



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### 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]*

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Monday, September 14, 2015

7:00 PM

Council Chamber

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### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

### APPROVAL OF MINUTES

1. **15-046** May 11, 15 and 26, 2015.

Attachments: [May 11, 2015](#)

[May 15, 2015](#)

[May 26, 2015](#)

This Minutes was approved.

### PUBLIC HEARING

Continuation of the public hearing on August 31, 2015

Linda Ross Sellner and Karen Lewis spoke of their concerns

### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

2. **15-053** Communications regarding the proposed rezoning at 2421 London Road

(15-073-O).

Attachments: [Thomas Haas](#)  
[Ruth Kivisto](#)

This Petition/Other Communication was received.

3. **15-054** Communications regarding Pontliana Woods (15-0640R).

Attachments: [Steve Johnson and Carol Kondrath](#)  
[John Ramos](#)  
[Ellen Dunlap](#)

This Petition/Other Communication was received.

## REPORTS FROM THE ADMINISTRATION

4. **15-052** Mayor 2016 proposed levy and general fund budget.

Attachments: [Proposed 2016 Levy/Budget](#)

This Other Officers Report was received.

## REPORTS FROM OTHER OFFICERS

5. **15-050** Parks and recreation division manager notice of intent to designate new closing times for Endion Park and Gary New Duluth Recreation Area, pursuant to Section 35-9.3 of the Duluth City Code.

Attachments: [Notice](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

6. **15-047** Duluth economic development authority minutes of July 22, 2015, meeting.

Attachments: [July 22, 2015](#)

This Board or Commission Report was received.

7. **15-048** Duluth parking commission minutes of January 9, February 6, April 10, May 1, June 12 and July 23, 2015.

**Attachments:** [January 9, 2015](#)  
[February 6, 2015](#)  
[April 10, 2015](#)  
[May 1, 2015](#)  
[June 12, 2015](#)  
[July 23, 2015](#)

This Board or Commission Report was received.

8. **15-049** Housing and redevelopment authority of Duluth minutes of June 30, 2015, meeting.

**Attachments:** [June 30, 2015](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Karen Lewis spoke of her concern about the Minnesota slip bridge being inoperable and skateboarders and bicyclist not paying attention to pedestrians.

## RESOLUTIONS TABLED

### COMMITTEE 1

### BY COUNCILOR GARDNER (PERSONNEL)

9. **15-0577R** RESOLUTION CONFIRMING THE APPOINTMENT OF CRAIG CHILCOTE TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING DON MONACO.

RESOLUTION CONFIRMING THE APPOINTMENT OF CRAIG CHILCOTE TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING DON MONACO.

#### CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Craig Chilcote to the Duluth economic development authority for a term expiring on May 26, 2021, replacing Don Monaco, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the mayor's appointment of Craig Chilcote to the Duluth economic development

authority, replacing Don Monaco, who declined reappointment. At large terms for this authority are six years long.

**Attachments:** [Application](#)

A motion was made to remove resolution 15-0577 from the table, which motion was seconded and unanimously carried.

**This Resolution was adopted.**

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

10.     **15-0575R**     RESOLUTION GRANTING AN INTERIM USE PERMIT FOR TWO VACATION DWELLING UNITS AT 718 NORTH 7TH AVENUE EAST (TERESA MCNELLY AND ROB MCCLEARY)

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR TWO VACATION DWELLING UNITS AT 718 NORTH 7TH AVENUE EAST (TERESA MCNELLY AND ROB MCCLEARY)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Teresa McNelly and Rob McCleary an interim use permit to operate two vacation dwelling units located at 718 North Seventh Avenue East and as described by the following: PID 010-3940-1750; and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to two years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 15-1111); the commission gave due notice of public hearing and considered the application during a public hearing occurring on August 11, 2015; and

(f) The city planning commission, at their regular meeting on August 11, 2015, considered the application's consistency with the use specific

standards for vacation dwelling units and the criteria for granting interim use permits. Staff from the Planning Division had recommended approval subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax ID number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit, and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number, and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets, and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all, print, poster, web, or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

STATEMENT OF PURPOSE: This resolution grants to Teresa McNelly and Rob McCleary an interim use permit for two 2-bedroom vacation dwelling units at 718 North 7th Avenue West. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first. This application was submitted prior to July 17, 2015, the effective date of the 1 year moratorium on Vacation Dwelling

Units per Ordinance 10390.

The applicant has submitted the required materials and agency approvals, including all the licenses in subsection b above. The applicant will be able to provide the required two off street parking spots in the existing parking lot behind the structure.

The standard length of an interim use permit for this type of use is six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 3 yeas, 4 nays, and 0 abstentions, with 2 commissioners absent, to recommend that the city council approve the interim use permit with conditions; the motion to approve failed.

Request filed: July 16, 2015

Action deadline: November 14, 2015

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

[Attachment 2](#)

A motion was made to remove resolution 15-0575 from table, which motion was seconded and unanimously carried.

**This Resolution was adopted as amended.**

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

#### **COMMITTEE 1**

#### **BY COUNCILOR FILIPOVICH (FINANCE)**

11.    **15-0619R**    RESOLUTION AUTHORIZING EXECUTION OF NOTICE OF ACKNOWLEDGMENT OF ASSIGNMENT OF A MASTER LEASE/PURCHASE AGREEMENT DATED MARCH 28, 2008, FROM BANC OF AMERICA PUBLIC CAPITAL CORP TO KEY GOVERNMENT FINANCE, INC.

RESOLUTION AUTHORIZING EXECUTION OF NOTICE OF ACKNOWLEDGMENT OF ASSIGNMENT OF A MASTER

LEASE/PURCHASE AGREEMENT DATED MARCH 28, 2008, FROM BANC OF AMERICA PUBLIC CAPITAL CORP TO KEY GOVERNMENT FINANCE, INC.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute a Notice of Acknowledgment of Assignment, substantially in the form attached as exhibit A, consenting to the assignment and transfer by Banc of America Public Capital Corp (“Banc of America”) to Key Government Finance, Inc., of the Master Lease/Purchase Agreement dated March 28, 2008, between Banc of America and the City of Duluth.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to authorize and acknowledge the sale, assignment and transfer by Banc of America to Key Government Finance, Inc., of its rights, titles, interests and obligations in connection with the master lease/purchase agreement for gas utility equipment (water meters, ERTs and related equipment) dated March 28, 2008, with the city of Duluth and to authorize city official to execute the Notice of Acknowledgment of Assignment provided for in the master lease/purchase agreement.

Attachments: [Attachment to 15-0619R - exhibit A](#)

**This Resolution was adopted.**

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

**12. 15-0596R** RESOLUTION AUTHORIZING A CONTRACT WITH KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN AN AMOUNT NOT TO EXCEED \$50,000.

RESOLUTION AUTHORIZING A CONTRACT WITH KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN AN AMOUNT NOT TO EXCEED \$50,000.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract, in substantially the form included as Exhibit A, with Kraus-Anderson Construction Company in an amount not to exceed \$50,000 for construction management services related to the Gary New Duluth Recreation Center Project, payable from fund 452-030-5530 (Tourism & Recreational Projects Fund, Finance, Improvements Other than Buildings.)

**STATEMENT OF PURPOSE:** This resolution authorizes a contract with

Kraus-Anderson Construction Company (KA) in an amount not to exceed \$50,000 for construction management services for the Gary New Duluth Recreation Center project.

KA will manage construction of the project, which was awarded to Veit & Company (15-0593R). The total cost includes estimated personnel costs not to exceed \$20,440, project reimbursable expenses not to exceed \$16,945, an insurance fee of \$280, and KA's fee of \$12,335 based on 2.5% of the total project cost.

The project to be managed includes the installation of storm water pipe & drain tile, site grading, and the creation of two soccer fields as approved in the Gary New Duluth Recreation Center mini-master plan. KA's proposal for construction management services is included as part of Exhibit A.

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

**This Resolution was adopted.**

**13. 15-0609R** RESOLUTION AWARDING A CONTRACT TO KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE CITY CENTER WEST RESTROOM RENOVATION IN THE AMOUNT OF \$111,700.

RESOLUTION AWARDING A CONTRACT TO KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE CITY CENTER WEST RESTROOM RENOVATION IN THE AMOUNT OF \$111,700.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to contract with Kraus-Anderson Construction Company for the city center west restroom renovation, in accordance with plans and specifications provided by TKDA, dated July 31, 2015, and the contractor's low bid of \$111,700, payable from Capital Improvements 450; Finance 030; Buildings & Structures 5520; Project: CP2015-1503b - 2015 Capital Projects, CCW police/library upgrades.

STATEMENT OF PURPOSE: This resolution authorizes a contract with Kraus-Anderson Construction Company for the city center west restroom renovation for a total of \$111,700. City Center West ADA Toilet Rooms Remodel project will bring the facilities into ADA compliance and improve accessibility for all users. These toilet rooms are used by the Senior Center, the West Branch Library and the general public.

The purchasing division posted the invitation to bid August 7, 2015, on the city's website and received two bids by the closing date. City professional staff reviewed and verified each bid and determined that Kraus-Anderson had the lowest, complete bid.

BID TABULATION Bid No. 15-0367 Bid Opening September 1, 2015  
Vendor Total Bid  
Max Gray Construction \$113,600  
Kraus-Anderson Construction \$111,700

**This Resolution was adopted.**

- 14. 15-0616R** RESOLUTION APPROVING THE EXEMPTION OF A RAFFLE LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR MARCH OF DIMES FOUNDATION - MINNESOTA CHAPTER, ST. LOUIS RIVER CITIZENS ACTION COMMITTEE, AND THE REGENTS OF THE UNIVERSITY OF MINNESOTA.

RESOLUTION APPROVING THE EXEMPTION OF A RAFFLE LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR MARCH OF DIMES FOUNDATION - MINNESOTA CHAPTER, ST. LOUIS RIVER CITIZENS ACTION COMMITTEE, AND THE REGENTS OF THE UNIVERSITY OF MINNESOTA.

**CITY PROPOSAL:**

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the March of Dimes Foundation - Minnesota Chapter, St. Louis River Citizens Action Committee, and the Regents of the University of Minnesota 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.

STATEMENT OF PURPOSE: The state requires a 60 day waiting period for all raffle licenses to allow the city to review the application. The police department and alcohol, gambling and tobacco commission have approved the applications, and this resolution will waive the 60 day waiting period for the March of Dimes Foundation - Minnesota Chapter, St. Louis River Citizens Action Committee and the Regents of the University of Minnesota

**This Resolution was adopted.**

- 15. 15-0617R** RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO KWIK TRIP, INC. (KWIK TRIP #273), 6516 GRAND AVENUE AND KWIK TRIP, INC. (KWIK TRIP #274), 6 WEST CENTRAL ENTRANCE.

RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO KWIK TRIP, INC. (KWIK TRIP #273), 6516 GRAND AVENUE AND KWIK TRIP, INC. (KWIK TRIP #274), 6 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 licenses for the period ending April 30, 2016, subject to departmental approvals and the payment of sales and property taxes;

Kwik Trip, Inc. (Kwik Trip #273), 6516 Grand Avenue  
Kwik Trip, Inc. (Kwik Trip #274), 6 West Central Entrance

STATEMENT OF PURPOSE: The applications of Kwik Trip, Inc. for off sale 3.2 % beer licenses for two new locations were reviewed by the Alcohol, Gambling and Tobacco Commission at their September 2nd meeting and were unanimously approved.

**This Resolution was adopted.**

- 16. 15-0618R** RESOLUTION ISSUING A 3.2 PERCENT MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO TOASTY'S SANDWICH SHOP, LLC (TOASTY'S SANDWICH SHOP), 220 WEST SUPERIOR STREET.

RESOLUTION ISSUING A 3.2 PERCENT MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO TOASTY'S SANDWICH SHOP, LLC (TOASTY'S SANDWICH SHOP), 220 WEST SUPERIOR STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2016, and approves issuance of the following on sale wine license for the period ending August 31, 2016, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the Liquor Control Commissioner;

Toasty's Sandwich Shop, LLC (Toasty's Sandwich Shop), 220 West Superior Street, with Thomas Hagen, 100 percent owner.

STATEMENT OF PURPOSE: The applications of Toasty's Sandwich Shop for a 3.2% beer license and wine license were reviewed by the Alcohol, Gambling and Tobacco Commission at their meeting on September 2nd and were unanimously approved.

This Resolution was adopted.

**BY COUNCILOR GARDNER (PERSONNEL)**

17.     **15-0598R**     RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF TECHNICAL SERVICES COORDINATOR, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF TECHNICAL SERVICES COORDINATOR, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

**CITY PROPOSAL:**

RESOLVED, that the proposed specifications for the new civil service classification of technical services coordinator, which were approved by the civil service board on August 4, 2015, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees; and that pay range for said classification shall be Range 231, \$5,860 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 new classification has been created as a result of funding received by the Duluth fire department to significantly enhance hazardous materials response capabilities. The technical services coordinator will assist with the development, implementation, coordination, and evaluation of the fire department hazardous materials assessment/response team, and to assist with the coordination of the city's emergency and contingency planning efforts. The pay range negotiated for the classification is Range 231, \$5,860 per month.

**Attachments:** [Technical Services Coordinator Job Description.pdf](#)

This Resolution was adopted.

18.     **15-0599R**     RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF MANAGER, PLANNING & COMMUNITY DEVELOPMENT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF MANAGER, PLANNING & COMMUNITY DEVELOPMENT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

**CITY PROPOSAL:**

RESOLVED, that the proposed specifications for the new civil service classification of manager, planning & community development, which were

approved by the civil service board on July 17, 2015, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that range for said classification shall be Pay Range 1090-1115, \$5,367 to \$7,320 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 new classification has been created as a result of organizational restructuring within the planning & construction services department, combining the physical planning and community development divisions. The manager, planning & community development will plan, direct, supervise, and evaluate the operations and staff of the planning & community development division, and supervise complex reviews to ensure development projects are in conformance with comprehensive plan and federal and state grant program guidelines. The range negotiated for the classification is Pay Range 1090-1115, \$5,367 to \$7,320 per month.

**Attachments:** [Manager, Planning & Community Development Job Description.pdf](#)

**This Resolution was adopted.**

19.    **15-0637R**    RESOLUTION CONFIRMING THE APPOINTMENT OF MEGAN HASERODT TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING JOHN HEINO.
- RESOLUTION CONFIRMING THE APPOINTMENT OF MEGAN HASERODT TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING JOHN HEINO.
- CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Megan Haserodt to the Duluth economic development authority for a term expiring on May 26, 2021, replacing John Heino, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the mayor's appointment of Megan Haserodt to the Duluth economic development authority, replacing John Heino, who declined reappointment. At large terms for this authority are six years long.

**Attachments:** [Application](#)

**This Resolution was adopted.**

## COMMITTEE 2

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

- 20. 15-0595R** RESOLUTION ACCEPTING A CERTIFIED LOCAL GOVERNMENT GRANT OF \$551 FROM THE MINNESOTA STATE HISTORICAL SOCIETY AND A LOCAL MATCH OF \$521 WORTH OF IN-KIND SERVICES FROM THE HERITAGE PRESERVATION COMMISSION (HPC) FOR HPC MEMBER TO ATTEND THE 2015 ANNUAL STATEWIDE HISTORIC PRESERVATION CONFERENCE

RESOLUTION ACCEPTING A CERTIFIED LOCAL GOVERNMENT GRANT OF \$551 FROM THE MINNESOTA STATE HISTORICAL SOCIETY AND A LOCAL MATCH OF \$521 WORTH OF IN-KIND SERVICES FROM THE HERITAGE PRESERVATION COMMISSION (HPC) FOR HPC MEMBER TO ATTEND THE 2015 ANNUAL STATEWIDE HISTORIC PRESERVATION CONFERENCE

CITY PROPOSAL:  
BY COUNCILOR RUSS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a grant agreement, between the city and Minnesota Historical Society (MHS) in the amount of \$551 for the purpose of reimbursing the city for the costs incurred by one member of the Duluth Heritage Preservation Commission (HPC) to attend the Annual Statewide Historic Preservation conference.

BE IT FURTHER RESOLVED that the proper city officials are authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant. The grant will be accounted for in Fund 110-132-1301-4210-02 (General Fund, Planning & Construction Services, Planning and Development, Pass-thru Federal Grants).

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the city to accept a \$551 certified local government (CLG) grant from the Minnesota State Historical Society (MNHS). These funds will be matched by \$521 of in-kind match from the Duluth Heritage Preservation Commission (HPC) to fund the city's 50 percent match. The purpose of the grant is to reimburse one HPC member for costs incurred to attend the 2015 Annual Statewide Historic Preservation conference.

**This Resolution was adopted.**

- 21. 15-0608R** RESOLUTION AUTHORIZING AN AGREEMENT FOR PROFESSIONAL SERVICES WITH BARR ENGINEERING COMPANY RELATED TO THE ENVIRONMENTAL SITE INVESTIGATION OF AND CLEANUP PLANNING FOR THE GARFIELD AND ELM SITE IN AN AMOUNT NOT

TO EXCEED \$21,500.

RESOLUTION AUTHORIZING AN AGREEMENT FOR PROFESSIONAL SERVICES WITH BARR ENGINEERING COMPANY RELATED TO THE ENVIRONMENTAL SITE INVESTIGATION OF AND CLEANUP PLANNING FOR THE GARFIELD AND ELM SITE IN AN AMOUNT NOT TO EXCEED \$21,500.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially in the form of that attached, with Barr Engineering Company, for professional services related to environmental site investigation of and cleanup planning for property located on Rice's Point located at the intersection of Garfield Avenue and Elm Street, in an amount not to exceed \$21,500, payable from Fund 255-020-5319 (economic development, planning, other professional services).

STATEMENT OF PURPOSE: This resolution authorizes Barr Engineering Company (Barr) to provide professional environmental services to the city for work associated with the Garfield Avenue and Elm Street property located on Rice's Point and owned by the Duluth Seaway Port Authority. This 5.6-acre property is located on Rice's Point located at the intersection of Garfield Avenue and the former Lynne Avenue. The Site has been developed and used since at least 1908. The northern portion of the property was historically the southern end of a large railyard and contained railroad track and rail sidings; the track was removed by the early 1970s. The southwestern portion of the property was historically used for residential and commercial/industrial activities (lumber yard, railway and storage) in support of lumber and grain processing and shipping. All buildings in this area were removed when the adjacent Blatnik Bridge was constructed in 1960/61. The property is currently vacant and zoned as heavy manufacturing/industrial.

Redevelopment of the property is hindered by the presence of contamination. The investigation and cleanup planning paid for under this contract will move the property toward reuse. The city Public Works Department is interested in leasing the northern portion of the property (0.5 acres) for storage after environmental issues are resolved.

The Duluth Seaway Port Authority owns the property and is also contributing \$21,500 toward the investigation and cleanup planning for the site.

This contract with Barr will provide the city's commitment of \$21,500 of its EPA Brownfield assessment grant funds to the project; the grant will 100% reimburse the city for this work. Barr is one of three firms short-listed to perform work for the city under that EPA grant.

**Attachments:** [Agreement](#)

**This Resolution was adopted.**

- 22. 15-0626R** RESOLUTION APPROVING SETTLEMENT IN THE MATTER OF DULUTH ECONOMIC DEVELOPMENT AUTHORITY V. JOHN E. HOVLAND, ET. AL. AND ACCEPTING AT NO COST TO THE CITY FEE CONVEYANCE OF LAND FROM THOMAS J. BERGUM AND LADONNA E. BERGUM.

RESOLUTION APPROVING SETTLEMENT IN THE MATTER OF DULUTH ECONOMIC DEVELOPMENT AUTHORITY V. JOHN E. HOVLAND, ET. AL. AND ACCEPTING AT NO COST TO THE CITY FEE CONVEYANCE OF LAND FROM THOMAS J. BERGUM AND LADONNA E. BERGUM.

**CITY PROPOSAL:**

RESOLVED, that the city council approves settlement of all claims or causes of actions in the matter venued in the District Court of Minnesota, Sixth Judicial District and identified as Duluth Economic Development Authority v John E. Hovland, et.al., File No. 69DU-CV-14-2789, pursuant to the terms and conditions of the mediated settlement agreement in the form of that attached hereto as Exhibit A.

FURTHER RESOLVED, that the city of Duluth hereby accepts the conveyance of the property described below in trust for the general public for park purposes, and pursuant to the deed from Thomas J. Bergum and LaDonna E. Bergum, substantially in the form of that attached hereto as Exhibit B and at no cost to the city:

The south 150.00 feet of the Northwest One-quarter of the Northwest One-quarter (NW 1/4 of NW 1/4) of Section Nine (9), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian, City of Duluth, St. Louis County, Minnesota.

FURTHER RESOLVED, that the proper city officials shall take all actions necessary to conclude this matter on a full, final, and complete basis.

**STATEMENT OF PURPOSE:** This resolution authorizes city officials to implement the mediated settlement agreement in Duluth Economic Development Authority v. John E. Hovland, et.al., Court File No. 69DU-CV-14-2789. City approval is needed because the settlement agreement provides for Defendants Thomas and LaDonna Bergum to convey to the city a portion of a larger 40 acre parcel, and for the city to agree to maintain the conveyed parcel in trust to the general public as

public park land. The case arises out of an earlier land sale agreement between DEDA and John E. Hovland, and the failure of John E. Hovland to fulfill the obligations of that land sale agreement. DEDA previously approved the settlement at its August 26, 2015 meeting. The city attorney recommends this settlement.

**Attachments:** [Exhibit A-Mediated Statement](#)  
[Exhibit B-Quit Claim Deed](#)

**This Resolution was adopted.**

## **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

- 23. 15-0621R** RESOLUTION OF INTENT TO TRANSFER EASEMENT TO THE STATE OF MINNESOTA FOR PROPERTY ADJOINING RIDGEVIEW ROAD.  
RESOLUTION OF INTENT TO TRANSFER EASEMENT TO THE STATE OF MINNESOTA FOR PROPERTY ADJOINING RIDGEVIEW ROAD.

**CITY PROPOSAL:**

WHEREAS, the state of Minnesota department of military affairs is the owner of certain property adjacent to property owned by the city of Duluth (City), as more particularly described in the easement agreement attached as Exhibit A; and

WHEREAS, the state of Minnesota has extended gravel, pavement, landscaping, and fencing encroaching onto the City-owned property, and wishes to make further improvements to and acquire an easement from the City to the property in order to have a second access point to the Air National Guard Base from Ridgeview Road; and

WHEREAS, the estimated market value of the property to be subject to the easement is \$46,300; and

WHEREAS, the city's planning agency has reviewed the conveyance for conformity with the city's comprehensive plan and reported its findings that the conveyance is in conformity with the comprehensive plan, as shown by the attached Exhibit B; and

WHEREAS, the needs of the State of Minnesota in having a secondary access point to the Air National Guard Base are greater in importance than the need of the City to retain said property, and the City wishes to provide the easement to the state of Minnesota for nominal consideration of \$1.00;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth intends to convey to the state of Minnesota an easement to City-owned property as described in the attached Exhibit A and according to the terms thereof.

**STATEMENT OF PURPOSE:** This resolution expresses the City's intent to convey an easement in City-owned property to the state of Minnesota for a secondary access to the Air National Guard Base from Ridgeview Road, as required by City Code. The conveyance itself will be accomplished by ordinance.

**Attachments:** [Attachment to 15-0621R - Exhibit A](#)  
[Attachment to 15-0621R - Exhibit B](#)

This Resolution was adopted.

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

24. 15-0552R RESOLUTION AWARDING AN AGREEMENT TO DNV GL NOBLE DENTON, INC., TO CONDUCT A WATER SYSTEM MODEL FOR THE CITY OF DULUTH WATERMAIN DISTRIBUTION SYSTEM FOR AN AMOUNT NOT TO EXCEED \$78,000.

RESOLUTION AWARDING AN AGREEMENT TO DNV GL NOBLE DENTON, INC., TO CONDUCT A WATER SYSTEM MODEL FOR THE CITY OF DULUTH WATERMAIN DISTRIBUTION SYSTEM FOR AN AMOUNT NOT TO EXCEED \$78,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with DNV GL Noble Denton, Inc., substantially in the form of that attached as Exhibit A, to conduct a water system model for the city of Duluth watermain distribution system for an amount not to exceed \$78,000, payable from Water Fund 510, Public Works and Utilities 500, Engineering 1930, Utility Engineering 2330, Engineering Services 5303.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with DNV GL Noble Denton, Inc., to conduct a water system model for the city's watermain distribution system for an amount not to exceed \$78,000. The project proposal is attached as Exhibit B.

DNV GL Noble Denton, Inc., provided the modeling software for the natural gas system. Use of their product will allow staff to operate in a similar computer environment and eliminate additional training. Modeling of the city's watermain distribution system is required due to the amount of watermain breaks and leaks that have occurred and repairs that have been performed since the last model was created. Additionally this model would be fully integrated with the Arc-GIS program the Public Works and Engineering Departments currently use.

Requisition No. 15-0528

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

This Resolution was adopted.

25. **15-0556R** RESOLUTION AUTHORIZING THE RELEASE OF A FINAL CERTIFICATE OF CONDEMNATION AFFECTING TITLE TO THE CENTRAL HIGH SCHOOL PROPERTY LOCATED ON CENTRAL ENTRANCE CURRENTLY OWNED BY I.S.D. 709.

RESOLUTION AUTHORIZING THE RELEASE OF A FINAL CERTIFICATE OF CONDEMNATION AFFECTING TITLE TO THE CENTRAL HIGH SCHOOL PROPERTY LOCATED ON CENTRAL ENTRANCE CURRENTLY OWNED BY I.S.D. 709.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute a release of final certificate, substantially in the form of the attachment hereto, releasing certain property from the final certificate running in favor of the city of Duluth dated October 19, 1925, and registered on December 24, 1925, as Document No. 78907, in the office of the Registrar of Titles of St. Louis County, Minnesota.

STATEMENT OF PURPOSE: The purpose of this resolution is to release certain property owned by I.S.D. 709, commonly known as the Central High School property, from a final certificate of condemnation, the contents of which are unknown and missing from the public record, in order to make the title marketable. The current uses of the property by the city of Duluth appear to be evidenced by other documents in the public record.

Attachments: [Attachment to 15-0556R](#)

**This Resolution was adopted.**

26. **15-0597R** RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$12,000 FROM THE STATEWIDE EMERGENCY COMMUNICATIONS BOARD (SECB) ON RECOMMENDATION OF THE NORTHEAST RADIO ADVISORY COMMITTEE (NE RAC) FOR THE PURCHASE OF TWELVE ARMER RADIOS FOR CITY OF DULUTH PUBLIC WORKS AND UTILITIES.

RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$12,000 FROM THE STATEWIDE EMERGENCY COMMUNICATIONS BOARD (SECB) ON RECOMMENDATION OF THE NORTHEAST RADIO ADVISORY COMMITTEE (NE RAC) FOR THE PURCHASE OF TWELVE ARMER RADIOS FOR CITY OF DULUTH PUBLIC WORKS AND UTILITIES.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to accept a grant from the Statewide Emergency Communications Board, in the amount of \$12,000, said funds to be deposited in fund 520-500-1900-4220-02 (State of Minnesota Operating) and committing \$12,000 as the city's local share cost, to be paid from the city's funds 520-500-1945-5241 (Natural Gas

Fund-Public Works and Utilities-Utility Operations-Small Equipment fund).

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a grant in the amount of \$12,000 from Statewide Emergency Communications Board (SECB) on recommendation of the Northeast Minnesota Radio Advisory Committee (NE RAC). Attached is the Statewide Emergency Communications Board (SECB) grant recommendations. The city's local share of the purchase will be \$12,000.

**Attachments:** [2014 SECB Grant Recommendations for NE](#)

**This Resolution was adopted.**

- 27. 15-0607R** RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF DULUTH AND THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR LIGHTING MAINTENANCE ON BRIDGE 6313 ON TRUNK HIGHWAY 23 WITHIN THE CORPORATE CITY LIMITS UNDER STATE PROJECT NO. 6910-98.

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF DULUTH AND THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR LIGHTING MAINTENANCE ON BRIDGE 6313 ON TRUNK HIGHWAY 23 WITHIN THE CORPORATE CITY LIMITS UNDER STATE PROJECT NO. 6910-98.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the attached document, between the city of Duluth and the Minnesota Department of Transportation to provide for maintenance by the city of the state's Bridge No. 6313 lighting system, with construction to be performed upon, along and adjacent to Trunk Highway 23 from 0.3 miles south of Trunk Highway 210 to 0.1 miles south of Trunk Highway 210 under State Project 6910-98 (T.H. 23=185).

STATEMENT OF PURPOSE: The city of Duluth has historically maintained the lighting on the state's Bridge 6313. Because the lighting is being replaced as part of State Project 6910-98, a new agreement is needed for the city to continue to provide operation, maintenance and electrical energy.

**Attachments:** [15-0607 Agreement](#)

[15-0607 Map](#)

This Resolution was adopted.

28. 15-0615R RESOLUTION AWARDDING A CONTRACT TO LAMETTI & SONS, INC. FOR WOODLAND AVENUE STORM SEWER CIPP LINING IN THE AMOUNT OF \$256,351.

RESOLUTION AWARDDING A CONTRACT TO LAMETTI & SONS, INC. FOR WOODLAND AVENUE STORM SEWER CIPP LINING IN THE AMOUNT OF \$256,351.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Lametti & Sons, Inc. for Woodland Avenue Storm Sewer CIPP Lining in the amount of \$256,351, payable out of Stormwater Fund 535, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), city project no. 1477.

STATEMENT OF PURPOSE: This resolution authorizes CIPP lining of storm sewers in upper Woodland Avenue by Lametti & Sons, Inc. in the amount of \$256,351. Lametti & Sons, Inc. was the lowest responsible bidder of the three companies that responded. The engineer's estimate was \$300,000. Payable out of Stormwater Fund 535, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), city project no. 1477, requisition no. 15-0515.

TABULATION OF BIDS RECEIVED SEPTEMBER 2, 2015

Lametti & Sons, Inc.	Hugo, MN	\$256,351.00
Veit & Company, Inc.	Rogers, MN	\$264,795.00
McCann's Underground	Oregon, WI	\$282,325.00

Attachments: [15-0615R Map](#)

This Resolution was adopted.

**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

29. 15-0567R RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT FROM THE MINNESOTA BOARD OF FIREFIGHTER TRAINING AND EDUCATION IN THE AMOUNT OF \$10,538.76 FOR THE PURPOSE OF SUPPORTING FIRE DEPARTMENT PERSONNEL TRAINING AND ESTABLISHING A DEDICATED ACCOUNT FOR THE GRANT.

RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT FROM THE MINNESOTA BOARD OF FIREFIGHTER TRAINING AND EDUCATION IN THE AMOUNT OF \$10,538.76 FOR THE PURPOSE OF SUPPORTING FIRE DEPARTMENT PERSONNEL TRAINING AND ESTABLISHING A DEDICATED ACCOUNT FOR THE GRANT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education in the amount of \$10,538.76, said funds to be deposited in Fund 210, Agency 030, Organization 3178, Revenue Source 4220-02 (Special Projects, Finance, Fire Training Fund, State of Minnesota), and committed for the purpose of supporting the Duluth fire department personnel training.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of a grant in the amount of \$10,538.76 from the Minnesota board of firefighter training and education for the purpose of supporting the Duluth fire department training and establishes a dedicated funding account for the grants as required by GASB Accounting Standard 54.

Attachments: [MBFTE Grant Award 8-12-15](#)

**This Resolution was adopted.**

- 30. 15-0569R** RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FROM MINNESOTA DEPARTMENT OF PUBLIC SAFETY HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION IN THE AMOUNT OF \$20,000 FOR THE PURPOSE OF MAINTAINING LOCAL EMERGENCY MANAGEMENT PROGRAM.

RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FROM MINNESOTA DEPARTMENT OF PUBLIC SAFETY HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION IN THE AMOUNT OF \$20,000 FOR THE PURPOSE OF MAINTAINING LOCAL EMERGENCY MANAGEMENT PROGRAM.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to accept an emergency management performance grant agreement for Grant No. A-EMPG-2015-DULUTHCI-00022, from the Minnesota department of public safety, homeland security and emergency management division, in the amount of \$20,000, said funds to be deposited in Fund No. 210-030-3164-4210-02 (Special Projects Fund, Finance Department, Homeland Security, Pass-thru Federal Grants Operating), for the purpose of assisting and supporting the city in maintaining adequate local emergency management programs, with matching funds in the amount of \$20,000 to be provided from Fund No. 110-150-1501-5440 (General Fund, Fire, Administration).

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize accepting a grant in the amount of \$20,000 from the state department of public safety, division of homeland security and emergency management to be used to assist and support the city in maintaining adequate local emergency management programs. This grant requires an equal local matching amount which will be provided from the Department's existing budget.

Attachments: [Grant A-EMPG-2015-DULUTCI-00022](#)

This Resolution was adopted.

## BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

31. 15-0630R RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HOISINGTON KOEGLER GROUP, INC., FOR THE DEVELOPMENT OF A ST. LOUIS RIVER ESTUARY NATIONAL WATER TRAIL MASTER PLAN AND NATIONAL PARKS SERVICE APPLICATION FOR AN AMOUNT NOT TO EXCEED \$55,820.

RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HOISINGTON KOEGLER GROUP, INC., FOR THE DEVELOPMENT OF A ST. LOUIS RIVER ESTUARY NATIONAL WATER TRAIL MASTER PLAN AND NATIONAL PARKS SERVICE APPLICATION FOR AN AMOUNT NOT TO EXCEED \$55,820.

### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Hoisington Koegler Group, Inc., for the development of a St. Louis River Estuary National Water Trail master plan and subsequent application to the national parks service for a national water trail designation for an amount not to exceed \$55,820, payable from Fund 452-030-5530 (tourism and recreational projects, finance, improvements other than buildings), Project HANDHTAX-1516.

STATEMENT OF PURPOSE: This resolution authorizes a consultant agreement with Hoisington Koegler Group Inc., substantially in the form of that attached as Exhibit A, for an amount not to exceed \$55,820. The main objective of the master planning effort is to engage agency partners and the public in both Minnesota and Wisconsin to develop a St. Louis River Estuary National Water Trail master plan that will create a nationally significant paddling experience and earn formal designation from the national parks service as a national water trail. The project proposal is attached as Exhibit B.

Attachments: [Exhibit A-HKGi Consultant-PSA Agreement.pdf](#)

[EXHIBIT B - St. Louis River Estuary Master Plan + NPS Application Proposal.pdf](#)

This Resolution was adopted.

32. 15-0634R RESOLUTION AUTHORIZING SHARED USE PERMIT AGREEMENT WITH PIEDMONT HEIGHTS HOCKEY ASSOCIATION, INC., A MINNESOTA NON-PROFIT CORPORATION, GLEN AVON HOCKEY CLUB, A MINNESOTA NON-PROFIT CORPORATION, AND

BENTLEYVILLE TOUR OF LIGHTS, INC., A MINNESOTA NON-PROFIT CORPORATION, FOR THE PRODUCTION, PROMOTION, AND MANAGEMENT OF THE HOCKEY DAY MINNESOTA EVENT TO BE HELD AT BAYFRONT FESTIVAL PARK JANUARY 25, 2016 THROUGH FEBRUARY 6, 2016.

RESOLUTION AUTHORIZING SHARED USE PERMIT AGREEMENT WITH PIEDMONT HEIGHTS HOCKEY ASSOCIATION, INC., A MINNESOTA NON-PROFIT CORPORATION, GLEN AVON HOCKEY CLUB, A MINNESOTA NON-PROFIT CORPORATION, AND BENTLEYVILLE TOUR OF LIGHTS, INC., A MINNESOTA NON-PROFIT CORPORATION, FOR THE PRODUCTION, PROMOTION, AND MANAGEMENT OF THE HOCKEY DAY MINNESOTA EVENT TO BE HELD AT BAYFRONT FESTIVAL PARK JANUARY 25, 2016 THROUGH FEBRUARY 6, 2016.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to execute an agreement, substantially in the form as the agreement attached as Exhibit A, between the city of Duluth, Piedmont Heights Hockey Association, Inc., a Minnesota non-profit corporation, Glen Avon Hockey Club, a Minnesota non-profit corporation, and Bentleyville Tour of Lights, Inc., a Minnesota non-profit corporation, providing a permit to Piedmont Heights and Glen Avon Hockey Clubs for the shared use of the Bayfront Festival Park for the purpose of conducting the Hockey Day Minnesota 2016 event from January 25, 2016 through February 6, 2016. Fees to be deposited into the city's Fund 0237, Agency 015, Revenue Source 4623 (Bayfront Festival Park fund, public administration department, rent of land).

STATEMENT OF PURPOSE: This resolution authorizes a permit agreement that provides for the production and management of the Hockey Day Minnesota 2016 event at Duluth's Bayfront Festival Park from January 25, 2016 through February 6, 2016. The hockey clubs will be responsible for the full cost of constructing all of the event amenities, conducting the event, and restoring the venue to its original condition. The hockey clubs will not be required to pay a permit fee for the use of Bayfront Festival Park.

**Attachments:** [2015-2016 Hockey Day Agreement](#)

This Resolution was adopted.

**END OF CONSENT AGENDA**

**The following entitled resolutions were also considered:**

**COMMITTEE 2**

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

33. 15-0629R RESOLUTION ADOPTING AN AMENDMENT TO THE TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 7 (COUNTY NO. 32).

RESOLUTION ADOPTING AN AMENDMENT TO THE TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 7 (COUNTY NO. 32).

CITY PROPOSAL:

BE IT RESOLVED by the city council ("council") of the city of Duluth, Minnesota ("city"), as follows:

Section 1. Recitals

1.01. The board of commissioners ("board") of the Duluth Economic Development Authority ("DEDA") has heretofore established a housing development project/municipal development district ("District 1") and adopted a development program therefor. Tax increment financing district No. 7 (the "TIF district") was created within the physical boundary of District 1, and District 1 was the designated "project" for the TIF District within the meaning of Minnesota Statutes, Section 469.174, Subd 8. It has been proposed by DEDA that the city adopt an amendment to the tax increment financing plan (the "TIF plan") for the TIF district which is referred to herein as the "amendment", pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082 and Sections 469.174 to 469.1799, all inclusive, as amended, (the "act") all as reflected in the amendment, and presented for the council's consideration.

1.02. DEDA and city have investigated the facts relating to the amendment and have caused the amendment to be prepared.

1.03. DEDA and city have performed all actions required by law to be performed prior to the adoption and approval of the amendment, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property in the TIF district, notification of each county commissioner who represents part of the area included in the TIF district, approval of the amendment by DEDA on July 22, 2015, and the holding of a public hearing upon published notice as required by law.

Section 2. Findings for the amendment to the TIF plan.

2.01 The council hereby reaffirms the original findings for the TIF district, namely that when it was established, it was established as a "redevelopment district."

2.02 The TIF district is being amended to designate Development District No. 17, an economic development project area ("District 17"), as well as District 1 in which the original TIF District was created as the "project" for the TIF District within the meaning of Minnesota Statutes, Section 469.174, Subd. 8, and to incorporate by reference the objectives set forth in the Development Program for District 17. The TIF District is located within the existing physical boundaries of both District 17 and

District 1. DEDA is not modifying the boundaries of the TIF District or extending the term of the TIF District.

2.03 The amendment conforms to the general plan for development or redevelopment of the city as a whole. The fact supporting this finding is that the amendment will generally complement and serve to implement policies adopted in the city's comprehensive plan.

2.04 The amendment will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development or redevelopment of the project area by private enterprise. The facts supporting this finding are that the amendment will continue the redevelopment that has been stimulated under the TIF plan for the TIF district.

2.05 The council further finds that future development or redevelopment, in the opinion of the city, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

2.06 Based on information available from property owners in District 17, DEDA has determined that further development cannot occur without additional investment in infrastructure with respect to those properties, and therefore the increased market value of the sites to be benefited by tax increment financing that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed developments after subtracting the present value of the projected tax increments for the remaining duration of the TIF District.

### Section 3. Public purpose.

3.01. The adoption of the amendment conforms in all respects to the requirements of the act and will help fulfill a need to redevelop an area of the state which is already built up, to provide employment opportunities, to provide housing and economic development opportunities, to improve the tax base and to improve the general economy of the state and thereby serves a public purpose.

### Section 4. Approval and adoption of the modifications.

4.01. The amendment, as presented to the council on this date, is hereby approved, ratified, adopted and shall be placed on file in the office of the executive director of DEDA ("director"), 402 city hall, 411 west first street, Duluth, MN 55802.

4.02. The staff, the city's advisors and legal counsel are authorized and directed to proceed with the implementation of the amendment and for this purpose to negotiate, draft, prepare and present to this council for its consideration all further amendments, resolutions, documents and contracts necessary for this purpose. Approval of the amendment does not constitute approval of any project or a development agreement with any developer.

4.03. The director is authorized and directed to forward a copy of the

amendment to the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to M.S., Section 469.175, Subd. 4a.

4.04. The director is further authorized and directed to file a copy of the amendment with St. Louis county auditor.

STATEMENT OF PURPOSE: TIF District 7 was created as a scattered site redevelopment district for the purpose of removing blight and redeveloping housing; the district is known as the West Duluth Housing District. The TIF District was established in the housing project area (District 1) which encompasses the entire city. The current activities for which TIF District 7 monies can be spent are primarily housing.

Project Area No. 17 (District 17) is an economic development project area and is shown on the attached map. TIF District 7 is located within the physical boundaries of both District 1 and District 17. The purpose of this amendment is to designate District 17 as well as District 1 (in which the original TIF District was created) as the "project" for TIF District 7. This amendment will allow TIF District 7 monies to be used for economic development activities as well as housing purposes, giving DEDA greater flexibility in the use of TIF District 7 monies.

**Attachments:** [Attachment to 15-0629R- Map of Development District 17](#)

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

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

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

**34. 15-0606R** RESOLUTION AUTHORIZING AMENDMENT #3 TO RESOLUTION 09-0502 AUTHORIZING A CONTRACT WITH SEH, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE MUNGER TRAIL EXTENSION, TO INCREASE THE AMOUNT BY \$233,000 FOR A NEW TOTAL OF \$939,000.

RESOLUTION AUTHORIZING AMENDMENT #3 TO RESOLUTION 09-0502 AUTHORIZING A CONTRACT WITH SEH, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE MUNGER TRAIL EXTENSION, TO INCREASE THE AMOUNT BY \$233,000 FOR A NEW TOTAL OF \$939,000.

**CITY PROPOSAL:**

RESOLVED, that contract 21000 with SEH, Inc. for professional engineering services for the Munger Trail Extension from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail be amended

(third amendment) to increase the amount by \$233,000 for a new total of \$939,000, payable from Capital Improvement Fund 450, Department/Agency 030 (Finance), Object 5530 (Improvements Other Than Buildings), city project no. 0568TR, capital project no. CP2009-0568TR, S.P. 118-090-014 and Minnesota project no. HPPH H146(001).

STATEMENT OF PURPOSE: This resolution will authorize Amendment 3 to contract 21000 with SEH, Inc. for professional engineering services related to the Munger Trail Extension from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail. Construction is scheduled for 2015 - 2017. Engineering is funded by Federal High Priority Funds of \$564,800 and capital funds of \$374,200. The original contract included planning, feasibility study, alternative routes, selecting alignments, final design and permitting of Phase I (Lakewalk to Carlton Street) of the trail. The second amendment covered fees incurred to make the upper route plan and specification submittal deadlines for the phase from Greene Street to the Lake Superior Zoo, as well as public involvement, alternate analysis, cost estimates, field reviews and a project memorandum for the remainder of the proposed upper route of the Cross City Trail. This third amendment will cover from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail. This amendment will include project management and meetings, bridge and geotechnical design, some right-of-way work, environmental work (wetlands), survey, as well as final plans and specifications.

**Attachments:** [15-0606 Attachment 1](#)  
[15-0606 Attachment 2](#)  
[15-0606 Attachment 3](#)  
[15-0606 Map](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear a speaker on the resolution.

Mike Casey expressed support for the resolution and public participation.

**This Resolution was adopted.**

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

## COMMITTEE 1

### BY COUNCILOR GARDNER (PERSONNEL)

35.    **15-0635R**    RESOLUTION DESIGNATING A HISTORIC ARTS AND THEATER DISTRICT IN DOWNTOWN DULUTH.  
RESOLUTION DESIGNATING A HISTORIC ARTS AND THEATER DISTRICT IN DOWNTOWN DULUTH.  
BY COUNCILOR GARDNER:

WHEREAS, the area depicted on Exhibit A, attached hereto, has become the hub of Duluth's thriving arts and entertainment scene; and  
WHEREAS, this area is increasingly known as Duluth's Historic Arts and Theater District ("District"); and

WHEREAS, the District has maintained much of its historical feel and character from the District's period of significance (1872 to 1929) and includes fine examples of Romanesque, classical revival and vernacular architectural styles; and

WHEREAS, efforts continue to embrace the District's rich history by giving historical building new lives by careful renovation and creating fine eateries, shops and theatres -- such as the Fitger's Complex, Tycoons, Coney Island, Fannie Rose building, NorShore Theater, Temple Opera, Technology Village, Wieland Block, Greysolon Plaza, Electric Fetus, Zinema, Duluth Trading Company, Carmody, Sheraton, Pickwick, and many more -- making the District a year round destination for tourists, shoppers, artists and locals; and

WHEREAS, the Duluth city council seeks to leverage the District's arts and theater assets to promote the area as a destination and encourage further development of the creative, business friendly scene by creating a unique identity and sense of place.

THEREFORE, BE IT RESOLVED, that the Duluth city council hereby designates the District as the Duluth Historic Arts and Theater District; and

BE IT FURTHER RESOLVED, that the council request that city administration use \$10,000 from the parking fund, and/or other appropriate funds, to help defray cost of the Greater Downtown Council's work to administer and sign the District to help establish its unique brand; and

BE IT FURTHER RESOLVED, that the city administration considers re-naming the East Superior Street parking ramp as the HART ramp, in recognition of the newly recognized District.

**STATEMENT OF PURPOSE:** This resolution establishes an historic arts and theater district in downtown Duluth in order to encourage further development and to create a unique sense of place for locals and tourists. In addition, the resolution encourages the city administration to rename the East Superior Street parking ramp the HART ramp and allocates \$10,000 from the parking fund, and/or other appropriate funds, to help defray the cost of administration and signage.

**Sponsors:** Gardner

**Attachments:** [Exhibit A - Map of Proposed Historic Arts and Theater District](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear a speaker on the resolution.

Rod Raymond spoke in support of the resolution.

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

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

**Nay:** 1 - Councilor Hanson

**36. 15-0640R** RESOLUTION REQUESTING ST. LOUIS COUNTY WORK WITH THE CITY TO PRESERVE THE PONTLIANA WOODS ON MINNESOTA POINT.

RESOLUTION REQUESTING ST. LOUIS COUNTY WORK WITH THE CITY TO PRESERVE THE PONTLIANA WOODS ON MINNESOTA POINT.

BY COUNCILOR GARDNER:

WHEREAS, land commonly known as Pontliana Woods is located on Minnesota Point from 16th to 18th Street, south of Minnesota Avenue to the shoreline of the Duluth Harbor Basin, and is currently owned by St. Louis County as tax forfeited land, see attached map; and

WHEREAS, Pontliana Woods is one of the last undeveloped areas on Minnesota Point and has been identified by the Minnesota department of natural resources and the United States environmental protection agency as part of the St. Louis River Estuary, Great Lakes Area of Concern, as an important habitat for fish and wildlife and as an area meeting mandatory technical criteria for wetland identification; and

WHEREAS, the Duluth city council recognizes the importance of conserving and protecting Pontliana Woods to ensure public access to St. Louis Bay and the Duluth Harbor and to protect the area's natural resources; and

WHEREAS, Pontliana Woods are presently included in a county land sale in October of this year, imperiling this remnant of undeveloped land on Minnesota Point.

THEREFORE, BE IT RESOLVED, that the city council respectfully requests that St. Louis County remove Pontliana Woods from the upcoming tax forfeit land sale in October 2015.

BE IT FURTHER RESOLVED, that city of Duluth and St. Louis county officials work together to preserve Pontliana Woods and appropriately zone the property.

STATEMENT OF PURPOSE: This resolution supports the conservation and preservation of the Pontliana Woods on Minnesota Point by asking St. Louis county to remove the land from the upcoming tax forfeiture land sale and to work with city of Duluth officials to protect and preserve this important wildlife habitat and undeveloped area.

**Sponsors:** Gardner

**Attachments:** [Attachment to 15-0640R- Map of Pontliana Woods](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear speakers on the resolution.

Vivetter Botner, Dave Johnson, Dulcee Proud and Ellen Dunlap spoke in support of the resolution.

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

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**The following entitled ordinances were read for the first time:**

### **COMMITTEE 2**

#### **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

**37. 15-077-O** AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA OVER PROPERTY ADJACENT TO RIDGEVIEW ROAD.

AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA OVER PROPERTY ADJACENT TO RIDGEVIEW ROAD.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Pursuant to Section 2-177.3 of the Duluth City Code, 1959, as amended, the city of Duluth ("city") may convey city property, including easements, to another governmental entity if the needs of said governmental unit are greater in importance than the need of the city to retain said property and that the best interests of the citizens of the city will be best served by accomplishing such conveyance. Accordingly, the city council finds that:

(a) The needs of the state of Minnesota in having a secondary access to the Air National Guard Base from Ridgeview Road are greater in importance than the need of the city to retain the property; and

(b) The best interests of the citizens of the city will be best served by conveyance of an easement to the state of Minnesota to allow construction of a secondary access point from Ridgeview Road; and

(c) The assessor has provided a written estimate of the market value of the property to be subject to the easement of \$46,300. The city will provide the easement for nominal consideration of \$1.

Section 2. That the proper city officials are hereby authorized to convey an easement to the state of Minnesota in the form of the Exhibit A, attached hereto and incorporated herein, according to its terms.

Section 3. This ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to authorize the conveyance of an exclusive and permanent easement for ingress and egress, landscaping, roadway improvements, structures, and fencing to allow construction of a secondary access point to the Air National Guard Base from Ridgeview Road.

**Attachments:** [Attachment to 15-077-O Exhibit A](#)

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

Enactment No: 10409

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

**38. 15-076-O** AN ORDINANCE DEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE.

AN ORDINANCE DEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE.

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 street and utility purposes over that portion of Lots 9, 10, and 11, Block 10, Highland Park Addition to Duluth, in St. Louis County, Minnesota, legally described below and as depicted on the map attached as Exhibit A:

That part of Lots 9, 10, and 11, Block 10, HIGHLAND PARK ADDITION, which lies westerly of a line described as follows: Commencing at the Most Easterly Corner of said Lot 9, Block 10, HIGHLAND PARK ADDITION; thence southwesterly along the northerly right-of-way line of 4th Street 60.00 feet to

the point of beginning; thence northwesterly deflecting to the right 111 degrees 08 minutes 25 seconds to the southerly right-of-way line of Woodland Avenue and said line there terminating.

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

STATEMENT OF PURPOSE: The purpose of this ordinance is to dedicate a street and utility easement across city-owned property bounded by Woodland Avenue, 20th Avenue East, and East 4th Street that is currently occupied by Heritage Park. This easement is needed for the re-alignment of Woodland Avenue where it intersects with 4th Street. This intersection re-alignment is part of the St. Louis County project to reconstruct 4th Street. As part of this project, 20th Avenue East has been vacated; most of the east one-half of 20th Avenue East has been acquired by St. Louis County and will be conveyed to the City. This property and the City's one-half of vacated 20th Avenue East will be reallocated for park purposes, thereby resulting in a net gain of parkland. This reconfiguration will also include sidewalks to provide easier and safer access. This street re-alignment was approved by the Parks and Recreation Commission at their February 11, 2015 meeting.

**Attachments:** [090215-Exhibit for 20th ave-Exh 20th park to slc exh A](#)

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

Enactment No: 10407

- 39. 15-078-O** AN ORDINANCE REDEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE AND GRANT ST. LOUIS COUNTY A TEMPORARY EASEMENT OVER VACATED 20TH AVE. E.
- AN ORDINANCE REDEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE AND GRANT ST. LOUIS COUNTY A TEMPORARY EASEMENT OVER VACATED 20TH AVE. E.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the City of Duluth does hereby accept the conveyance of an easement for street and utility purposes from Glen M. and Melissa L. Jones over that portion of the following-described property in St. Louis County, Minnesota at no cost to the city, said property being described in that easement agreement attached hereto as Exhibit A and as depicted on

the map attached as Exhibit A-1:

That portion of the Northeast  $\frac{1}{2}$  of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue and the centerline of the alley, extended, between Lot 1, Block 11 and Lot 16, Block 11, all in HIGHLAND PARK ADDITION TO DULUTH and on the Southeast by a line lying 103.86 feet northwesterly of and parallel with the northwesterly line of platted 4th Street.

Section 2. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of Lot 9, Block 10, Highland Park Addition to Duluth in St. Louis County, Minnesota legally described below and as depicted on the map attached as Exhibit B:

That portion of the Southwest  $\frac{1}{2}$  of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue, and on the Southeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 3. That the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that attached hereto as Exhibit C, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction thereof, said easement to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northwest by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to rededicate a street and utility easement across city-owned property, to accept an easement from the adjacent property owners of a portion of the previously vacated easement for 20th Avenue East lying just south of Woodland Avenue, and to grant St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction is completed.

When 20th avenue East was vacated between Woodland and 4th Street, the need for access to the alley on the east side of 20th and the needs for

access of the home owner between the alley and 4th Street were not adequately considered.

This rededication and acceptance of the easement would correct this problem by restoring a small triangular piece of 20th to the status of a public street. The grant of temporary easement will allow the County to keep 20th open until construction starts in 2016 and to deconstruct the street as part of the 4th Street project.

**Attachments:** [Exhibit A-Easement Agreement](#)  
[Exhibit B-City Easement](#)  
[Exhibit C-Temp Easement Agreement](#)

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

Enactment No: 10408

**The following entitled ordinances were read for the second time:**

## **COMMITTEE 1**

### **BY COUNCILOR FILIPOVICH (FINANCE)**

40. 15-072-O AN ORDINANCE AMENDING CHAPTER 34, SECTION 23, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION PROHIBITING EXCESSIVE ENGINE DISCHARGE OR BRAKING NOISE.
- AN ORDINANCE AMENDING CHAPTER 34, SECTION 23, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION PROHIBITING EXCESSIVE ENGINE DISCHARGE OR BRAKING NOISE.
- BY COUNCILOR FILIPOVICH:
- Section 1. That Chapter 34, Section 23, of the Duluth City Code, 1959, as amended, is hereby amended as follows:
- Sec. 34-23. Vehicle noise limits. ~~for electronically amplified sound.~~**
- (a) Electronically Amplified Sound.
- No motor vehicle, as defined in Section 33-1 of this Code, shall emit any electronically amplified sounds that are plainly audible at a distance of 50 feet from the vehicle, provided that this Section shall not apply to:
- (1) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section 169.01;
  - (2) Vehicles in parades or other civic celebrations duly authorized by the city;
  - (3) Motor vehicle horns when actually used as a warning of danger;

(4) Anti-theft devices installed on motor vehicles;

(b) Engine Braking.

(1) Definitions. The following phrases are defined as follows:

(A) "Engine retarding brake" shall mean a Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) "Abnormal or excessive noise" shall mean (1) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (2) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (3) noise in excess of that permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this Statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

(2) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(3) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(4) Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City's Traffic Engineer to advise motorists of the prohibitions contained in this Section. The provisions of this ordinance are in full force and effect even if no signs are installed.

(b) Violations of this Section are punishable by fines of not to exceed those set in accordance with Section 31-8 of this Code for the first and second offenses and a fine as provided in Section 1-7 of this Code for all subsequent offenses.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: October 14, 2015)

STATEMENT OF PURPOSE: This ordinance prohibits excessive vehicle noise caused by engine braking and improper discharge of exhaust.

Sponsors: Filipovich

**This Ordinance was adopted.**

Enactment No: 10402

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

41. 15-073-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N, PROPERTY AT 2421 LONDON ROAD (MICHAEL TEGETHOFF)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N, PROPERTY AT 2421 LONDON ROAD (MICHAEL TEGETHOFF)

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 0.22 acres of land located at 2421 London Road and as more particularly described as follows: Lot 11 Block 46 Harrison's Division and Lot 11 Block 30 Endion Division of Duluth including all streets and alleys appurtenant thereto. be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), 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 in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: October 14, 2015)

**STATEMENT OF PURPOSE:** This amendment provides a zoning change from R-1 to MU-N at 2421 London Road.

On August 11, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 5 yeas, 2 nays, and 0 abstentions to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the Comprehensive Land Use Plan.
- 2.) The proposed MU-N zone district is consistent with the future land use category of Neighborhood Mixed Use.
- 3.) Material adverse impacts on nearby properties are not anticipated.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning from R-1 to MU-N must prevail with an affirmative vote of 2/3 by the city council.

Petition Received: July 7, 2015

Action Deadline: November 4, 2015

Petitioner:

Michael Tegethoff

10 Village Drive #201  
Proctor, MN 55810  
miketegethoff@gmail.com

PL 15-105

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

A motion was made, seconded and unanimously carried to suspend the rules to hear speakers on the ordinance.

Andrea Mousel and Michael Tegethoff spoke in support of the ordinance. Angel Sarkela-Saur, Tom Haas, Ruth Kivisto, Michael D. Linn and Merrienne Deutsch spoke in opposition to the ordinance.

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

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

**Nay:** 1 - Councilor Hanson

Enactment No: 10403

**42. 15-074-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, R-2 AND F-6 TO P-1, FOR BASKETBALL COURT, CHESTER BOWL, CHESTER PARK, LOWER CHESTER COMMUNITY RECREATION CENTER, ENDION COMMUNITY RECREATION CENTER, HILLSIDE SPORT COURT COMMUNITY RECREATION CENTER, LAKEVIEW PARK, MUNGER PARK, AND PORTLAND SQUARE (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, R-2 AND F-6 TO P-1, FOR BASKETBALL COURT, CHESTER BOWL, CHESTER PARK, LOWER CHESTER COMMUNITY RECREATION CENTER, ENDION COMMUNITY RECREATION CENTER, HILLSIDE SPORT COURT COMMUNITY RECREATION CENTER, LAKEVIEW PARK, MUNGER PARK, AND PORTLAND SQUARE (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the central portion of

the city and as more particularly described as follows:

010-1480-03210	010-3740-00480	010-3740-00300
010-1480-03300	010-3740-00490	010-3740-00310
010-1480-03310	010-3740-00500	010-3740-00140
010-1480-03320	010-3740-00500	010-3740-00150
010-2790-03680	010-3740-00510	010-3740-00160
010-3850-05210	010-3740-00520	010-3740-00170
010-3850-05220	010-3740-00530	010-3740-00180
010-3830-17010	010-3740-00540	010-3740-00190
010-1050-00210	010-3740-00550	010-3740-00200
010-1050-00190	010-3740-00560	010-3740-00210
010-1050-00175	010-3740-00570	010-3740-00220
010-1350-00825	010-3740-00580	010-3740-00230
010-1350-00810	010-3740-00590	010-3740-00240
010-1350-00815	010-3740-00600	010-1480-11200
010-1350-01010	010-3740-00610	010-1480-11130
010-1350-01140	010-3740-00350	010-1480-11190
010-1350-01150	010-3740-00330	010-1480-11140
010-1350-01160	010-3740-00320	010-1480-10650
010-2710-03735	010-3740-00360	010-1480-10640
010-2710-03910	010-3740-00370	010-1480-10630
010-2710-03900	010-3740-00380	010-1480-10180
010-2710-03830	010-3740-00390	010-1480-08370

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10-2710-03920	010-3740-00400
	010-3830-19840
10-2710-03800	010-3740-00410
	010-3830-20010
10-2710-03890	010-3740-00420
	010-3830-01970
10-2710-03805	010-3740-00430
	010-3830-15880
10-3720-02320	010-3740-00440
	010-3830-15870
10-2710-03731	010-3740-00450
	010-3830-16170
10-2710-03732	010-3740-00460
	010-3830-15680
10-2791-00120	010-3740-00470

**Portland Square:**

That area located between the Centerline of East Fourth Street, the Centerline of East Fifth Street and the Centerline of Tenth Avenue East and the Centerline of Eleventh Avenue East;

be reclassified from Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping 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 per the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: October 14, 2015)

**STATEMENT OF PURPOSE:** This zoning map amendment provides a zoning change for the park properties located in the central portion of the City including Basketball Court, Chester Bowl, Chester Park, Lower Chester Community Recreation Center, Endion Community Recreation Center, Hillside Sport Court Community Recreation Center, Lakeview Park, Munger Park, and Portland Square from the current zoning districts of Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping 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 July 14, 2015, the Duluth city planning commission held a public hearing

on the proposal and voted 7 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

1) 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.

2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.

3) 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.

4) Material adverse impacts on nearby properties are not anticipated.

licable  
ble

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

PL 15-098

**Attachments:** [Map](#)  
[Staff Report](#)

**This Ordinance was adopted.**

Enactment No: 10404

### **COMMITTEE 3**

#### **BY COUNCILOR FOSLE (PUBLIC SAFETY)**

- 43. 15-070-O** ORDINANCE AMENDING CHAPTER 26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO AERIAL LIFT BRIDGE OPERATIONS, ADDING PROHIBITION ON INTERFERENCE WITH SAFE

## BRIDGE OPERATIONS.

ORDINANCE AMENDING CHAPTER 26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO AERIAL LIFT BRIDGE OPERATIONS, ADDING PROHIBITION ON INTERFERENCE WITH SAFE BRIDGE OPERATIONS.

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Chapter 26 of the Duluth City Code, 1959, as amended, is hereby amended by adding Section 26-58 thereto which reads as follows: Sec. 26-58. Interference with safe bridge operations prohibited.

No person shall cause or permit to interfere, obstruct, disrupt, or delay the safe operation, use, or enjoyment of the Aerial Lift Bridge and its appurtenances.

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

STATEMENT OF PURPOSE: This Ordinance provides a local enforcement mechanism to stop and deter any actions which would interfere with our employees' safe operation of the Aerial Lift Bridge. This ordinance also protects Aerial Lift Bridge area user and bystander safety.

**This Ordinance was adopted.**

Enactment No: 10405

- 44. 15-075-O** AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE PROCEDURE FOR VACANT BUILDING REGISTRATION.

AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE PROCEDURE FOR VACANT BUILDING REGISTRATION.

## CITY PROPOSAL:

Section 1. That Section 10-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:  
Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of

repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the city assessor or as adjusted by the assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If

the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by certified mail to his or her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by certified mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or

with whom he or she resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state;

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and

enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the

actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection; public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within 30 days after it becomes a vacant building. In this Section, a vacant building is at least one of the following:

1. Condemned;
2. Unoccupied and unsecured for 30 days or more;
3. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;
4. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;
5. Unoccupied and an existing owner or lienholder requests registration in accordance with the provisions of this Section.

(B) The registration shall be submitted on forms provided by the building official and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable

that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official;

(D) The owner shall comply with all applicable laws and codes. The owner shall notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official;

(E) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(F) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(G) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(H) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(I) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition

permit;

3. Unpaid fees shall be levied and collected as a special assessment against the property as provided for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

(J) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

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

STATEMENT OF PURPOSE: This ordinance amends Section 10-3 of the Duluth City Code, 1959, as amended, to clarify the authority of appropriate code officials to register vacant buildings at an owner or lienholder's request.

**This Ordinance was adopted.**

Enactment No: 10406

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

**The meeting was adjourned at 9:23 p.m.**