councilor Fosle**

END OF CONSENT AGENDA

END OF CONSENT AGENDA

The following entitled resolutions are also to be considered:

The following entitled resolutions are also to be considered:

BY COUNCILOR ANDERSON (FINANCE)

BY COUNCILOR ANDERSON (FINANCE)

- 33. [19-0640R](#) RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2020.

Indexes:

Attachments: [Exhibit A](#)

[Motion to Amend: Filipovich/Sipress - Passed \(6-2-1: Nay: Hobbs and Forsman\)](#)

**This Resolution was adopted unanimously as amended.**

**Absent: Councilor Fosle**

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

- 34. [19-0669R](#) RESOLUTION SUPPORTING A LEADERSHIP ROLE FOR THE CITY OF DULUTH IN REDUCING WASTE GOING INTO THE ENVIRONMENT AND AREA LANDFILLS BY DECREASING OR ELIMINATING THE USE OF SINGLE USE PLASTIC PRODUCTS AND EXPANDED POLYSTYRENE CONTAINERS IN THE CITY.

**A motion was made to withdraw this Resolution. The motion passed unanimously with Councilor Fosle absent.**

The following entitled ordinances are to be read for the first time:

The following entitled ordinances are to be read for the first time:

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

BY COUNCILOR WESTERLUND (RECREATION, LIBRARIES & AUTHORITIES)

- 35. [19-046-O](#) AN ORDINANCE AMENDING CHAPTER 24 OF THE DULUTH CITY CODE BY ADDING A NEW ARTICLE VII REQUIRING A FIVE CENTS CHARGE FOR CARRYOUT BAGS.

**This Ordinance was read for the first time.**

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

36. [19-042-O](#) AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO RECLASSIFY PROPERTY AT 4250 HAINES ROAD FROM RURAL-RESIDENTIAL (RR-1) TO MIXED USE COMMERCIAL (MU-C).

**Indexes:**

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

**This Ordinance was read for the first time.**

37. [19-043-O](#) AN ORDINANCE GRANTING ESSENTIA HEALTH A CONCURRENT USE PERMIT FOR PRIVATE ELECTRICAL CONDUITS IN THE PLATTED STREET RIGHT OF WAY OF NORTH FOURTH AVENUE EAST AND EAST FIRST STREET.

**Indexes:**

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

**This Ordinance was read for the first time.**

38. [19-044-O](#) AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR PARKING IN THE PLATTED STREET RIGHT OF WAY OF 54TH AVENUE EAST.

**Indexes:**

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

**This Ordinance was read for the first time.**

39. [19-045-O](#) AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO RECLASSIFY APPROXIMATELY TEN ACRES OF PROPERTY ON THE NORTH SIDE OF MARBLE STREET NEAR ROBIN AVENUE FROM RESIDENTIAL-TRADITIONAL (R-1) TO RESIDENTIAL-PLANNED (R-P).

**Indexes:**

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

This Ordinance was read for the first time.

40. [19-047-O](#) AN ORDINANCE GRANTING ESSENTIA HEALTH A CONCURRENT USE PERMIT FOR A PRIVATE ELECTRICAL DUCT BANK IN THE PLATTED STREET RIGHT OF WAY OF NORTH FIFTH AVENUE EAST.

**Indexes:**

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

This Ordinance was read for the first time.

The following entitled ordinances are to be read for the second time:

The following entitled ordinances are to be read for the second time:

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

41. [19-038-O](#) AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO RECLASSIFY PROPERTY SOUTH OF THE INTERSECTION OF WEST GARY STREET AND BECKS ROAD FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE BUSINESS PARK (MU-B).

**Indexes:**

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

This Ordinance was adopted unanimously.

Absent: Councilor Fosle

42. [19-039-O](#) AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO RECLASSIFY PROPERTIES NEAR THE INTERSECTION OF COMMONWEALTH AVENUE AND BECKS ROAD FROM RURAL RESIDENTIAL 1 (RR-1) AND RESIDENTIAL-TRADITIONAL (R-1) TO MIXED USE BUSINESS PARK (MU-B).

**Indexes:**

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

**This Ordinance was adopted unanimously.  
Absent: Councilor Fosle.**

COUNCILOR QUESTIONS AND COMMENTS

COUNCILOR QUESTIONS AND COMMENTS

COUNCILOR PREVIEW OF UPCOMING BUSINESS

COUNCILOR PREVIEW OF UPCOMING BUSINESS