



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

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

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, October 26, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

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

**Absent:** 1 – Councilor Linda Krug

#### APPROVAL OF MINUTES

1.      **15-078**      July 20 and 27, 2015.

**Attachments:**   [July 20, 2015, Minutes](#)  
                             [July 27, 2015, Minutes](#)

This Minutes was approved.

#### REPORTS FROM OTHER OFFICERS

2.      **15-071**      Clerk applications for exempt permits submitted to the Minnesota gambling control board from A Race Worth Winning-ALS on February 6, 2016, and Minnesota Bluegrass & Old-Time Music Association on April 16, 2016 (raffles).

**Attachments:**   [A Race Worth Winning-ALS Application](#)  
                             [Minnesota Bluegrass & Old-Time Association Application](#)

This Report was received.

## REPORTS FROM THE ADMINISTRATION

3.      **15-077**      Chief administrative officer report on proposed transfer of control of the Charter Communications cable television franchise.

Attachments:   [Report](#)

This Reports from the Administration was received.

## REPORTS OF BOARDS AND COMMISSIONS

4.      **15-073**      Duluth Seaway Port authority minutes of March 31, May 29, June 25, July 6 and August 20, 2015, meetings.

Attachments:   [March 31, 2015](#)  
                      [May 29, 2015](#)  
                      [June 25, 2015](#)  
                      [July 6, 2015](#)  
                      [August 20, 2015](#)

This Board or Commission Report was received.

5.      **15-075**      Charter commission minutes of April 8 and July 8, 2015, meetings.

Attachments:   [April 8, 2015](#)  
                      [July 8, 2015](#)

This Board or Commission Report was received.

6.      **15-076**      Duluth public utilities commission minutes of September 15, 2015, meeting.

Attachments:   [Minutes](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

Councilor Russ presented the October 2015 Duluth City Councils Distinguished Service Award to Rachael Kresha.

Ms. Kresha commented and thanked the council.

## **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Mary Matthews, President of Duluth Public Arts Commission, and Sheila Smith, Executive Director of the MN Citizens for the Arts, updated the council on the impact of arts and culture on the city.

Matt Rosendahl, President of the Duluth Library Board, urged council support for library staffing.

Jerry Schlafer commented on many examples of individuals wanting something for free.

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

## **COMMITTEE 1**

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

7.      **15-0727R**      RESOLUTION AUTHORIZING ACCEPTANCE OF A CROSS COUNTRY SKI TRAIL ASSISTANCE PROGRAM GRANT AGREEMENT FOR YEAR 2015-2016 WITH THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES IN AN AMOUNT NOT TO EXCEED \$11,000.

#### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is attached as Exhibit A, with the Minnesota department of natural resources for the maintenance of the Duluth cross country ski trails for the 2015-2016 season in the amount of \$11,000; said funds to be deposited in General Fund 110, Public Administration 121, Maintenance Operations/Park Maintenance 1217-2145, Ski Trail Reimbursement 4225.

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a Minnesota DNR grant for maintenance of the city's cross country ski trails in the amount of \$11,000 and accepting the grant if offered.

The city has applied for and used the program's funds in past years to assist the city in covering its cross country trail costs.

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

**This Resolution was adopted unanimously.**

8.      **15-0741R**      RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 101 FOR YEARS 2015-2017.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with International Association of Fire Fighters Local 101 ("IAFF") containing the same terms and conditions, and substantially the same as that attached hereto as Exhibit A, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and IAFF have been in negotiations for a successor agreement to the current 2012-2014 collective bargaining agreement ("CBA"). The parties tentatively agreed to a 2015-2017 CBA on August 26, 2015, and IAFF ratified this CBA on October 9, 2015. This three-year CBA has wage increases of 2.25% in 2015, 2.0% in 2016, and 2.25% in 2017. Beginning January 1, 2016, IAFF members will receive a 1.5% increase in compensation for E.M.T. training, certification and duties. In addition, IAFF members not eligible for city-paid retiree health insurance will receive a 1.5% increase into their healthcare savings plan accounts. This CBA also expands family dental insurance eligibility rules and provides for more flexible deferred compensation availability by allowing employees additional health insurance coverage options.

**Attachments:** [Exhibit A - Fire 2015-2017 Final CBA \(Clean version\)](#)

**This Resolution was adopted unanimously.**

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

9.      **15-0734R**      RESOLUTION APPROVING THE ISSUANCE OF A 2016 MINNESOTA CURRENCY EXCHANGE LICENSE TO THE TITLE LOAN COMPANY, INC.

## CITY PROPOSAL:

RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2016 currency exchange license to The Title Loan Company, Inc., 22 North Second Avenue West.

STATEMENT OF PURPOSE: This resolution approves of the Minnesota department of commerce issuing a 2016 currency exchange license The Title Loan Company, Inc., 22 North Second Avenue West.

Pursuant to Minnesota Statute 53A.04, the governing body of the city in which the currency business is going to operate must concur in the issuance of a currency exchange license by the commissioner of commerce.

Attachments: [Notification Letter](#)

**This Resolution was adopted unanimously.**

10.      **15-0735R**      RESOLUTION APPROVING THE EXEMPTION OF A BINGO LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR HOLY FAMILY CATHOLIC CHURCH.

## CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling bingo exemption to Holy Family Catholic Church and does hereby waive the 60

day waiting period which it has to object to the issuance of said exemption.

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

STATEMENT OF PURPOSE: This application is for a bingo license to be held at Holy Family Catholic Church on November 8 and has been reviewed and approved.

**This Resolution was adopted unanimously.**

- 11. 15-0742R** RESOLUTION AMENDING RESOLUTION 15-0209, AUTHORIZING A LEASE CONTRACT FOR A 54 MONTH LEASE OF 20 MOTOR GRADERS, TO AMEND THE NAME OF THE LESSOR.

**CITY PROPOSAL:**

RESOLVED, that Resolution 15-0209 authorizing a lease contract with Ziegler be amended authorizing the proper city officials to execute two lease contracts, addendums to lease and related documents, in substantially the form of those documents attached as Exhibit A, with Caterpillar Financial Services Corporation for the 54 month lease of 20 motor graders at the same cost and funding as previously approved by Resolution 15-0209.

RESOLVED FURTHER, that the authorization granted by this resolution is predicated on the end of lease repurchase guarantee letters dated October 8, 2015, that have been provided by Ziegler, Inc., and are attached as Exhibit B.

STATEMENT OF PURPOSE: This resolution will amend resolution 15-0209R to correct the name of the leasing company that will hold these contracts. Ziegler Inc. (Ziegler) submitted the winning bid for the lease of the motor graders, however, based on the relationship between Caterpillar Financial Services Corporation (CFSC) and Ziegler, Ziegler will actually "sell" the graders to CFSC, which will then lease them to the City on a "lease-purchase" contract. At the end of the lease-purchase contract term, Ziegler has agreed as per the attached commitment to pay the "purchase price" to CFSC and take ownership of the equipment. Thus, the city will

effectively end up with a lease only for the 54 month term. There are no changes to the quantity or type of graders being leased, the lease cost, nor the funding. There are ten motor graders listed on each proposed lease agreement. Ziegler has provided end of lease repurchase guarantee letters that are intended to relieve the city of any obligation to purchase the graders at the end of the lease term.

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

**This Resolution was adopted unanimously.**

## **COMMITTEE 2**

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

- 12. 15-0738R RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.**  
RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.  
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 council adopted Resolution 15-0123 on March 9, 2015, accepting a donation from the Spirit Valley Land Company for the preparation of the small area plan; and

(c) The city planning division has prepared and recommends approval of the Riverside small area plan (SAP), a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(d) The purpose of the Riverside small area plan is to provide guidance for the area that will influence future developments 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

(e) The city planning commission has reviewed the SAP and conducted a public hearing on September 22, 2015, at their planning commission meeting,

and recommends adoption of the Riverside small area plan recommendations.

**STATEMENT OF PURPOSE:** This resolution adopts the Riverside small area plan (SAP). The recommendations in the small area plan is the result of a seven month planning process which enlisted the assistance of a nine person advisory committee with ties to the neighborhood. The advisory committee met four times throughout the study period. In addition there were two public meetings that involved more than 100 residents in the process and provided input on land use, transportation, environmental/open space, and housing/community priorities. Understanding that not every stakeholder was able to attend a public meeting, the planning staff operated an online website throughout the project which was hosted by "My Sidewalk" where questions were posted and feedback was provided.

The purpose of the planning process is to provide guidance for the Riverside area that will influence future developments. Through a series of community engagement events, analysis of the history of the neighborhood, review of past and current planning efforts, and an analysis of the current demographics, the planning team gained an intimate understanding of the current community context, as well as its present challenges, and future opportunities.

The study reveals areas in which investments should be made in the existing housing stock and where new housing should develop in a way that will blend with the historical character of the neighborhood. The small area plan is a framework to guide the future development of the Riverside community, offering tangible implementation action items to make connections between short-term actions that will help shape the long-term visions articulated by residents and community members who live and work in the neighborhood.

The small area study recommendations are focused on supporting areas of opportunity surrounding land use and housing, businesses, and economic development to strengthen recreational amenities as well as recreational amenities in the neighborhood.

On September 22, 2015, the Duluth city planning commission held a public hearing on the plan and voted unanimously (7-0) 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](#)

[Attachment 2](#)

[Attachment 3](#)

**This Resolution was adopted unanimously.**



13.     **15-0744R**     RESOLUTION AUTHORIZING THE BUILDING OFFICIAL TO ABATE CERTAIN NUISANCES BY REMOVAL OF STRUCTURALLY UNSOUND BUILDINGS IN THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$340,000.

CITY PROPOSAL:

RESOLVED, that the council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders for structures located upon the parcel of land described below located within the city of Duluth after determining that the criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

(1) 131st Avenue West, Tax Parcel Number 010-1680-00560. Notification of condemnation for demolition to Rebecca Bosanko, daughter of deceased property owner Melvin Schlafer, by certified mail delivered September 26, 2015, and by posting on the site of the condemned building;

(2) 1227 Foster Avenue, Tax Parcel Number 010-0530-01310. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(3) 19 West Fourth Street, Tax Parcel Number 010-1000-00060. Notification of condemnation for demolition to owner Mary Jo Alander by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(4) 2111 West Fourth Street, Tax Parcel Number 010-1180-04370. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(5) 3015 Vernon Street, Tax Parcel Number 010-4570-03620.

Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(6) 417 North 21st Avenue West, Tax Parcel Number 010-1180-04520. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(7) 429 North 63rd Avenue West, Tax Parcel Number 010-0850-01625. Notification of condemnation for demolition delivered to owner Gary Nelson by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(8) 5526 Albion Street, Tax Parcel Number 010-4030-01130. Notification of condemnation for demolition to owner Michael Strop by certified mail delivered August 31, 2015, and by posting on the site of the condemned building;

(9) 5702 West Eighth Street, Tax Parcel Number 010-4520-10580. Notification of condemnation for demolition to owner Ronald and Jennifer Ann Kroll by certified mail delivered August 29, 2015, and by posting on the site of the condemned building;

(10) 5803 Cody Street, Tax Parcel Number 010-4510-07710. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(11) 603 North 23rd Avenue West, Tax Parcel Number 010-1220-02550. Notification of condemnation for demolition to owner Wells Fargo by certified mail delivered September 2, 2015, and posting on the site of the condemned building;

(12) 6116 Raleigh Street, Tax Parcel Number 010-2320-00860. Notification of order for condemnation for demolition to taxpayer Darian Pionk by certified mail delivered June 8, 2015, and by posting on the site of the condemned building;

(13) 2624 West Second Street, Tax Parcel Number 010-1140-02680. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of

the condemned building;

(14) 318 South Basswood Avenue, Tax Parcel Number 010-0880-06460. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned building;

(15) 816 East Fifth Street and 816-1/2 East Fifth Street (two vacant dilapidated dwellings on one parcel), Tax Parcel Number 010-3830-17330. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned buildings;

(16) 1019 North 14th Avenue East, Tax Parcel Number 010-0500-03180. Notification of condemnation for demolition to owner Cletus Kuznia by certified mail delivered September 15, 2015, and by posting on the site of the condemned building;

(b) The orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$340,000.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from DEDA, general and community development block grant funds;

(b) Should the sale of the salvage from such work 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; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

STATEMENT OF PURPOSE: This resolution identifies buildings that are subject to final demolition orders and authorizes the building official to take appropriate action for removal. The council finds that the structures are substandard and constitute spot slum and blight conditions on the community. Buildings damaged or deteriorated in excess of 60% of their market value are subject to an order to the owner to demolish the building

within 30 days. Owners are notified via certified mail, or, if confirmed delivery is unsuccessful, through publication in the Duluth News Tribune on two dates and the order is posted on the damaged building. Owners are informed of their right to appeal to the building appeal board within 15 days of receipt of the order. If appealed, the board can grant up to 18 months additional time for rehabilitation if the appellant shows dedication of sufficient funds and has entered into a valid contract to complete the work within the prescribed time. Demolition orders are final when the appeal period has lapsed without the filing of an appeal or when an appeal has been granted but the additional given time has elapsed without completion of repair and rehabilitation. Once a demolition order is final, the city council may direct the building official to proceed with the work ordered or to contract to have the work done. The estimated total cost for all structures is \$340,000.

**This Resolution was adopted unanimously.**

- 14. 15-0748R** RESOLUTION VACATING A PORTION OF PLATTED STREET RIGHT-OF-WAY OF WEST NINTH STREET, AT THE NORTHEAST CORNER OF THE INTERSECTION SEVENTH AVENUE WEST AND WEST NINTH STREET (LEE AND KYLE ERICKSON).

**CITY PROPOSAL:**

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

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

(c) The city planning commission, at its Tuesday, October 13, 2015,

regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the partial vacation of the platted road easement, described below:

#### VACATION DESCRIPTION

All that part of the platted right-of-way of Ninth Street lying southeasterly of Lots 14, 15, and 16, Block 35, Duluth Heights First Division, according to the recorded plat thereof, St. Louis County, MN and northeasterly of the platted northeast line Seventh Avenue West extended, and northwesterly of the platted northwest line of West Ninth Street extended. Subject to easements, reservations and restrictions of record; and

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

**STATEMENT OF PURPOSE:** The resolution partially vacates a portion of the platted street right of way for improved West Ninth Street. If the partial vacation is approved, West Ninth Street would still have a right-of-way width of 66 feet, which is an appropriate width of right-of-way for a local road, and is in conformance with the other platted right of way of West Ninth Street.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions with 1 member absent, 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: August 28, 2015

Action deadline: January 12, 2016

Petitioners:

Lee and Kyle Erickson  
625 West Ninth Street  
Duluth, MN 55806

PL 15-142

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

**This Resolution was adopted unanimously.**

- 15. 15-0750R** RESOLUTION AUTHORIZING TRANSFER OF \$52,510.42 IN 2010, 2011 AND 2012 CDBG FUNDS AND AMENDMENTS TO THE 2014 CDBG PROGRAM UDAC BUILDING REFORMATION GRANT AGREEMENT; INCREASING THE FUNDING OF THE AGREEMENT.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to CDBG Agreement 22231 with Udac, Inc., increasing the amount payable thereunder from \$250,000 to \$302,510.42.

**2010 CDBG Program**

Fund 262, Agency 020, Object 5434, Project CD10CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Memorial Park CC	\$250,000	\$247,500	(\$2,500)

**2011 CDBG Program**

Fund 262, Agency 020, Object 5434, Project CD11CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 Street Assess Assist	\$84,000.00	\$83,989.58	(\$10.42)

**2012 CDBG Program**

Fund 262, Agency 020, Object 5434, Project CD12CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Lincoln Pk School	\$50,000	\$0	(\$50,000)

**2014 CDBG Program**

Fund 262, Agency 020, Object 5434, Project CD14CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 UDAC Building Ref		\$250,000.00	\$302,510.42
	\$52,510.42		

STATEMENT OF PURPOSE: The purpose of this resolution is to increase the Fiscal Year 2014 project funding by \$52,510.42 for the Udac building reformation project. Udac, Inc., has requested additional program assistance for their facility project that serves low income individuals in hillside neighborhood. These funds will help complete the project that has exceeded original projections.

The funding will come from three completed projects. The Lincoln Park School redevelopment project was removed from the 2012 annual action plan and a community development committee public hearing was held on May 26, 2015. Also, the Memorial Park Community Center project and the street assessment assistance project both had unused funds to be reprogrammed.

**This Resolution was adopted unanimously.**

### COMMITTEE 3

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

16.     **15-0737R**     RESOLUTION AUTHORIZING TEMPORARY CONSTRUCTION AND PERMANENT STREET EASEMENT AGREEMENTS WITH SPIRIT VALLEY LAND COMPANY, LLC AND DALE MAYNARD JOHNSON.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into the following easement agreements with the following persons and entities:

(a) Temporary construction easement agreement with Spirit Valley Land Companies, LLC, attached as Attachment 1, and

(b) Street and utility easement with Spirit Valley Land Company, LLC and Dale Maynard Johnson attached as Attachment 2.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of easements for construction of a fourth leg of intersection at Warwick Street and Grand Avenue, across from the Spirit Mountain lower chalet. The Minnesota Department of Transportation will take over said easements for its 2016 construction of said intersection.

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

This Resolution was adopted unanimously.

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

17.     **15-0746R**     RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH LHB, INC., FOR THE DEVELOPMENT OF ARCHITECTURAL AND ENGINEERING DESIGNS FOR THE CHAMBERS GROVE PARK FLOOD RECOVERY AND IMPROVEMENTS PROJECT FOR AN AMOUNT NOT TO EXCEED \$94,920.

### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with LHB, Inc., for the development of architectural and engineering designs for the Chambers Grove Park Flood Recovery And Improvements Project for an amount not to exceed \$94,920, payable from Fund 225-125-1807-5319 (Disaster Recovery Fund; Finance; Parks, Recreation, and Other; Other Professional Services); Project: Flood-310 - Flood - June 2012, Chambers Grove.

STATEMENT OF PURPOSE: This resolution authorizes a consultant agreement with LHB, Inc., substantially in the form of that attached as Exhibit B, for an amount not to exceed \$94,920.



Chambers Grove Park, located within the St. Louis River Corridor in the Fond du Lac neighborhood, was severely affected by the historic June 2012 flood. The City of Duluth proposes to use \$1 million in Parks and Trails Legacy Grant Funds (from the MN DNR) for flood recovery and improvements to Chambers Grove Park. The success of this project will accomplish three goals: 1) update and improve a well-used, beloved park; 2) bring the park into ADA compliance and elevate it to a Regional Park status and 3) comply with the City's economic and community development goals for the St. Louis River Corridor. The project proposal is attached as Exhibit A.

**Attachments:** [EXHIBIT A - LHB PROPOSAL.pdf](#)  
[EXHIBIT B - CHAMBERS GROVE AGREEMENT.pdf](#)

**This Resolution was adopted unanimously.**

## **END OF CONSENT AGENDA**

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

### **ORDINANCE TABLED**

### **COMMITTEE 2**

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

- 18. 15-086-O** AN ORDINANCE AMENDING SECTIONS 50-20.3 COMMERCIAL USES, 50.20.5 ACCESSORY USES, AND 50-41 DEFINITIONS TO ALLOW FOR URBAN AGRICULTURE LAND USES.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, community garden, farmers market, general and urban.

~~No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;~~

~~All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;~~

Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is

prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure;

Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall

exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the

rough be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square feet illuminated

and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on

wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

(f) Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance *[Chapter]*. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel



t to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area; Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;

Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Retail stores are limited to one drive-through window;

Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Drive-through lanes shall allow for stacking space for

e cars;

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two

its except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 2. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

Have no more than five habitable units;

Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the

floor of the main building;

Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

Accessory boat dock, residential.

This use shall comply with the following standards:

Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;

If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;

For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

No buildings other than residential or residential

Accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

Only one accessory dwelling unit may be created per lot;

No variances shall be granted for an accessory dwelling unit;

Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;

One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;

Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;

If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;

Accessory heliport.

All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;

In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;

No business involving retail sales of goods from the premises is permitted;

No person not a member of the family residing on the premises shall work on the premises;

Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;

The home occupation shall not require external alterations that would change the residential character of the property;

No display pertaining to such occupation shall be visible from the street;

The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;

All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;

. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

Ground-mounted solar system.

Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;

Solar collectors shall be located a minimum of six feet from all property lines and other structures;

Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;

Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;

Roof-mounted or wall-mounted solar system.

A solar collection system shall be located a minimum of six feet from all property lines and other structures

apt the structure on which it is mounted;

Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;

The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

A solar collection system may be located on an accessory structure;

Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

Accessory uses or structures not listed elsewhere.

In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;

Prior to issuance of a building per

STATEMENT OF PURPOSE: This ordinance implements a text amendment to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC). The proposed ordinance clarifies use specific development standards for urban agriculture and general agriculture. The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

The ordinance remained on the table.

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

**COMMITTEE 2**

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

19.     **15-088-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, MU-B AND I-G TO R-2, PROPERTY AT VINTAGE ACRES MANUFACTURED HOUSING COMMUNITY AND ABUTTING PARCEL 010-2730-00267 (CITY OF DULUTH).

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the subject properties located in the western portion of the city and as more particularly described as follows:

010-2730-00265   010-2730-00267   010-2730-00955  
010-2730-00546   010-2730-00266

Part Being Outlot B of Plat Home Park Division of New Duluth;

be reclassified from Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2), 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 Attachment 1.

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 properties located in the western portion of the city including Vintage Acres manufactured housing community and the and abutting parcel number 010-2730-002670 from the current zoning districts



of Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2).

On June 23, 2015, the city council unanimously passed a resolution adopting the Gary/New Duluth small area plan (SAP). The SAP recommends to rezone that portion of the Vintage Acres manufactured housing community zoned MU-B and I-G to a zoning designation that is consistent with the comprehensive land use plan. The future land use for this area is traditional residential which could support a rezoning to R-1 or R-2 zone districts.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the comprehensive land use plan.
- 2.) The proposed R-2 zone district is consistent with the future land use category of Traditional Neighborhood.
- 3.) 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 55802

PL 15-157

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

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

- 20. 15-089-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A FENCE AND PRIVATE PARKING SPACES IN THE PLATTED STREET RIGHT-OF-WAY OF MYGATT AVENUE AND A FENCE IN THE PLATTED STREET RIGHT-OF-WAY OF SILCOX AVENUE (MONTESSORI SCHOOL OF DULUTH, INC.).

**CITY PROPOSAL:**

The city of Duluth does ordain:

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

(a) Two fences and 11 private parking spaces servicing the adjacent Montessori building, as shown in the exhibit Attachment 1.

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

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

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

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

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

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

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

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

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

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

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

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, sidewalks, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

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

Section 7. The permit granted by this ordinance is subject to termination

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

Section 8. The permittee shall observe the following conditions:

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

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

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

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

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

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

STATEMENT OF PURPOSE: This ordinance grants Montessori School of Duluth, Inc, a concurrent use permit for the installation of a eleven private parking spaces and fencing in the right of way of Mygatt Avenue, and private fencing on Silcox Avenue.

The project, if approved, will reduce the amount of impervious surface at the project site. It will also improve the flow of parent drop-off/pick-up traffic to the school, improving safety for the users of the school and residents of the neighborhood.

On October 13, 2015, the planning commission held a public hearing on the proposal, and voted 7 yeas, 1 nay, 0 abstentions, with 1 member absent, to recommend that the city council approve the request for a concurrent use of streets.

Petition received: September 24, 2015

Action deadline: January 22, 2016

Applicant  
Montessori School of Duluth, Inc.  
Attn: Jim Goodman, Board President  
313 Mygatt Avenue  
Duluth, MN 55803

PL 15-160

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

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

- 21. 15-090-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I, PROPERTY AT 1215 RICE LAKE ROAD (THE MARSHALL SCHOOL).

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 45 acres of land located at 1215 Rice Lake Road and as more particularly described as follows, and described in Attachment 1:

010-2710-05965  
010-2710-06124  
010-2710-06126  
010-2710-06260  
010-2710-06295  
010-2710-06252  
010-1350-16960  
010-1350-17010  
010-1350-16970  
010-1350-17020  
010-1350-16980  
010-1350-17030

010-1350-16990  
010-1350-17040  
010-1350-17000 (Partial ROW Lot 73)  
010-1350-17050  
010-1350-17910  
010-1350-17930  
010-1350-19740

be reclassified from Residential-Traditional (R-1) to Mixed Use-Institutional (MU-I), 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 Attachment 2.

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-I at 1215 Rice Lake Road.

The MU-I zoning district is "established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas". The MU-I district allows for many different land uses, but unless there is an approved district plan for the property, a planning review and public hearing in front of the planning commission is required for all and each development and redevelopment at the site.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions, with 1 member absent, to recommend that the city council approve the rezoning requested.

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 must prevail with an affirmative vote of 2/3 by the city council.

Petition received: September 8, 2015  
Action deadline: January 6, 2016

Petitioner:  
The Marshall School  
Attn: Elizabeth Tessier, Chief Financial Officer  
1215 Rice Lake Road

Duluth, MN 55811  
btessier@marshallschool.org

PL 15-147

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

[Attachment 2](#)

[Attachment 3](#)

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

- 22. 15-091-O** AN ORDINANCE AMENDING SECTION 50-14.5 RESIDENTIAL-TRADITIONAL (R-1), AND 50-20.1 RESIDENTIAL USES, RELATED TO DESIGN STANDARDS FOR TOWNHOMES AND DUPLEXES.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of the Duluth City Code, 1959, as amended, be amended as follows:

Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8;

*See Attachment 1, Table 50-14.5-1, R-1 District Dimensional Standards*

B. Example.

*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

C Illustration.

*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

Section 2. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.1 Residential uses.

Dwelling, two-family.

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below:

Minimum size. A two-family dwelling shall contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);

Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the facade facing the front property line;

Dwelling, townhouse.

In the R-1 and R-2 districts, each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of ~~45~~ 20 feet of street frontage in the R-1 district, and a minimum of 15 feet of street frontage in the R-2 district;

Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three feet;

Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;

Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse



a is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;

Maximum number of units. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private road may have up to eight dwelling units, but townhomes constructed in the middle of a subdivision block may have no more than six dwelling units. In all other zone districts, townhomes may not exceed eight dwelling units;

Separate entrances. Each unit in a townhome must have a separate exterior entrance on the facade facing the front yard property line, or front side yard property line;

Design features. At least three of the following design features shall be provided for visual relief along all facades of each townhome structure:

(a) Roof dormers;

(b) Gables;

(c) Recessed entries;

(d) Covered porches;

(e) Cupolas;

(f) Pillars, pilasters or posts;

(g) Bay windows;

(h) Eaves of at least 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);

(i) Multiple windows with minimum four inches trim;

(j) Recesses/shadow lines;

Dwelling, multi-family.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Residential care facility/assisted living.

In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Rooming house.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Manufactured home park.

New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. If

wed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;

Existing, new and replacement manufactured homes in the flood fringe district must comply with the following standards:

(a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces;

(b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance implements text amendments to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance increases the lot frontage and lot area requirement for future townhome developments, and increases the required street frontage for each individual townhome dwelling unit. It also limits the number of townhomes in an R-1 zone to no more than six dwellings units if located within a block, up to eight dwelling units if on a street corner. Finally, the proposed ordinance adds a requirement that new townhomes provide some basic architectural design features.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to table the item for additional review and public comment. The item was discussed at the October 13, 2015, regular planning commission meeting. The planning commission made a motion to recommend that the city council approve the recommended amendments to the UDC. The vote passed with a vote of 6 yeas, 2 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Attachments: [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)  
[Attachment 4](#)

This Ordinance was read for the first time.

The following entitled ordinance was read for the second time:

**COMMITTEE 3**

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

23.     **15-087-O**     AN ORDINANCE GRANTING ST. LOUIS COUNTY TEMPORARY EASEMENTS OVER VACATED 20TH AVE. E AND HERITAGE PARK.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is attached hereto as Exhibit A, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction related thereto, said easements to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwestern line of 4th Street, and on the Northeast by a line lying 103.86 feet Northwesternly of and parallel with the Northwesternly line of platted 4th street: and

A 10.00 foot wide temporary construction easement in Lots 9 and 10 of Block 10, Highland Park Addition to Duluth, according to the recorded plat thereof, described as follows:

Beginning at the intersection of the northeast line of said Lot 9 with the east line of Woodland Avenue; thence southerly along the east line of Woodland Avenue 43.80 feet; thence southeasterly 75.00 feet to a point

southeast line of said Lot 10, said point being 60.00 feet southwest of the east corner of said Lot 9, hereinafter described as Line A; thence northeast 60.0 feet along southeast line of said Lots 9 and 10 to the east corner of Lot 9; thence northwest along the northeast line of said Lot 9 to the intersection with a line that is parallel with and distant 10.00 feet northwest of southeast line of said Lots 9 and 10; thence southwest along said line parallel with southeast line of Lots 9 and 10 to the intersection with a line that is parallel with and distant 10.00 feet northeasterly of said Line A; thence northwesterly along said line parallel with Line A to the intersection with a line that is parallel with and distant 10.00 feet east of said east line of Woodland Avenue; thence north along said line parallel with said east line of Woodland Avenue to the northeast line of said Lot 9; thence northwest along northeast line of said Lot 9 to the Point of Beginning.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: November 25, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to approve an agreement granting to St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction of the 4th Street reconstruction project is started, to allow the County to demolish that road when appropriate and to allow them to perform necessary construction work on Heritage Park property.

The Council had previously approved an agreement for the work related to the 20th Avenue East right-of-way but further discussion with the County revealed that they needed additional temporary easements to perform all of the work anticipated for the Project. This agreement grants them temporary easements to cover all of the necessary work.

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

**A motion was made that this Ordinance be approved. The motion carried unanimously.**

**COUNCILOR QUESTIONS AND COMMENTS**

**COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting was adjourned at 7:28 p.m.