



# 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, August 31, 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

#### PLEDGE OF ALLEGIANCE

#### APPROVAL OF MINUTES

1. 15-040 April 27, 2015.

Attachments: [Minutes](#)

A motion was made that this Minutes be approved. The motion carried by a unanimous vote.

#### PUBLIC HEARING

Continued to September 14 Council Meeting.

The public hearing was continued to the September 14, 2015, council meeting.

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

2. 15-037 Communications regarding the proposed East Duluth dog park site (15-0579R).

**Attachments:** [Shannon Borgeson](#)  
[Vicky Carper](#)  
[Nicholas Cleary](#)  
[Michelle and Reuben Fischer](#)  
[Artyce Fredlund](#)  
[Ian Fritz](#)  
[Heidi Harrison](#)  
[Lindsay Helwig](#)  
[Don Jackson](#)  
[Jennifer Jackson](#)  
[Judy Jambois](#)  
[Ginger Johnson](#)  
[Suzan Johnson](#)  
[Kristen Kelly](#)  
[Rachel Kuntz](#)  
[Jackie LaGesse](#)  
[Katie Lassi](#)  
[Denette Lynch](#)  
[Denette Lynch \(petition supported by 499 signatures\)](#)  
[William Lynch](#)  
[Mary Millard](#)  
[Danielle Norkunas](#)  
[Tammy Olsen](#)  
[Lynette Olson](#)  
[Jamie Parent](#)  
[Rachel Rahn](#)  
[Anne M. Seppo](#)  
[Carrie Skoglund](#)  
[Jana Studelska](#)

**This Petition/Other Communication was received.**

3.      **15-038**      Communications regarding the proposed City Code regulation pertaining to outdoor broadcasting of music during certain hours (15-068-O).

**Attachments:** [Marsha Erickson](#)  
[Dean Korach](#)  
[Bernadine Martin](#)

**This Petition/Other Communication was received.**

4. **15-041** Communications regarding the proposed Michigan Street bikeway feasibility analysis (15-0506R).

**Attachments:** [Jacky Block](#)  
[Business Owners and Managers Association](#)  
[Penny Clark](#)  
[Duluth Bike Coalition](#)  
[Mark Emmel](#)  
[Greater Downtown Council](#)  
[Rick Heimbach](#)  
[Steven LaFlamme](#)  
[Rob Link](#)  
[Brad Little](#)  
[Mike Maxim](#)  
[Rosemarie and Dennis Mitchell](#)  
[Linda Olson](#)  
[Jim Rogers](#)

**This Petition/Other Communication was received.**

5. **15-042** Duluth Climbers Coalition communication regarding the proposed Children's Outdoor Charter (15-0471R).

**Attachments:** [Duluth Climbers Coalition](#)

**This Petition/Other Communication was received.**

6. **15-043** Ruth Kivisto communication regarding the proposed rezoning of property at 2421 London Road (15-073-O).

**Attachments:** [Ruth Kivisto](#)

**This Petition/Other Communication was received.**

7. **15-044** Communications regarding the proposed adoption of the vegetation management strategies in the Skylkine Parkway corridor management plan as framework for city policies and actions (15-0590R).

**Attachments:** [Nancy Nelson](#)  
[Doug Stevens](#)

**This Petition/Other Communication was received.**

8. **15-045** Jim Rogers communication regarding interim use permits for vacation dwellings (15-0572R, 15-0574R, 15-0575R).

Attachments: [Jim Rogers](#)

This Petition/Other Communication was received.

## REPORTS OF BOARDS AND COMMISSIONS

9.      **15-035**      Spirit Mountain recreation area authority minutes of June 18, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

10.     **15-036**      Duluth airport authority minutes of July 21, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

11.     **15-039**      Duluth transit authority minutes of May 27, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Kristi Stokes, Executive Director -Greater Downtown Council. Carrie Brown, Rondi Watson, Tami Larole Edmund, Ruud Schoolderman, Bill Olson, Matt Martriana, Bill Roberts and Brad Nelson spoke about a Superior Street Bike Trail.

Dave Johnson and Dulce Proud spoke on support for the Pontiana wooded area on Park Point.

Karen Lewis spoke on her concern of trucks hauling large wind generators using Mesaba Avenue.

## RESOLUTION TABLED

## COMMITTEE 2

## BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

12.     **15-0506R**      RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT MONEY FROM THE GREATER DOWNTOWN COUNCIL FOR THE MICHIGAN STREET BIKEWAY FEASIBILITY ANALYSIS IN THE AMOUNT

OF \$10,000

RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT MONEY FROM THE GREATER DOWNTOWN COUNCIL FOR THE MICHIGAN STREET BIKEWAY FEASIBILITY ANALYSIS IN THE AMOUNT OF \$10,000

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a contribution from the Greater Downtown Council in the amount of \$10,000 for a feasibility analysis of a bikeway on Michigan Street, and to execute any documents required to be executed to accept such contribution;

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a contribution from the Greater Downtown Council in the amount of \$10,000, to be used towards the City's feasibility analysis of placing a bikeway on Michigan Street. This is in conjunction with the Superior Street Reconstruction Project, examining how Michigan Street can be used as a bikeway connector through downtown Duluth.

Councilor Russ moved to remove resolution 15-0506 from the table, motion was seconded and unanimously carried.

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

Kristi Stokes, Executive Director - Greater Downtown Council, spoke in support of resolution.

Councilor Hanson noted that he would abstain from voting due to a business conflict.

**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

**Abstain:** 1 - Councilor Hanson

## MOTIONS AND RESOLUTIONS

## CONSENT AGENDA

## COMMITTEE 1

## BY COUNCILOR HANSON (PURCHASING & LICENSING)

13      15-0553R      RESOLUTION AUTHORIZING A PURCHASE FROM NORTH AMERICAN SALT COMPANY FOR 5,100 TONS OF ROAD SALT FOR FALL 2015 IN THE AMOUNT OF \$316,914.

RESOLUTION AUTHORIZING A PURCHASE FROM NORTH AMERICAN

SALT COMPANY FOR 5,100 TONS OF ROAD SALT FOR FALL 2015 IN THE AMOUNT OF \$316,914.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to purchase 5,100 tons of road salt from North American Salt Company, Minnesota State Contract 77776, for the 2015 fall season for a total amount of \$316,914, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Salt & Sand Salt 5223-01.

**STATEMENT OF PURPOSE:** This resolution authorizes a purchase from North American Salt Company of 5,100 tons of road salt for the 2015 fall season (October to December) for \$316,914. This purchase is based on Minnesota State Contract 77776, Release S-987(5), the price per ton is \$62.14.

The city uses salt during the winter season to de-ice roads for the prevention of accidents.

North American Salt Company is headquartered in Overland Park, Kansas.

Requisition No. 15-0534

**This Resolution was adopted.**

**14 15-0558R**

RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE WINE AND 3.2 PERCENT MALT LIQUOR LICENSE TO KENRITE, INC. (BULLDOG PIZZA & GRILL), 101 MT ROYAL CENTER.

RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE WINE AND 3.2 PERCENT MALT LIQUOR LICENSE TO KENRITE, INC. (BULLDOG PIZZA & GRILL), 101 MT ROYAL CENTER.

**CITY PROPOSAL:**

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale wine liquor license and on sale 3.2 percent malt liquor license, subject to departmental approvals and any specific restrictions:

Kenrite, Inc. (Bulldog Pizza & Grill), 101 Mt Royal Center, for October 9, 2015, from 7:00 p.m. to 10:00 p.m. and on October 10, 2015, from 4:00 p.m. to 9:00 p.m.

**STATEMENT OF PURPOSE:** The application of Bulldog Pizza for a temporary expansion of their beer and wine license was reviewed and unanimously approved by the Alcohol, Gambling and Tobacco Commission meeting on August 5th.

**This Resolution was adopted.**

- 15 15-0565R** RESOLUTION AUTHORIZING AN AGREEMENT WITH SHORT ELLIOT HENDRICKSON, INC. (SEH) FOR PROFESSIONAL DESIGN SERVICES FOR BAYFRONT PARK IMPROVEMENTS FOR A TOTAL NOT TO EXCEED \$44,200.

RESOLUTION AUTHORIZING AN AGREEMENT WITH SHORT ELLIOT HENDRICKSON, INC. (SEH) FOR PROFESSIONAL DESIGN SERVICES FOR BAYFRONT PARK IMPROVEMENTS FOR A TOTAL NOT TO EXCEED \$44,200.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH Inc. substantially in the form of that attached as Exhibit A for professional design services for Bayfront Park improvements for a total not to exceed \$44,200, payable from Bayfront Festival Park 237, Public Administration 015, Other Services & Charges 5441.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with SEH Inc, for professional design services for improvements to Bayfront Park for a total not to exceed \$44,200. SEH's proposal is attached as Exhibit B.

Bayfront Park requires improvements to better accommodate existing use and to support anticipated additional use from the new Pier B hotel complex which will be connected to Bayfront Park via a developer-funded footbridge and walkway. The scope of design work includes redesign and construction of an asphalt/curbed parking lot for more efficient access and controlled parking, new trails and fencing adjacent to the parking lot, redesign of the turn-lanes at Railroad Street to address traffic flow congestion during events, and decorative fencing and gates to allow for the redirection of foot traffic around the perimeter of Bayfront Park during ticketed events. This contract covers the full design of the City-funded Bayfront Improvements negotiated with Pier B developers for implementation in 2016 and 2017. The previous work done by SEH on this project was for preliminary design concepts and cost estimation to determine the funding required for the project.

Requisition No. 15-0459

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

**This Resolution was adopted.**

- 16. 15-0594R** RESOLUTION APPROVING RENEWAL AND ISSUANCE OF THE ON SALE INTOXICATING LIQUOR LICENSES OF THE DUKE PARTNERS, LLC (SPURS ON FIRST), 109 WEST FIRST STREET AND HOSPITALITY

ASSOCIATES OF DULUTH, LLC, (ACES ON FIRST), 113 WEST FIRST STREET.

RESOLUTION APPROVING RENEWAL AND ISSUANCE OF THE ON SALE INTOXICATING LIQUOR LICENSES OF THE DUKE PARTNERS, LLC (SPURS ON FIRST), 109 WEST FIRST STREET AND HOSPITALITY ASSOCIATES OF DULUTH, LLC, (ACES ON FIRST), 113 WEST FIRST STREET.

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of the following on sale intoxicating liquor licenses for the period beginning September 1, 2015, and ending August 31, 2016, subject to departmental approvals and the payment of sales and property taxes as provided in the Duluth City Code, and further subject to approval of the Liquor Control Commissioner:

The Duke Partners, LLC (Spurs on First), 109 West First Street, on sale intoxicating liquor, on sale Sunday license, dancing license and 2:00 a.m. beverage license;

Hospitality Associates of Duluth, LLC (Aces on First),m 113 West First Street, on sale intoxicating liquor, on sale Sunday license, and 2:00 a.m. beverage license.

**STATEMENT OF PURPOSE:** This resolution renews the on sale liquor licenses for Spurs on First and Aces on First. All sales and property taxes have been paid and approval by all departments. The Alcohol, Gambling and Tobacco Commission reviewed and approved these applications at their August 5th meeting.

**This Resolution was adopted.**

## **COMMITTEE 2**

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

17. 15-0524R RESOLUTION ADOPTING THE LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT (LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT)

RESOLUTION ADOPTING THE LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT (LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT)

**CITY PROPOSAL:**

RESOLVED, that:

- (a) The city council adopted the Comprehensive Land Use Plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years and identified sub-areas of the city to be studied

in more detail; and

(b) The city planning division has prepared and recommends approval of the Lincoln Park Small Area Plan (SAP), a land use plan for one of the sub-areas identified in the Comprehensive Land Use Plan; and

(c) The purpose of the Lincoln Park Small Area Plan is to conduct a more detailed study of the neighborhood and business district area along West Superior Street than was provided for in the Comprehensive Land Use plan through an assessment of current demographics, land use, zoning, transportation, development opportunities, and environmental characteristics that will form the basis for the plan recommendations and implementation strategy; and

(d) The city planning division in conjunction with the Minnesota Department of Health has prepared and recommends approval of the Health Impact Assessment (HIA) conducted on the SAP. The purpose of the HIA was to explore how the SAP might impact the community's health, positively and negatively, and make recommendations to the SAP to promote positive impacts and reduce negative impacts ; and

(e) The city planning commission has reviewed the SAP and the HIA, and conducted public hearing on May 12, 2015, at their planning commission meeting, and recommends adoption of the Lincoln Park Small Area Plan and the Health Impact Assessment recommendations.

**STATEMENT OF PURPOSE:** This resolution adopts the Lincoln Park Small Area Plan (SAP) and Health Impact Assessment (HIA). The recommendations in the small area plan and the health impact assessment are the result of an 11 month planning process which enlisted the assistance of a 30 person advisory committee including neighborhood residents, business owners, as well as public agencies and Non-profit service organizations to work with the city planning staff. In addition there were three public meetings that involved more the fifty residents in the process and solicited input regarding

neighborhood needs and improvement.

The purpose of the planning process was to identify and develop recommendations that will allow for development opportunities both commercial and residential, transportation (motorized and non-motorized) options, while retaining but also enhancing the character of the Lincoln Park business district and surrounding neighborhood. Each goal has specific recommendations. Many require ongoing partnerships between the City, non-profit organizations, businesses, and neighbors. The recommendations continue the City's policy of strengthening neighborhoods through land use changes, neighborhood stabilization, and economic development.

The SAP recommendations support the establishment of land use and zoning to better reflect existing land use, redevelop and revitalize the core commercial area, promote business development policies and loan/grant programs to meet the needs of existing as well as new businesses, and to acquire and clean up blighted and underutilized sites for business development.

As the area continues to grow commercially, the plan recommends providing a variety of residential housing types to meet the needs of the current population and for the future workforce. These include the promotion of housing assistance products and programs for housing rehabilitation to homeowners, encourage housing development near and within the business district and work with building and zoning officials for enforcement of existing regulations but also to encourage the revising codes to accommodate new housing options.

The plan recommends promoting safe and comfortable travel both motorized and non-motorized within the study area. This can be achieved by monitoring traffic operations, reviewing parking needs, and repairing and replacing road pavements, and road reconstruction of high volume pedestrian and vehicle traffic areas. Non-motorized recommendations include development of an access management policy along Superior Street to mitigate driveway placement over the cross city trail, improving sidewalk conditions within the neighborhood, providing recreational trail opportunities and developing greenways in designated areas.

The Minnesota Department of Health, in collaboration with City planning and economic development staff, conducted an HIA on the SAP to explore how the plan will impact the neighborhood's health. HIA is a tool used to identify and address the potential health benefits and health risks of a decision made in a field outside the health sector; in this case, the adoption of a new long-range plan for the business district and surrounding neighborhood of Lincoln Park. Through the HIA process, the advisory committee tailored recommendations to help promote health in the small area plan.

The HIA findings and recommendations are based on extensive literature review, conducting analysis of local data using geographic information systems (GIS), summaries of data and analysis from existing local studies, and input from community members and topic area experts from local agencies and organizations. In order to promote the positive impacts of the SAP and reduce

the negative effects, the HIA proposes a number of recommendations which have been grouped as follows: quality housing, safety and social cohesion, access to healthy food and living wage job opportunities. Each group was then subdivided by the sections of the SAP (land use, economic development, housing and transportation). The HIA analyzed each recommendation using these criteria to determine how they may affect health outcomes of residents. These HIA recommendations have been included in the SAP immediately following the recommendations for the major areas of study Land Use, Economic development, Transportation and Housing.

On May 12, 2015, the Duluth city planning commission held a public hearing on the plan and voted unanimously (8-0) to recommend that the city council approve it.

The motion to approve requires affirmative votes of at least two-thirds of those members constituting a quorum.

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

**This Resolution was adopted.**

- 18. 15-0559R** RESOLUTION VACATING A PORTION OF STREET RIGHT OF WAY AND ACCEPTING STREET AND UTILITY EASEMENTS FOR WEST SECOND STREET EAST OF 40TH AVENUE WEST (RMN LLLP).

RESOLUTION VACATING A PORTION OF STREET RIGHT OF WAY AND ACCEPTING STREET AND UTILITY EASEMENTS FOR WEST SECOND STREET EAST OF 40TH AVENUE WEST (RMN LLLP).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described on Exhibit A attached hereto and made a part hereof; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 12, 2015 regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted easement, described below, maintaining a public utility easement and subject to the provisions of paragraph (e) below:

LEGAL DESCRIPTION OF RIGHT OF WAY VACATION

See attached Exhibit A;

(e) That the vacation authorized pursuant to paragraph (d) above is conditioned on the conveyance and dedication by RMN LLLP to the city in

trust for the general public of that property legally described on Exhibit B attached hereto and made a part hereof for street and utility purposes and that easement for utility purposes legally described on Exhibit C attached hereto and made a part hereof, the acceptance of which is hereby authorized; and

(f) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution showing the platted easement to be vacated and the above-referenced deeds of conveyance and dedication.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to vacate a portion of West Second Street (originally platted as Traverse Street) and accepting other street and utility easements adjacent thereto, resulting in narrowing the right-of-way to reflect actual use of it and in straightening the easement to parallel other streets in the area.

The subject easements lie south of the building presently occupied by St. Germain's Glass Company and east of 40th Avenue West. The existing street and utility easements were originally dictated by the location of railroad tracks which traversed the property at an angle to 40th (see attached drawings). The track has been abandoned and removed and the property owner would like to "straighten out" the easements to improve traffic flow from the property and increase their ability to use the property behind their building.

West 2nd Street in this area is only a local service and access facility and does not serve any through traffic purpose and so the reduction of the easement with the reservation for utilities is adequate to serve the needs of the public. In addition, the conveyance by the property owner of street and utility easements adjacent to 40th will provide for a safer intersection of traffic on 2nd entering 40th.

On May 12, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

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

Petition Received: March 3, 2015

Petitioner:  
RMM LLLP  
2300 North Second Street  
Minneapolis, MN 55411

Attachments: [Utility Easement Agreement](#)  
[Quit Claim Deed](#)  
[Exhibits](#)

This Resolution was adopted.

## BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

19. 15-0508R RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$186,590 FROM THE STATE OF MINNESOTA - MINNESOTA STATE COLLEGES AND UNIVERSITIES (MNSCU) ON BEHALF OF LAKE SUPERIOR COLLEGE TO PROVIDE CAREER SERVICES FOR THE MINNESOTA ADVANCED MANUFACTURING PARTNERSHIP (MNAMP) LEARN, WORK, EARN GRANT. THE GRANT PERIOD IS SEPTEMBER 1, 2015 THROUGH SEPTEMBER 30, 2018.

RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$186,590 FROM THE STATE OF MINNESOTA - MINNESOTA STATE COLLEGES AND UNIVERSITIES (MNSCU) ON BEHALF OF LAKE SUPERIOR COLLEGE TO PROVIDE CAREER SERVICES FOR THE MINNESOTA ADVANCED MANUFACTURING PARTNERSHIP (MNAMP) LEARN, WORK, EARN GRANT. THE GRANT PERIOD IS SEPTEMBER 1, 2015 THROUGH SEPTEMBER 30, 2018.

### CITY PROPOSAL:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with MNSCU on behalf of Lake Superior College to provide Career Pathways Navigation, Apprenticeship Recruitment/Support and Navigation Services for Veterans. For all services performed and good or materials supplied pursuant to the contract, Duluth Workforce Development will be paid \$186,590 for the period September 1, 2015 through September 30, 2018. Monies received shall be deposited into Workforce Development Fund 268, Grants Division Agency 031, Dislocated Worker MNAMP 6212.

STATEMENT OF PURPOSE: This resolution is to authorize city officials to accept a grant of \$186,590 from MNSCU on behalf of LSC to help prepare participants, narrow the skills gap, and put Trade Adjustment Assistance (TAA) eligible and other adult learners back to work in high-wage, high growth advanced manufacturing careers. TAA is a federal program that provides financial assistance to manufacturers affected by import competition.

Duluth Workforce Development (DWD) has a long and successful history of serving job seekers and employers in the Duluth area. This grant provides new resources to support comprehensive and focused services that will enable participants to overcome barriers, succeed in training programs, and ultimately, obtain a credential and employment. The focus of this

project is to help individuals secure and maintain employment in fields of mechatronics, machining and welding.

These funds are allocated under the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program and were awarded to South Central College. South Central College is leading a consortium of 13 MN colleges, including Lake Superior College, to promote its Minnesota Advanced Manufacturing Partnership. MNAMP's Learn, Work, Earn program targets TAA-eligible workers, veterans and other adult learners seeking training to secure or maintain employment. The project focuses on providing career pathways in advanced manufacturing in the field of mechatronics, machining and welding. Participants will be able to earn stackable, portable industry-recognized credentials while simultaneously working in the industry. Participants will be able to enter academic programs at multiple points based on assessment results that match individual skills.

Our goal is to serve 61 participants and place 21 apprentices. The grant period is September 1, 2015 through September 30, 2018.

**Attachments:** [MNAMP professional technical contract 8-2015](#)

**This Resolution was adopted.**

## **BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)**

- 20. 15-0573R** RESOLUTION APPROVING FUNDING AGREEMENT WITH MONACO AIR FOUNDATION, INC., ALLOCATING \$30,000 TOWARDS THE COST OF INTERIOR AND EXTERIOR SIGNAGE RELATED TO NAMING THE NEW AIRPORT PASSENGER TERMINAL IN HONOR OF LATE U.S. REPRESENTATIVE JAMES L. OBERSTAR.

RESOLUTION APPROVING FUNDING AGREEMENT WITH MONACO AIR FOUNDATION, INC., ALLOCATING \$30,000 TOWARDS THE COST OF INTERIOR AND EXTERIOR SIGNAGE RELATED TO NAMING THE NEW AIRPORT PASSENGER TERMINAL IN HONOR OF LATE U.S. REPRESENTATIVE JAMES L. OBERSTAR.

### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a funding agreement with Monaco Air Foundation, Inc., substantially in the form attached hereto as Exhibit A, allocating \$30,000 towards the cost of purchasing and installing interior and exterior signage related to the naming of the new airport passenger terminal at the Duluth International Airport in honor of the late U.S. Representative James L. Oberstar, payable from fund 258-030-5436-11 (tourism taxes fund, finance department, tourism tax allocation, advertising and promotion).

STATEMENT OF PURPOSE: This resolution approves the allocation of \$30,000 towards the cost of purchasing and installing interior and exterior signage related to naming the new passenger airport terminal in honor of the late U.S. Representative James L. Oberstar. Mr. Oberstar was a national leader in public transportation and the driving force responsible for the construction of the new airport passenger terminal at the Duluth International Airport.

Attachments: [Exhibit A - Monaco Foundation Agreement](#)

This Resolution was adopted.

### COMMITTEE 3

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

21. 15-0563R RESOLUTION AWARDING A CONTRACT TO A PLUS LANDSCAPING, LLC FOR THE 2015 TRAIL AND CULVERT FLOOD REPAIRS ON CLYDE CONNECTOR, DWP, KINGSBURY AND WESTERN TRAILS IN THE AMOUNT OF \$516,150.

RESOLUTION AWARDING A CONTRACT TO A PLUS LANDSCAPING, LLC FOR THE 2015 TRAIL AND CULVERT FLOOD REPAIRS ON CLYDE CONNECTOR, DWP, KINGSBURY AND WESTERN TRAILS IN THE AMOUNT OF \$516,150.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC for the 2015 Trail and Culvert Flood Repairs in the amount of \$516,150, payable out of Disaster Recovery Fund 225, Department 125 (Finance), Division 1803 (Roads and Bridges), Object 5403 (Street Repair and Maintenance), city project no. 1317, flood site nos. 315, 316, 319 and 598.

STATEMENT OF PURPOSE: This resolution will authorize the 2015 Trail and Culvert Flood Repairs by A Plus Landscaping, LLC in the amount of \$516,150. A Plus Landscaping, LLC was the low bidder of the three companies that responded. The engineer's estimate was \$1,028,785. Payable out of Disaster Recovery Fund 225, Department 125 (Finance), Division 1803 (Roads and Bridges), Object 5403 (Street Repair and Maintenance), city project no. 1317, requisition no. 15-0340, flood site nos. 315, 316, 319 and 598.

TABULATION OF BIDS RECEIVED MAY 13, 2015

A Plus Landscaping, LLC	Saginaw, MN	\$	516,150.00
KTM Paving, Inc.	Hermantown, MN	\$	589,774.09
RJS Construction Group, LLC	Superior, WI		\$1,155,000.00

Attachments: [15-0563 Maps](#)

This Resolution was adopted.

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

**22. 15-0472R** RESOLUTION TO ACCEPT STATE TAX FORFEIT LAND FROM ST. LOUIS COUNTY FOR THE PURPOSE OF WESTERN WATERFRONT TRAIL EXTENSION, QUARRY PARK ESTABLISHMENT, AND CROSS CITY TRAIL EXTENSION

RESOLUTION TO ACCEPT STATE TAX FORFEIT LAND FROM ST. LOUIS COUNTY FOR THE PURPOSE OF WESTERN WATERFRONT TRAIL EXTENSION, QUARRY PARK ESTABLISHMENT, AND CROSS CITY TRAIL EXTENSION

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept requested tax forfeit property from St. Louis County and pay required administrative fees and taxes associated with the conveyance totaling \$1717.95; (payable from Fund 205, Department 130, Division 1220, Object 5530, Project CM 205 miscellaneous).

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of tax forfeit property from St. Louis County to support extension of the Western Waterfront Trail from the Riverside neighborhood to the Smithville neighborhood, establishment of Quarry Park on the hillside above Denfeld High School, and extension of the Cross City Trail above the Fairmount neighborhood.

The City made application for free conveyance of certain tax forfeit property from St. Louis County for the purpose of creating trail and parkland. On July, 14, 2015, the Board of County Commissioners of St. Louis County adopted resolution numbers 15-435, 15-436, and 15-437 authorizing the conveyance of state tax forfeited land for taxes and fees totaling \$1717.95.

**Attachments:** [County Resolutions 15-435, 15-436, 15-437.pdf](#)

[QuarryPark\\_Convey.pdf](#)

[CCTParcelConveyance](#)

[WWFTTrailParcelConveyance\\_Map1 \(2\)](#)

[WWFTTrailParcelConveyance\\_Map2 \(2\)](#)

[WWFTTrailParcelConveyance\\_Map3 \(2\)](#)

This Resolution was adopted.

**23. 15-0584R** RESOLUTION RATIFYING EXECUTION OF VARIOUS AGREEMENTS WITH BNSF RAILWAY COMPANY PERTAINING TO THE WESTERN WATERFRONT TRAIL.

RESOLUTION RATIFYING EXECUTION OF VARIOUS AGREEMENTS

WITH BNSF RAILWAY COMPANY PERTAINING TO THE WESTERN WATERFRONT TRAIL.

CITY PROPOSAL:

RESOLVED, that the execution of the agreements listed below with the BNSF Railway Company making a temporary easement for the Western Waterfront Trail permanent and formally approving a trail crossing of the tracks, copies of which are attached hereto as Exhibits A, B, and C, at a total cost to the city of not to exceed \$29,000, payable from Fund 437-030-5530 (Spirit Mountain Capital Improvement Fund, Finance Department, Improvements Other than Buildings) are hereby ratified:

<u>Exhibit</u>	<u>Document Title</u>
A	First Amendment to Easement
B	Agreement for Private Crossing
C	Crossing Surface Installation Agreement

STATEMENT OF PURPOSE: The purpose of this resolution is to ratify agreements that amended an existing, temporary easement for the Western Waterfront Trail to make it permanent and to approve a permanent trail crossing of the BNSF Railroad tracks northeast of Spring Street. These agreements are necessary to straighten out some old property issues related to the Western Waterfront Trail (the "Trail") northeast of Spring Street in Riverside which were brought to the fore by the construction of the Spirit Mountain Water Line Project.

In 1982, the City had acquired from the BN (predecessor to BNSF) a permanent easement for recreational trail purposes over railroad property northeast of the Spring Street area. This easement did not include property adjacent to the Tate and Lyle malic acid plant, which is located just northeast of Spring Street and southeast of the railroad. The original plan was to have the Trail cross over to Tallies Island and follow the river to the Riverside Marina before coming back to City-owned easements adjacent to Duluth, Superior, and Mississippi Railroad line.

Unfortunately, this plan could not be implemented, and in order to get the Trail built through the area, the City acquired a five year temporary easement from the railroad adjacent to the BN tracks through the area with the idea of replacing it with a more permanent location at a later date. Both the permanent easement and the temporary easement were limited to walking and bicycling purposes.

Some 30 years later, in the course of building the Spirit Mountain water line project, it was discovered that the temporary character of this segment of the Trail had "slipped off the radar" of both the City and the Railroad. The water line project now needed to use the Trail for construction access to the

new pump house. When the railroad reviewed the project, they realized that there was not a currently valid easement for part of the Trail. Nor did the validly permitted crossing of the rail line accommodate the Trail. Additionally, the Trail was needed for vehicular access to the pump house to construct and maintain it, and the language of the current easement limited its use to walking and bicycling. Therefore, the railroad needed to have these issues adequately addressed as part of the overall construction of the water line project.

All of these issues arose in the context of water line project and, in order to have the water line available to Spirit Mountain for this winter's snow making season, construction of the pump house needs to start immediately. This meant that all of these issues needed to be addressed immediately.

Normally, getting all of the agreements and easements needed would have taken some three months, obviously much too late to meet the needs of Spirit Mountain. However, by dint of a herculean effort on the part of BNSF corporate staff as well as their property consultant, Jones, Lang LaSalle Brokerage, Inc., along with a similar effort on the part of City staff, Spirit Mountain staff and Spirit Mountain's consultants, FJJ and SEH, the time frame for the needed documentation and approvals was reduced to a matter of weeks.

This resolution ratifies the execution of the necessary documents and formalizes the City's approval of them.

**Attachments:** [DOC082115-08212015152853](#)

**This Resolution was adopted.**

**24. 15-0586R** RESOLUTION ACCEPTING CONVEYANCE OF PROPERTY FROM THE DWP RAILWAY COMPANY.

RESOLUTION ACCEPTING CONVEYANCE OF PROPERTY FROM THE DWP RAILWAY COMPANY.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of that property described on Exhibit A attached hereto and made a part hereof from the Duluth, Winnipeg and Pacific Railway Company conveying the property described thereon along with rail, ties, track material, trestles, bridges, culverts and other structures and facilities located thereon, subject to the terms and conditions set forth in said Exhibit A.

STATEMENT OF PURPOSE: The purpose of this resolution is to formally accept the conveyance of railroad right-of-way from the DWP Railway Company originally conveyed to the City in 1984.

The right-of-way in question starts in the Spirit Valley neighborhood and runs through much of West Duluth and extends out into Midway Township terminating just south of I-35. The deed does not include the property commonly referred to as the DWP roundhouse recently acquired from MnDOT.

The City originally accepted only that portion of the property described on the Deed which lay within the 1984 City of Duluth boundary. At the time, the City did not formally accept the portion of the property in Midway Township. However, the City has exercised some control, maintenance, and use of the property (most recently a contract for the demolition of a dilapidated railroad bridge).

The property to be accepted is now a popular unimproved trail for walkers, bicyclists, and rock climbers. The City's 2011 Trails and Bikeways Plan recommends improvement and maintenance of the former DWP rail right-of-way as an official part of the City trail system. The right-of-way is envisioned as the western end of the multi-use Cross City Trail. The City recently commenced a public mini master planning process for the Cross City Trail system, including the rail right-of-way. FEMA-funded repairs to flood-damaged portions of the right-of-way are expected to commence this fall.

The deed remains a valid conveyance despite the passage of time. It just needs to be formally accepted and recorded in the County Recorder's Office. This resolution would accept all of the property to allow for its future use and development by the City.

Attachments: [DWP attachment](#)  
[DWPCartoon](#)

This Resolution was adopted.

## END OF CONSENT AGENDA

The following entitled resolutions were also considered:

### COMMITTEE 3

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

25. 15-0471R RESOLUTION AUTHORIZING ACCEPTANCE OF THE DULUTH CHILDREN'S OUTDOOR CHARTER AS A DOCUMENT TO FOSTER ACCESS TO OUTDOOR EXPERIENCES.
- RESOLUTION AUTHORIZING ACCEPTANCE OF THE DULUTH CHILDREN'S OUTDOOR CHARTER AS A DOCUMENT TO FOSTER

**ACCESS TO OUTDOOR EXPERIENCES.****CITY PROPOSAL:**

WHEREAS, the City of Duluth has established itself as a national leader for outdoor recreation infrastructure by leveraging private and public investments in our parks and trails.

WHEREAS, the City of Duluth, through its Parks and Recreation Division, believes that every child should have access and opportunities to discover, play, and learn through outdoor experiences, within our community parks, trails, and nature areas.

WHEREAS, the City of Duluth believes that the availability of varied youth experiences in nature can develop character, enhance learning, strengthen connection to community, and create a sense of wonder and curiosity for the world around them.

WHEREAS, partnerships between the City of Duluth, schools, non-profit organizations, private businesses and citizen groups can support broad access to outdoor experiences for our City's youth.

THEREFORE, BE IT RESOLVED, the Duluth City Council supports the Children's Outdoor Charter in order to foster access to rich and varied outdoor experiences within our community.

**STATEMENT OF PURPOSE:** This resolution authorizes the proper city officials to adopt the Duluth Children's Outdoor Charter as a guideline to foster access to rich and varied outdoor experiences within our community.

The City of Duluth has established itself as a national leader for outdoor recreation infrastructure by leveraging private and public investments in our parks, trails, and nature areas. The Duluth Children's Outdoor Charter aims to encourage children, families, and the organizations that support them, to explore the outdoors, master skills, and discover the wonders of the natural world.

Children who spend time outdoors develop lifelong qualities as critical thinkers, effective communicators, successful students, and healthy adults. Research consistently indicates the importance of providing meaningful, worthwhile opportunities for children and families to connect and grow together in nature.

Scott Pilate (ISD 709), Tracie Clough (YMCA) and Jessica Fisch (NYS) presented a draft version of the Charter to the Parks and Recreation Commission at their July 8, 2015 meeting. After fine-tuning the draft, Tim Bates (UMD Outdoor Recreation Program) and Jessica Fisch (NYS) presented the final version of the Duluth Children's Outdoor Charter to the Parks and Recreation Commission at their August 12, 2015 meeting. The

Park and Recreation Commission unanimously voted to support the Charter and recommend to the Duluth City Council consideration and acceptance of the Charter. The Charter is attached as Exhibit A.

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

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

Scott Pilate, Tim Bates, Jessica Schiff and David Pagel spoke in support of the resolution.

**This Resolution was adopted.**

## COMMITTEE 1

### BY COUNCILOR FILIPOVICH (FINANCE)

**26. 15-0580R** RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, HOUSING AND REDEVELOPMENT AUTHORITY, FOR THE YEAR 2016.

RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, HOUSING AND REDEVELOPMENT AUTHORITY, FOR THE YEAR 2016.

CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2016 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$974,879 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, see Exhibit A.

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$974,879.

STATEMENT OF PURPOSE: This resolution sets the proposed tax levy for the year 2016 for the Duluth housing and redevelopment authority - HRA. HRA is proposing a \$141,918 increase from the 2015

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

[AMENDMENT \(SIPRESS\)](#)

[AMENDMENT \(FOSLE\) - WITHDRAWN](#)

Councilor Sipress moved to amend resolution, which motion was seconded

and unanimously carried

**This Resolution was adopted as amended.**

- 26. 15-0581R** RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2016.

RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2016.

CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2016 for Duluth Transit Authority special taxing district's operations is hereby determined to be the sum of \$1,491,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, see Exhibit A.

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,491,900.

STATEMENT OF PURPOSE: This resolution sets the proposed property tax levy for the year 2016 for the special taxing district, Duluth transit authority (DTA). Although the transit authority is a special taxing district per Minnesota Statute 275.066, the city is obligated through council resolution to levy on their behalf.

The full levy allowable by law in Minnesota State Statute 458A.31 of .07253 percent of market value for 2016 is in excess of \$3.7 Million. The DTA, in reviewing their needs for 2015 however, is opting not to request the full levy available. Instead, the DTA is requesting \$1,491,900; \$100,000 more than the previous year.

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

Councilor Hanson stated that he would abstain from voting on this resolution, as he has a business relationship with the transit authority.

**This Resolution was adopted as amended.**

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

**Abstain:** 1 - Councilor Hanson

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

**27. 15-0582R** RESOLUTION AUTHORIZING AN AMENDMENT TO C22275 WITH ROCK SOLID TRAIL CONTRACTING FOR THE TRAVERSE TRAIL PHASE II CONSTRUCTION FOR THE ADDITION OF \$132,737.50.

RESOLUTION AUTHORIZING AN AMENDMENT TO C22275 WITH ROCK SOLID TRAIL CONTRACTING FOR THE TRAVERSE TRAIL PHASE II CONSTRUCTION FOR THE ADDITION OF \$132,737.50.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to amend C22275 with Rock Solid Trail Contracting for additional work in the Duluth traverse trail phase II construction, the resolution will approve an increase of 132,737.50 for all additional work totaling \$132,737.50; detailed in Exhibit A, payable as follows:

\$17,000.75 Disaster Recovery Fund 225; Finance 125; Parks, Recreation, & Other 1807; Contract Services 5310; Project: FLOOD-323 - Flood - June 2012, Mission Creek Trail

\$115,736.75 Parks Fund 205; Community Resources 130; Parks Capital 1220; Improvements Other than Buildings 5530; Project: CM205-Travrs - Cap Mtce Fund 205, Traverse Trail

STATEMENT OF PURPOSE: This resolution authorizes an amendment to C22275 with Rock Solid Trail Contracting for additional work related to the construction of the Duluth Traverse Trail Phase II. There was a previous addition to this contract: \$29,711.11 was approved via the change order process on December 19, 2014. The additional work being added now totals \$103,026.39; this increase initiated the need for council approval due to increasing the total contract amount by more than 25%. This resolution authorizes both additions, which will bring the total contract amount to \$353,879.25.

The overruns in cost are due to conditions present in the field that were not known at the time of the bid. These include: 1) more than anticipated wet area crossings and groundwater seeps that resulted in additional boardwalk construction to span these areas; 2) landslide areas that had become more extensive after the bid was awarded resulting in additional erosion control units; 3) changes in the trail alignment for poor soils and steep slopes discovered in the field at the time of construction that resulted in a different type and more expensive construction method; 4) construction during wet weather resulting in delays and an alternative and more expensive construction technique; 5) installing more erosion control blanket and seed than was estimated in the contract.

Requisition No. 14-0217

Attachments: [Exhibit A](#)

**This Resolution was adopted.**

**28. 15-0583R** RESOLUTION AUTHORIZING AN AGREEMENT WITH MCGOUGH CONSTRUCTION FOR PRE-CONSTRUCTION SERVICES RELATED TO THE CIRRUS BUILDING PROJECT FOR AN AMOUNT NOT TO EXCEED \$45,000.

RESOLUTION AUTHORIZING AN AGREEMENT WITH MCGOUGH CONSTRUCTION FOR PRE-CONSTRUCTION SERVICES RELATED TO THE CIRRUS BUILDING PROJECT FOR AN AMOUNT NOT TO EXCEED \$45,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with McGough Construction, substantially in the form of that attached as Exhibit A, to provide pre-construction services pertaining to the development, design and construction of the Cirrus building project for an amount not to exceed \$45,000, payable from Cirrus Building 412, Finance 030, Buildings & Structures 5520.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an agreement with McGough Construction to assist the city as the owner's construction manager at-risk in the development and construction of the Cirrus building project ("project").

The project consists of the development of an approximately 60,000 square foot manufacturing facility on city-owned property that will be constructed in 2015 & 2016. The occupant of the facility is anticipated to be Cirrus Aircraft. The city's costs of the project will be paid in part by an up to \$4 million grant of state of Minnesota investment funds to be equally matched by proceeds of tax increment and TIF revenue bonds issued by the city.

The city requested proposals for a construction management firm to provide pre-construction and construction management at risk services for the design and construction of a building which will be suitable for Cirrus' need for a facility which will allow them to manufacture their new line of jet aircraft and expand their research and development capacity in Duluth. In addition, if needs should change, the facility will be suitable for other potential uses and users. McGough Construction was selected as the entity best able to assist the city. McGough Construction has extensive experience providing construction management at risk services and overseeing construction of a number of major projects. The evaluation

team's scoring sheet is attached as Exhibit B.

This contract represents one of two contracts with McGough Construction that will be in front of the City Council for approval. This first contract is for pre-construction services related to providing detailed project cost estimation, planning, value engineering and development of a guaranteed maximum price for this project (GMP). The second contract will be for all of the publically let and awarded project bids along with the construction manager at risk fees representing the total construction cost of the Cirrus Building project as the GMP. With a GMP project, any savings or unused contingency in this project goes back to the owner and DOES NOT become part of the Construction Manager's profit.

The cost for this first pre-construction services contract (not to exceed \$45,000) will be subtracted from the sum total of all fees collected by McGough Construction on this project, and said fees are as represented in Exhibit B. Construction Management fees and reimbursable expenses replace the overhead and profit which are typically incurred in sealed bid form in the general contracting model (using the traditional design, bid, build project approach), and are determined on a negotiated percentage of the total cost of construction for the project plus negotiated reimbursable expenses directly related to managing the project. In this case, McGough Construction is providing construction management at risk services for 2.5%. McGough's proposal is attached as Exhibit C.

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

[Exhibit B](#)

[Exhibit C](#)

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

**Yea:** 7 - Councilors Filipovich, Fosle, Julsrud, Krug, Russ and President Larson

**Nay:** 2 - Councilors Gardner and Sipress

**29. 15-0593R** RESOLUTION AUTHORIZING A CONTRACT WITH VEIT & COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN THE AMOUNT OF \$455,750.

RESOLUTION AUTHORIZING A CONTRACT WITH VEIT & COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN THE AMOUNT OF \$455,750.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to contract with Veit & Company, substantially in the format attached as

Exhibit A, for construction of the Gary New Duluth Recreation Center Area improvements in the amount of \$455,750, payable from Tourism & Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1512 - Half & Half Tax Projects, Gary New Duluth Rec Area.

STATEMENT OF PURPOSE: This resolution authorizes a contract with Veit & Company in the amount of \$455,750 for the Gary New Duluth Recreation Center project.

This project comprises phase 1 of a larger project addressing storm water management and developing the following site amenity improvements: two soccer fields, picnic pavilion, parking lot, park lighting, sidewalks, and landscaping as approved in the Gary New Duluth Recreation Center mini-master plan. The work that is being contracted out by the City for this project includes the installation of storm water pipe & drain tile, grading the site to manage storm water, and the creation of the two soccer fields.

Veit & Company bid on and was awarded the construction contract for this project by City Purchasing. Veit's initial winning bid (lowest of those submitted to Purchasing) was \$586,000, but this amount was reduced to \$455,750 by eliminating certain elements of the project scope to keep the project within budget. The bid recommendation detail and construction contract are included in Exhibit A.

Overall, this project will be paid for with \$500,000 from ½ and ½ tax funds and up to \$50,000 of donated funds currently held in contingency from GNDDA. The total defined project cost is \$505,600, which includes construction management and administrative services. GNDDA will also make available up to \$44,400 for a project contingency.  
Requisition No. 15-0425

Attachments: [Exhibit A](#)

This Resolution was adopted.

**BY COUNCILOR GARDNER (PERSONNEL)**

30. 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](#)

Councilor Gardner moved to table the resolution, to allow for an interview, which motion was seconded and unanimously carried.

**This Resolution was tabled.**

**31. 15-0590R RESOLUTION ADOPTING THE VEGETATION MANAGEMENT STRATEGIES IN THE SKYLINE PARKWAY CORRIDOR MANAGEMENT PLAN AS THE FRAMEWORK FOR CITY POLICIES AND ACTIONS.**

RESOLUTION ADOPTING THE VEGETATION MANAGEMENT STRATEGIES IN THE SKYLINE PARKWAY CORRIDOR MANAGEMENT PLAN AS THE FRAMEWORK FOR CITY POLICIES AND ACTIONS.

BY COUNCILOR GARDNER:

WHEREAS, in 1891 the Board of Park Commissioners, in its first annual report, described Skyline Parkway as “[a] drive that is the pride of our city, and one that for its picturesque and varied scenery is second to none in the world...”; and

WHEREAS, Skyline Parkway stretches the length of the city of Duluth and generations of Duluth citizens and tourists have enjoyed unparalleled views of the St. Louis River, the Duluth Harbor and Lake Superior; and

WHEREAS, in August of 2003 the city's department of planning and development, in conjunction with other state and regional stakeholders, issued the Skyline Parkway Corridor Management Plan (“SPCMP”), which was to serve as a foundation for the implementation of an official framework for city policies and actions relating to Skyline Parkway and was updated in June of 2015, a copy of which is attached hereto; and

WHEREAS, the SPCMP provides a three-tiered strategy for managing vegetation along Skyline Parkway. First, existing “formal” overviews are to be kept clear of vegetation interfering with views. Second, overlooks that have been closed are to be opened and cleared. Finally, the city is to assume responsibility for periodic clearing and trimming on city owned property consistent with Sec. 35-29.1 of the Duluth City Code concerning removal and pruning of trees on city property to preserve and restore views. With regards to private property, the city will, when necessary and appropriate, facilitate a process for negotiations with property owners to replace trees that interfere with views with lower growing vegetation; and

WHEREAS, the SPCMP has not been adopted by the city council, but is currently considered an unofficial guide for city officials; and

WHEREAS, many of the beautiful overviews and outlooks along Skyline

Parkway are overgrown and have not been cleared in accordance with the vegetation management plan provided for in the SPCMP.

THEREFORE, BE IT RESOLVED, that the Duluth city council adopts the vegetation management guidelines provided for in the SPCMP to prioritize the maintenance of views on Skyline Parkway to the maximum degree that resources permit.

STATEMENT OF PURPOSE: The resolution adopts the vegetation management guidelines set for in the Skyline Parkway Corridor Management Plan to provide the city with a framework to adequately clear and maintain scenic overlooks and views along Skyline Parkway to the maximum degree that resources permit. Maps on page 45 and 46 of the SPCMP depict view protection overlay areas where vegetation management is particularly important.

Sponsors: Gardner

Attachments: [SkylineCMP2015](#)

Doug Stevens, Jeremy Rubin, Gene Barber, Anthony Hacker, Larry Bromme and Nancy Nelson spoke of their concerns.

**This Resolution was adopted.**

## COMMITTEE 2

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

32. 15-0572R RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 728 LAKE AVENUE SOUTH (DOUGLAS AND KATHLEEN BAKER)

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 728 LAKE AVENUE SOUTH (DOUGLAS AND KATHLEEN BAKER)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Douglas and Kathleen Baker an interim use permit to operate a vacation dwelling unit located at 728 Lake Avenue South and as described by the following: PID 010-4380-01150; 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 15-102); 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 and voted to recommend approval of an interim use permit for a vacation dwelling unit 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) The permit holder shall ensure that no fire pits or similar out-door recreational fires are allowed or located on the property;

(h) 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 Douglas and Kathleen Baker an interim use permit for a 3-bedroom vacation dwelling unit at 728 Lake Avenue South. 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 driveway next to the home.

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. The planning commission has recommended a shorter term, two year, for this vacation dwelling.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 6 yeas, 1 nays, and 0 abstentions, with 2 commissioners absent, to recommend that the city council approve the interim use permit with conditions.

Request filed: July 2, 2015

Action deadline: October 31, 2015

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

Councilor Sipress moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried.

**This Resolution was adopted as amended.**

**33. 15-0574R RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 416 88TH AVENUE WEST (LAWRENCE TELEGA)**

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 416 88TH AVENUE WEST (LAWRENCE TELEGA)  
CITY PROPOSAL:

RESOLVED, that:

- (a) The city council hereby grants Lawrence Telega an interim use permit to operate a vacation dwelling unit located at 416 88th Avenue West and as described by the following: PID 010-2550-05162; 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 15-103); 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 and voted to recommend approval of an interim use permit for a vacation dwelling unit 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 Lawrence Telega an interim use permit for a 3-bedroom vacation dwelling unit at 416 88th 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 driveway in front of the home.

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. The planning commission has recommended a shorter term, two year, for this vacation dwelling.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 6 yeas, 1 nays, and 0 abstentions, with 2 commissioners absent, to

recommend that the city council approve the interim use permit with conditions.

Request filed: July 6, 2015

Action deadline: November 4, 2015

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

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

Larry Telega, applicant, and Mike Casey spoke in support of the resolution, without changing it to a two year permit.

Councilor Gardner moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried.

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

**34. 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](#)

AS AMENDED

Councilor Sipress moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried

Councilor Gardner moved to table the resolution to have the attorney's review the legalities of the planning commission desire to keep this unit as regular rental, versus a vacation swelling, which motion was seconded and carried as follows:

**This Resolution was tabled.**

### **COMMITTEE 3**

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

**35. 15-0592R** RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A CONTINGENCY DONATION FROM GARY NEW DULUTH DEVELOPMENT ALLIANCE IF NECESSARY TO COMPLETE THE GARY NEW DULUTH REC. CENTER PROJECT, FOR AN AMOUNT NOT TO EXCEED \$50,000.

RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A CONTINGENCY DONATION FROM GARY NEW DULUTH DEVELOPMENT ALLIANCE IF NECESSARY TO COMPLETE THE GARY NEW DULUTH REC. CENTER PROJECT, FOR AN AMOUNT NOT TO EXCEED \$50,000.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a contingency donation from the Gary New Duluth Development Alliance (GNDDA) as needed for the Gary New Duluth Recreation Center Project to pay any project costs over the \$500,000 ½ & ½ Tax city contribution to this project up to an amount not to exceed \$50,000 with funds to be deposited as follows: Tourism & Recreational Projects 452, Finance 030, Improvements Other than Buildings 5530, Gifts & Donations 4660.

**STATEMENT OF PURPOSE:** This resolution authorizes proper city officials to accept a contingency donation from the GNDDA in an amount not to exceed \$50,000 for the Gary New Duluth Recreation Center Project. This project largely provides the civil and site work infrastructure to support the installation of planned soccer fields, a parking lot and other amenities defined and approved in the Gary New Duluth mini-master plan. The City of Duluth had committed \$500,000 of ½ and ½ tax funds to support the development of the Gary New Duluth Recreation Center plan, and the GNDDA has raised \$500,000 of cash and in-kind contributions to complete projects at the Center.

This contingency donation provides needed funds to complete complex civil/site work that was awarded to Veit & Company (Resolution No. 15-0593R) through a competitive City Purchasing bid process. The initial Veit bid came in at \$586,000, but through a value engineering process with City Staff, GNDDA, Kraus-Anderson Construction Company (Resolution No. 15-0596R), and SAS Architects the total cost of the bid has been reduced to \$455,750. This bid amount along with the total cost for construction management/administration (Kraus-Anderson and SAS) and project contingency requires a total project budget of \$550,000 to complete this work. The City is contributing \$500,000 to this project and GNDDA is donating up to the remaining \$50,000 required to meet the project budget - which includes a 7% project contingency that may or may not be needed to

complete the project.

GNDDA will hold funds in one of their accounts (as noted in donation letter attached as Exhibit A) throughout the duration of the project, and will contribute funds to the city as requested to meet project budget.

The project budget is as follows:

Kraus-Andersons construction management fee \$47,000

SAS construction administration fee \$2,850

**Total Soft Costs** **\$49,850**

Veit Bid Total \$455,750

Project Contingency \$44,400

**Total Project cost** **\$550,000**

Requisition No. 15-0425

Attachments: [Exhibit A](#)

This Resolution was adopted.

## BY COUNCILORS SIPRESS AND JULSRUD

36. 15-0579R RESOLUTION IDENTIFYING RILEY ROAD PROPERTY AS A SITE FOR THE DEVELOPMENT OF AN EAST DULUTH DOG PARK.

RESOLUTION IDENTIFYING RILEY ROAD PROPERTY AS A SITE FOR THE DEVELOPMENT OF AN EAST DULUTH DOG PARK.

BY COUNCILORS SIPRESS AND JULSRUD:

WHEREAS, in response to a need for off-leash dog exercise areas, the city council approved Keene Creek and Riley Road in 2005 as acceptable sites for dog parks based on recommendations from the parks and recreation commission and city staff (05-689R); and

WHEREAS, the city established a dog park on the Keene Creek site, but was unable to utilize the Riley Road site because the city's permit application was denied; and

WHEREAS, in 2013, the city council requested the parks and recreation commission review possible locations for additional dog parks in central and eastern Duluth (13-0101R); and

WHEREAS, the commission recommended Russell Square and Observation Park be considered as possible dog park sites. The city established a dog park at the Observation Park site, but not at Russell Square; and

WHEREAS, on June 3, 2015, the state of Minnesota office of administrative hearings approved annexation by the city of Duluth of a portion of Rice Lake township, including the Riley Road site; and

WHEREAS, on August 12, 2015, after receiving a petition with over 500 signatures and public comments, the parks and recreation commission unanimously recommended locating a dog park at the Riley Road site; and

WHEREAS, the proposed Riley Road site allows for a 4 acre dog park with a walking trail and two fenced-in areas for unleashed small and large dogs. It is anticipated that private donors will finance the cost of creating and maintaining the dog park with the city creating a gravel parking area.

THEREFORE, BE IT RESOLVED, that the city council hereby identifies the Riley Road site, as shown in attachment A, as a location for a city dog park and requests that the city administration take the necessary steps to begin developing the dog park.

STATEMENT OF PURPOSE: This resolution identifies the Riley Road site as suitable area for an east Duluth dog park.

**Sponsors:** Sipress and Julsrud

**Attachments:** [Attachment A Proposed Riley Rd Dog Park](#)

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

Denette Lynch spoke in support of resolution and presented a petition of 509 residents who also supported the resolution.

**This Resolution was adopted.**

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

37. 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.

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

Sponsors: Filipovich

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

Enactment No: 10402

## COMMITTEE 2

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

**38. 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.

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](#)

Councilor Russ moved to suspend the rules to hear speakers on this ordinance, which motion was seconded and unanimously carried. Ruth Kivisto and Angel Sarkela Saur spoke in opposition to the ordinance. Michael Tegethoff spoke in support of the ordinance.

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

Enactment No: 10403

- 39. 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  
010-2710-03920 010-3740-00400 010-3830-

9840	
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.

**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.

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

PL 15-098

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

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

Enactment No: 10404

## **COMMITTEE 3**

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

- 40. 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 read for the first time.**

Enactment No: 10405

**41 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 read for the first time.**

Enactment No: 10406

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

### **COMMITTEE 3**

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

**42. 15-054-O** AN ORDINANCE PROSCRIBING ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM, ADDING CHAPTER 43A TO THE DULUTH CITY CODE, 1959, AS AMENDED.

AN ORDINANCE PROSCRIBING ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM, ADDING CHAPTER 43A TO THE DULUTH CITY CODE, 1959, AS AMENDED.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the Duluth City Code 1959, as amended, is hereby amended by adding a new Chapter 43A thereto, which reads as follows:

**CHAPTER 43A.**

**ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM.**

Sec. 43A-1. Purpose.

This Chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

Sec. 43A-2. Definitions.

For the purposes of this Chapter, the terms used in this Chapter have the meanings defined as follows:

- (a) City. The city of Duluth and its officials, employees, and duly authorized agents;
- (b) Clean water act. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and subsequent amendments thereto;
- (c) Director. The director of public works and utilities department or his designated employee or agent for purposes of administration of this Chapter;
- (d) Groundwater. Water contained below the surface of the earth;
- (e) MPCA. The Minnesota pollution control agency;
- (f) MS4 (municipal separate storm sewer system). The system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, that is: owned and operated by the city, designed or used for collecting or conveying stormwater, and not used for collecting or conveying sewage;
- (g) National pollutant discharge elimination system (NPDES) stormwater discharge permit. A permit issued under the Clean water act and United States Code of Federal Regulations Title 33, Section 1342, and subsequent amendments thereto, authorizing the discharge of pollutants into waters of the United States;
- (h) Non-stormwater discharge. Any substance not composed entirely of stormwater;
- (i) Prohibited discharge. Any introduction of non-stormwater discharge to the MS4 or to surface waters within the city, unless specifically exempted under Section 43A-3(b) of this Chapter;
- (j) Person. Any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law;
- (k) Pollutant. Any substance which, when introduced as non-stormwater, has potential to or does any of the following:
  - (1) Interferes with state designated water uses;
  - (2) Obstructs or causes damage to waters of the state;
  - (3) Changes water color, odor, or usability;
  - (4) Adds an unnatural surface film on the water;
  - (5) Adversely changes other chemical, biological, thermal, or physical condition in any surface water or stream channel; or

(6) Harms human life, aquatic life, or terrestrial life.

(l) Stormwater. Precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff or drainage;

(m) Surface water. Ponds, lakes, rivers, streams, and wetlands.

Sec. 43A-3. Non-stormwater discharges.

(a) No person shall cause any non-stormwater discharges to enter the MS4, or to any surface waters within the city, unless specifically exempted under paragraph (b) of this Section;

(b) Discharges from the following sources are exempted from this Section:

(1) Non-stormwater that is authorized by an NPDES point source permit obtained from the MPCA;

(2) Firefighting activities and fire suppression systems;

(3) Dye testing for which the city has received written notification prior to the time of the test;

(4) Water line flushing or other potable water sources;

(5) Landscape irrigation or lawn watering;

(6) Diverted stream flows;

(7) Rising groundwater;

(8) Groundwater infiltration to storm drains;

(9) Uncontaminated pumped groundwater;

(10) Foundation or footing drains;

(11) Air conditioning condensation;

(12) Springs;

(13) Natural riparian habitat and wetland flows;

(14) Street wash water discharges;

(15) Activities undertaken by the city, or by written authority of the city, deemed necessary to protect public health, welfare or safety; and

(16) Any other water source not containing a pollutant;

(c) No person shall intentionally dispose of any non-storm water discharges (including, without limitation, grass, leaves, dirt, or other landscape material) into the MS4 or to any surface waters within the city.

Sec. 43A-4. Prohibited MS4 connections.

No person shall construct, use, maintain or permit to exist any pipe or other structure that conveys non-stormwater to the MS4.

Sec. 43A-5. Suspension of storm sewer system access, emergencies.

The city may, without prior notice, suspend the right to discharge any substance into the MS4 or surface waters of

the city upon the determination by the director that suspension is necessary to stop an actual or threatened discharge of a pollutant to the MS4 or public waters. If the person discharging such pollutant fails to suspend such discharge, the city may take any step deemed necessary to prevent or minimize damage to the MS4 or public waters or to protect the health, safety, and welfare of its residents.

Sec. 43A-6. Entry for inspections.

No person shall fail or refuse to allow the director to inspect any building or property to determine compliance with the requirements of this Chapter after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building or property shall deny or refuse to allow the director to inspect any such building or property after such notice has been given, the director may use such other means as are authorized by law, including but not limited to securing a search warrant for such building or property or a court order requiring that access be granted in order to gain access to conduct such inspection.

Sec. 43A-7. Enforcement.

(a) Any person violating any section of this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. All city approvals and permits shall be suspended until the violation(s) of this chapter are corrected. Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter in a court of competent jurisdiction by civil action to enjoin any continuing violation(s) in accordance with subsection (b) below;

(b) A violation of this Chapter is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s). Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter by criminal prosecution or administrative fine.

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

STATEMENT OF PURPOSE: The purpose of this ordinance is to create a new chapter to the Duluth City Code, 1959, as amended, to proscribe illicit discharges to the stormwater sewer system.

This chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

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

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

Enactment No: 10401

**43. 15-068-O** AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 25 ADDING A NEW SECTION 12 REGARDING OUTDOOR BROADCASTING OF MUSIC DURING CERTAIN HOURS.

AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 25 ADDING A NEW SECTION 12 REGARDING OUTDOOR BROADCASTING OF MUSIC DURING CERTAIN HOURS.

BY COUNCILOR JULSRUD:

Section 1. That Chapter 25 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 12 as follows:

Sec. 25-12. Outdoor Broadcast of Music

No licensee or other person in charge of or operating any gasoline filling station in the city shall allow music to be broadcast outdoors between the hours of 5:00 p.m. and 8 a.m.

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

STATEMENT OF PURPOSE: This ordinance prohibits gas stations from broadcasting music outside between the hours of 5:00 p.m. and 8 a.m.

**Sponsors:** Julsrud

Councilor Julsrud, as sponsor of the ordinance, stated that she wished to have this ordinance be pulled from the agenda.

**This Ordinance was withdrawn.**

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting adjourned at 10:17 p.m.