

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 19, 2011, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Anderson, Boyle, Cuneo, Fedora, Fosle, Halberg, Hartman, Stauber and President Gardner -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

11-1219-06 The following communications regarding the proposed ordinance amending Chapter 13 of the Duluth City Code relating to civil service (11-060-O): (a) Carrie Brown; (b) Valerie Clark; (c) Thomas Constantini; (d) Frank Holappa; (e) Fletcher Koos; (f) Edie Michalski; (g) Kimberly Nerhaugen. -- Received

11-1219-22 The following communications regarding the proposed recognition of marriage constitutional amendment (11-0689R): (a) Kay Allen; (b) Gary J. Boelhower; (c) Bernadette Burnham; (d) Cynthia Coffin-Langdon; (e) Janice Crede; (f) Barbara Crow; (g) Bill DeRoche; (h) Gregory Frahm; (i) Dan Hass; (j) Sandy Maturi; (k) Pamela Mittlefehldt; (l) Jessica Nemec; (m) Patty Sampson; (n) Mary Ann Starus; (o) Greg and JoEllen Travis; (p) DaneYoungblom; (q) Lynn Youngblom. -- Received

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REPORTS FROM OTHER OFFICERS

11-1219-01 Clerk application for exempt permit to the Minnesota gambling control board from Lake Superior Marine Museum Association for raffle on November 3, 2012. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

11-1219-19 Commission on disabilities minutes of November 2, 2011, meeting. -- Received

11-1219-20 Duluth public utilities commission minutes of November 9, 2011, meeting. -- Received

11-1219-21 Entertainment and convention center authority minutes of: (a) August 30; (b) September 27; (c) October 25; (d) November 29, 2011, meetings. -- Received

11-1219-02 Spirit Mountain recreation area authority minutes of November 17, 2011, meeting. -- Received

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At this time, 7: 08 p.m., President Gardner announced that the public hearing on business subsidy policy would begin.

Dan O'Neill, president of the Duluth AFL-CIO Central Labor Body and representing the Duluth Building Trades, expressed support for a strong prevailing wage policy, with no exceptions or loopholes.

At this time, 7:10 p.m., President Gardner declared the public hearing closed and the regular council meeting resumed.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

President Gardner moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses and other charges listed in Public Document No. 11-1219-03 are hereby established as those set forth in said public document, effective as of January 1, 2012.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said Public Document are hereby superseded as of January 1, 2012, and of no future effect.

Resolution 11-0632 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a supplemental agreement with the city of Duluth Supervisory Association, substantially the same as that on file in the office of the city clerk as Public Document No. 11-1219-04, which sets forth the terms and conditions of employment for the individual appointed as a grant funded assistant city attorney (community prosecutor), for the purpose of the grant funded project entitled *Blight and Nuisance Crimes, A Project to Improve Public Safety* (supplemental grant approved by Resolution 11-0213).

Resolution 11-0687 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that an increase not to exceed \$23,000 is hereby approved for the city's proprietary contract with All Computer Service for consulting services in mainframe operations and support through December 31, 2011, payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS), Object 5319 (other professional services).

Resolution 11-0666 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Evolving Solutions, Inc., for the purchase and delivery of NetApp storage equipment/devices in accordance with city-approved specifications and the vendor's low bid of \$138,189.06 plus \$8,210.32 sales tax (includes tax on 20 percent of five year maintenance) for a total amount of \$146,399.38, terms net 30, FOB destination, and payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project #CP2009-0928B.

Resolution 11-0671 was unanimously adopted.

Approved December 19, 2011

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DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 11-1219-05, with the Northeast Minnesota Cooperative for the construction, installation and maintenance of fiber optic cable connections between city facilities in the monthly estimated amount of \$9,762 and a one-time installation cost of \$120,172, \$63,434 of which shall be payable from Fund 250-015-2010-5580 CE250-E1004 (capital equipment, administrative services, 2010) and the remainder of which shall be payable from Fund 110-117-1107-5319 (general, management information services, MIS).

Resolution 11-0688 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the appointment to the Duluth airport authority by Mayor Ness of Kenneth J. Stromquist, replacing Roy Niemi, for term expiring on July 1, 2013, is confirmed.

Resolution 11-0657 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Erica Erickson (commission on disabilities representative) for a term expiring on March 31, 2012, replacing Patti Nadeau who resigned, is confirmed.

Resolution 11-0674 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that an increase of \$20,000 in year 2011 to Agreement No. 21296 with Duluth Clinic, Ltd., is hereby approved, for administering a variety of occupational medical tests and services for city employees, payable from General Fund 110, Department/Agency 700 (transfers and other functions), Organization 1431 (benefits administration/citywide HR), Object 5310 (contract services).

Resolution 11-0683 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-07, which allows DEDA to participate in the city's self insurance fund program during 2012; DEDA funds in the amount of \$6,500 to be deposited into self insurance fund Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 11-0655 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

RESOLVED, that the city of Duluth does hereby authorize reimbursement to the Duluth economic development authority (DEDA) for a professional services agreement with Bay West, Inc., related to supplemental Phase II subsurface assessment at Bayfront in an amount not to exceed \$70,000, payable from Fund 255 (economic development), Agency 020 (planning), Organization 5319 (other professional services) the source of which are two U. S. environmental protection agency assessment grants.

Resolution 11-0660 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the city council hereby makes the following findings:

(a) That Resolution 11-0040 was approved by the city contingent upon the relocation of utilities and dedication of an alley easement connecting the remaining portion of the alley to East Second Street near 11th Avenue East to provide for vehicular and pedestrian circulation; and

(b) The city has received an easement agreement and easement sketch for the relocation of utilities and to provide for access purposes; and

(c) The city council of the city of Duluth accepts, on behalf of the general public, the dedication of those easements described in Public Document No. 11-1219-08.

FURTHER RESOLVED, 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 and Public Document No. 11-1219-08 showing access purpose and utility easements retained.

Resolution 11-0670 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city planning division requesting the vacation of an unimproved portion of South Tenth Avenue West south of Railroad Street; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission (PL11-124) and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petitioned streets are useless for vehicular, utility and pedestrian purposes; and

(c) The city planning commission, at its December 13, 2011, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following-described street and depicted on Public Document No. 11-1219-09;

South 10th Avenue West adjacent to said Blocks 13, 14, 15 and 16 south of the southeasterly line of Railroad Street in the recorded plat of Bayfront Division of Duluth, First Re-Arrangement, Saint Louis County, Minnesota.

RESOLVED FURTHER, that the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, is authorized to record with the register

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of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 11-1219-09 showing the rights-of-way to be vacated.

Resolution 11-0675 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city planning division requesting the vacation of a utility and pedestrian easement of the following:

(1) That part of vacated Eighth Avenue East and vacated East 11th Street, all in LAKE VIEW DIVISION of Duluth Minnesota described as follows:

Beginning at the most southerly corner of Lot 1, Block 30, said LAKE VIEW DIVISION; thence south 48°21'17" east, assumed bearing along the southwesterly line of said Lot 1, a distance of 21.50 feet; thence north 41°37'07" east 150.21 feet; thence south 48°21'24" east 15.00 feet; thence south 41°37'07" west 150.21 feet; thence south 48°21'17" east 76.81 feet along the northeasterly line of vacated Eighth Avenue East; thence south 41°38'43" west 66.00 feet to the southwesterly line of said vacated Eighth Avenue East; thence north 48°21'17" west 169.12 feet along the southwesterly line of said vacated Eighth Avenue East; thence north 53°01'36" east 67.32 feet to the southwesterly line of said Lot 1, Block 30; thence south 48°21'17" east 42.53 feet along the southwesterly line of said Lot 1 to the point of beginning;

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission (PL11-024) and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petition to vacate and accept the utility and pedestrian easements preserve the intent of pedestrian movement and access to buried city infrastructure;

(c) The city has received the following grants of easement, in trust for the general public, from the following persons and entities: an easement for utility and pedestrian purposes from Independent School District 709:

(1) That part of Lots 14, 15, 16, Block 26, that part of Lots 1, 2, 3, Block 30, and that part of vacated East 11th Street, all in LAKE VIEW DIVISION of Duluth Minnesota described as follows: commencing at the most southerly corner of said Lot 1, Block 30; thence north 48°21'17" west, assumed bearing along the southwesterly line of said Lot 1, a distance of 42.53 feet; thence north 00°23'04" east 3.75 feet along the east line of Kenwood Avenue to the point of beginning of the tract to be described; thence continuing north 00°23'04" east 53.10 feet along the east line of said Kenwood Avenue; thence north 41°37'07" east 65.27 feet; thence S. 48°21'17" E. 88.00 feet; thence north 41°37'07" east 42.21 feet; thence south 48°21'17" east 20.00 feet; thence south 09°11'39" west 50.03 feet; thence south 48°21'17" east 30.93 feet; thence south 11°41'46" west 124.64 feet to the southwesterly line of said Lot 16, Block 26; thence north 48°21'17" west 34.62 feet along the southwesterly line of said Lot 16; thence north 11°41'46" east 84.25 feet; thence north 48°21'17" west 116.28 feet; thence south 41°37'07" west 70.18 feet to the point of beginning;

(d) The city planning commission, at its December 13, 2011, regular meeting, recommended approval of the vacation and acceptance of easements petition;

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(e) The city council of the city of Duluth approves the vacation and acceptance of the following-described utility and pedestrian easements and depicted on Public Documents No. 11-1219-10(a) and No. 11-1219-10(b).

RESOLVED FURTHER, 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 and Public Document Nos. 12-1219-10(a) and 12-1219-10(b) showing the portions of utility and pedestrian easements to be vacated and the acceptance of dedication of new easements, all as authorized hereunder.

Resolution 11-0677 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, That the proper city officials are authorized to make the following fund transfers within the 2007, 2008 and 2010 CDBG programs thereby increasing the Federal Program Fund 262, Agency 020, Object 5434, 2012 HUD-funded community development account by \$343,659 from accounts as set forth below:

2007 CDBG Program – Fund 262 – Project CD07CD

Sub-project	Activity	Project	Amount	New Grant	Difference
PFAC	PF-01	Central Hillside accessibility	\$113,083	\$98,684	(\$14,399)

2008 CDBG Program – Fund 262 – Project CD08CD

Sub-project	Activity	Project	Amount	New Grant	Difference
ECDV	2412	SOAR Duluth@Work	\$150,000	\$144,000	(\$6,000)
ECDV	1244	CHUM employ. svcs	\$112,500	\$103,000	(\$9,500)

2010 CDBG Program – Fund 262 – Project CD10CD

Sub-project	Activity	Project	Amount	New Grant	Difference
ADMC		Contingency account	\$10,698	\$0	(\$10,698)
Balance Sheet #2220		Program income	\$213,062	\$0	(\$213,062)

Fund 263 – Economic Development RLF

Sub-project	Activity	Project	Amount	New Grant	Difference
		Program income	\$90,000	\$0	(\$90,000)

Resolution 11-0679 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a consultant agreement with Camiros, Ltd., substantially the same as that on file with the city clerk as Public Document No. 11-1219-11, for professional services in comprehensively rewriting the city’s Sign Code and creating new sign standards for the planning division in accordance with the consultants proposal dated November 4, 2011, for a total amount not to exceed \$45,000, payable from General Fund 110, Department/Agency 132 (planning and construction services), Division 1301 (planning and development), Object 5319 (other professional services).

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Resolution 11-0685 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into agreements, substantially in the form of those agreements on file in the office of the city clerk as Public Document Nos. 11-1219-12(a) and 11-1219-12(b), with Kurtis and Yonhui Martin and Scott Solem respectively pursuant to which said parties will convey the existing private sewer line serving their properties and easements necessary thereto to the city at no cost and in addition, pay to the city the amounts set forth below which shall be payable to Fund No. 410-038-5530 (special assessment fund, special assessment contracts, improvements other than buildings) and the city will cause said private main to be replaced with a public sewer main serving said properties:

Kurtis and Yonhui Martin	\$17,500;
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Scott Solem	\$12,500.
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Resolution 11-0658 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to pay to State Farm Insurance, as subrogee of Jason and Amanda Easty, the sum of \$25,495.43 in full and final settlement of the claim which arose out of a failure of a city sanitary sewer main occurring near 5012 Colorado Street on June 8, 2010; payment to be made from the Self Insurance Fund 610-036-1653-5841 (self insurance-liabilities, insurance accounts, insurance - sewer).

Resolution 11-0662 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services related to the design of the Skyline Parkway Bridge at Stewart Creek, Bridge No. L6007, rehabilitation and Snively Memorial reconstruction in an amount not to exceed \$89,862, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than Buildings), City Project No. 1016, S.P. 118-090-010, Requisition No. 11-0592.

Resolution 11-0663 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that Resolution 11-0221 awarding a contract to NPL Construction Company for construction of high pressure gas mains and services in various locations be amended to increase the amount by \$220,000 for a new total of \$680,739.82, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 0904GS.

Resolution 11-0678 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that Purchase Order 2011-00000552 awarding a contract to Hanco Utilities, Inc., for supplemental construction of gas mains and services at various locations be amended to increase the amount by \$11,532.37 for a new total of \$52,301.37, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (Capital), Object 5533 (capital improvements - revenue), City Project No. 1059.

Resolution 11-0682 was unanimously adopted.

Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-13, with Lexipol, LLC, for a three-year subscription to the Lexipol Knowledge Management System, which will provide the Duluth police department with access to policy manuals, daily on-line training bulletins, on-line training and testing of officers and updates, payment to be made from Fund 110-160-1640-2232-5441 (general, police, police special accounts, auction proceeds, other services and charges).

Resolution 11-0636 was unanimously adopted.

Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking spaces are established:

In front of 1827 East Tenth Street;

In front of 924 East Eighth Street;

In front of 605 North 11th Avenue East.

Resolution 11-0654 was unanimously adopted.

Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with L-3 Communications Mobile Vision, Inc., for the tax exempt purchase and delivery of eight Flashback 2 in-car camera video systems for the Duluth police department in accordance with Minnesota State Contract No. 443021, Release I-57(5), specifications and pricing in the amount of \$78,039.10, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2011 (fiscal year - 2011), Object 5580 (capital equipment), Project No. CE250-V1102.

Resolution 11-0664 was unanimously adopted.

Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a \$2,500 Met Life Award awarded to the Duluth police department in recognition of the police department's outstanding work on community policing and city-wide crime prevention meetings, funds to be

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deposited in Fund 110-160-1610-4660 (general, police, administration and investigation, gifts and donations).

Resolution 11-0665 was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that pursuant to Section 33-82 of the Duluth City Code, 1959, as amended, the no parking restriction in the cul-de-sac on the north end of Butternut Avenue be removed.

FURTHER RESOLVED, that all other parking restrictions previously established by the city council which pertain to any part of the street described above shall remain in effect.

Resolution 11-0667 was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that pursuant to Section 33-97.8 of the Duluth City Code, 1959, as amended, the alternate side parking restriction on 23rd Avenue West between Superior Street and First Street be changed to alternate side parking from 1:00 AM to 7:00 AM.

FURTHER RESOLVED, that all other parking restrictions previously established by the city council which pertain to any part of the street described above shall remain in effect.

Resolution 11-0673 was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that an increase to the city's contract with Viele Contracting, Inc., for the demolition of six structures at various locations is hereby approved for a total amount of \$6,000, payable from General Fund 110, Department/Agency 132 (planning and construction services), Organization 1304 (construction services and inspection), Object 5441 (other services and charges).

Resolution 11-0680 was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into a grant agreement with St. Louis County, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-14, for the joint occupancy, maintenance and use of the new public safety building by the city's police department along with the St. Louis County sheriff's department, with the city's share of costs therefore to be payable from Fund 110-160-1610-5460 (general, police, administration and investigation).

Resolution 11-0684 was unanimously adopted.
Approved December 19, 2011
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-15, with the Duluth economic development authority

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(DEDA), to provide additional available dates for police training in emergency vehicle operations on the ramp of the northwest airlines airbus maintenance base.

Resolution 11-0686 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-16, with the Minnesota Children's Museum which provides for the city to host a traveling exhibit at the main library in October and November of 2012 which is entitled *Storyland: A Trip through Childhood Favorites*, the cost of procuring insurance to cover the exhibition in an amount not to exceed \$1,500, payable from Fund 240-300-50-5319 (library special gifts, library, Friends of the Library).

Resolution 11-0659 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to the Violation Processing Service Agreement 20732 with Complus Data Innovations, Inc, (Complus) substantially in the form of that on file in the office of the city clerk as Public Document No. 11-1219-17, for the continued use of Complus software and hardware to process, track and collect parking and administrative fines, with said funds to be deposited into and paid from General Fund 110, Finance Department 125, Auditors Office 1214, Administrative Fines 4472.

Resolution 11-0669 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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At this time, Councilor Boyle moved to suspend the rules to consider Ordinance 11-060, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR BOYLE

11-060 - AN ORDINANCE AMENDING CHAPTER 13, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

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

Marshall Stenersen, incoming chair for 2012 of the civil service board, David Leonzal and David Wiezen expressed concerns of: that this has just been before the council since before Thanksgiving; the Civil Service Code needs to be updated, but it needs to be done thoughtfully; all parties need to work together and the civil service board needs to stay in place with these changes.

Councilor Boyle moved to table the ordinance, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

The following resolutions were also considered:

Resolution 11-0651, transferring \$750,000 from the community investment trust fund for the 2012 pothole reduction program, was introduced by Councilor Fedora for discussion.

Councilor Stauber reviewed in detail the amounts of proceeds and investment earnings added and the depletion of funds to the trust, noting his concerns that shortly the one time balance of over \$70,000,000 would be going to below \$20,000,000.

Chief Administrative Officer David Montgomery reviewed the specific projects that have been funded by doing those projects through the community investment trust fund and how interest rates overall have been very low.

Resolution 11-0651 was adopted as follows:

WHEREAS, the city of Duluth, Minnesota (the city), annually establishes a street reconstruction, preservation and maintenance program; and

WHEREAS, the purpose of the resolution is to transfer monies for the 2012 pothole reduction program from the community investment trust fund (Fund 256) (the CIT fund).

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city, as follows:

The city council hereby transfers \$750,000 from the CIT fund (fund 256) to the general fund (Fund 110) to provide monies for the 2012 pothole reduction program. The transfers authorized in Section 1 above shall be made quarterly over 2012 but in no event later than needed to pay program costs.

Resolution 11-0651 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Fosle, Halberg, Hartman and President Gardner -- 8

Nays: Councilor Stauber - 1

Approved December 19, 2011

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of parking manager, which were approved by the civil service board on July 5, 2011, and which are filed with the city clerk as Public Document No. 11-1219-18, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1095 - 1100. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 11-0661 was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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Resolution 11-0690, by Councilor Boyle, appointing _____ to the Duluth public utilities commission, was introduced for discussion.

Councilor Boyle moved to amend the resolution by inserting the name Robert Prusak, which motion was seconded and discussed.

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

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Tom Karas reviewed that he submitted his application before the position was advertized for and expressed the concern of how a sanitary sewer board member could be considered for this position.

The amendment carried unanimously.

Resolution 11-0690, as amended, was adopted as follows:

BY COUNCILOR BOYLE:

RESOLVED, that the city council hereby appoints Robert Prusak (at large), replacing Jennifer Julsrud, to the Duluth public utilities commission for a term expiring on March 31, 2012.

Resolution 11-0690, as amended, was unanimously adopted.

Approved December 19, 2011

DON NESS, Mayor

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Resolution 11-0668, adopting business subsidy policy, was introduced by Councilor Stauber for discussion.

Councilor Anderson moved to return this resolution to the administration for more discussion with the Duluth economic development authority, which motion was seconded and unanimously carried.

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At this time, Councilor Fedora moved suspend the rules to consider resolutions 11-0689 and 11-0691 to the end of the agenda after the consideration of ordinances, which motion was seconded and unanimously carried.

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Resolution 11-0681, authorizing the city to enter into a joint powers agreement with Independent School District 709, Duluth Public Schools, to provide for community education and recreation programs through collaboration and coordination of resources, was introduced by Councilor Halberg.

Councilor Halberg moved table the resolution until there is a joint meeting with the school board, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FEDORA

11-061 (10129) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2012.

Councilor Fedora moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

INTRODUCED BY COUNCILOR FEDORA

11-062 (10130) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2012 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Fedora moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

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INTRODUCED BY COUNCILOR FEDORA

11-063 (10131) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2012.

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

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At this time, Councilor Fosle left his seat.

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MOTIONS AND RESOLUTIONS

Resolution 11-0689, by President Gardner and Councilor Anderson, in opposition to proposed "recognition of marriage" constitutional amendment, was introduced for discussion.

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

Karen Lewis, Gary Boelhower, Lynn Youngblom, Rev. Kathy Nelson, Dane Youngblom, Andrea Gelb, Scott Yeazole, chair of the Duluth human rights commission, and Jesse Peterson expressed support for the resolution for reasons of: that government has no business on interfering on this issue; symbolic actions by cities are needed; this would deny a basic right given to others; all persons in Duluth need to be respected; Duluth should be shown as a welcoming community; Peace United Church of Christ congregation council supports this resolution; GLBT Duluthians are valuable members of our community; this constitutional amendment is a form of bullying; Temple Israel supports this resolution; the Duluth human rights commission opposes this constitutional amendment; this amendment, if passed, would take away freedoms and businesses have denied health benefits based on this proposed constitutional amendment.

Councilors Anderson, Boyle, Cuneo, Halberg and President Gardner spoke at length noting their reasons for support.

Resolution 11-0689 was adopted as follows:

BY PRESIDENT GARDNER AND COUNCILOR ANDERSON:

WHEREAS, in 2011 the Minnesota State Legislature voted to include the following question on the election ballot in November 2012: "Shall the Minnesota Constitution be amended to provide that only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota?"; and

WHEREAS, the proposed amendment would add a new Section 13 to the Minnesota Constitution stating: "Only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota."; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

WHEREAS, in 2009 the Duluth City Council recognized the importance of equality for all citizens by passing the state of Minnesota's second Domestic Partnership Registry; and

WHEREAS, a broad coalition of organizations, community and business leaders; faith, labor, progressive and nonpartisan organizations; communities of color; and current and former elected officials have all joined to defeat this amendment.

THEREFORE, BE IT RESOLVED, that the Duluth City Council joins the broad coalition of organizations stated above in supporting Minnesota's United for All Families and hereby opposes the proposed constitutional amendment entitled "Recognition of Marriage Solely Between One Man and One Woman," and urges Minnesota citizens to vote "No" on Tuesday, November 6, 2012.

Resolution 11-0689 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora and Stauber -- 2

Absent: Councilor Fosle -- 1

Approved December 19, 2011

DON NESS, Mayor

- - -

Resolution 11-0691, by Councilor Anderson, in opposition to the United States Supreme Court decision in citizens united related to constitutional rights for corporate entities, was introduced for discussion.

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

Michael Linn and Jesse Peterson expressed support for the resolution for reasons of: corporations are not people; citizens are important and need a voice and by allowing this for corporate entities, it makes them a fictitious person, who cannot be prosecuted.

Councilor Anderson and President Gardner cited at length their reasons for support this resolution.

Resolution 11-0691 was adopted as follows:

BY COUNCILOR ANDERSON:

WHEREAS, there are several movements, both nationally and within the state of Minnesota to amend the respective Constitutions of each body relating to corporate personhood; and

WHEREAS, the Duluth City Council believes that the rights protected by the Constitution of the United States and the Constitution of the state of Minnesota are rights of natural persons only; and

WHEREAS, artificial entities such as corporations, limited liability companies, and other entities established by the laws of any State, the United States, or any foreign state are subject to regulation by the people through federal, state or local law; and

WHEREAS, the privileges of artificial entities should be determined by the people and should not be construed to be inherent or inalienable; and

WHEREAS, federal, state or local government should regulate, limit, or prohibit contributions and expenditures of candidates for public office, including a candidate's own contributions and expenditures, to prohibit the influencing of an election of any candidate for public office or any ballot measure; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

WHEREAS, government should require that any permissible contributions and expenditures be publicly disclosed; and

WHEREAS, the judiciary should not construe the spending of money to influence elections to be speech under the First Amendment.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby supports the efforts to reject the United States Supreme Court ruling in *Citizens United v. Federal Election Commission* (130 S.Ct. 876 (2010)), and expresses its support to amend our state and national Constitutions to firmly establish that money is not speech, that human beings, not corporations, are persons entitled to constitutional rights, and that whenever the word "person" is used in the constitution it means a natural person.

Resolution 11-0691 was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora and Stauber -- 2

Absent: Councilor Fosle -- 1

Approved December 19, 2011

DON NESS, Mayor

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Hartman stated that it is his intent to run for city council president in 2012.

Councilor Boyle stated that it is his intent to run for city council vice president in 2012.

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Councilors Anderson, Cuneo, Fedora and Halberg thanked their fellow councilors for working with them as councilors, as this was their last meeting.

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The meeting was adjourned at 8:46 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10129

**AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2012.**

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2012 for general operations is hereby determined to be the sum of \$18,804,700 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. There will be levied for the support of the general fund the sum of \$12,057,700.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$6,604,900.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$142,100.

Section 5. That this ordinance shall take effect January 1, 2012.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Councilor Fedora moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: None -- Councilors Fedora, Fosle and Stauber -- 3

Passed December 19, 2011

Approved December 19, 2011

ATTEST:

JEFFREY J. COX, City Clerk

DON NESS, Mayor

- - -

ORDINANCE NO. 10130

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2012 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2012, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the chief administrative officer or their designee.

That use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$3,046,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,900,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$146,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, and the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, and 505 in the parking division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 2012.

GENERAL FUND		
110	Legislative and executive - total	\$3,589,200
117	Management information systems - total	2,571,600
121	Public administration - total	17,880,900
125	Finance - total	3,443,900
132	Planning and construction services - total	2,138,600
135	Business and development resources - total	692,000
150	Fire - total	13,107,600
160	Police - total	18,544,800
500	Public works - total	1,744,500
700	Transfers and other functions - total	11,116,900
	Total general fund	\$74,830,000
PUBLIC ENTERPRISE		
503	Golf fund - total	\$2,094,700
505	Parking fund - total	3,416,100
PUBLIC UTILITIES		
510	Water fund - total	\$11,691,800
520	Gas fund - total	44,107,500

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

GENERAL FUND		
530 and 532	Sewer and clean water fund - total	18,567,900
535	Stormwater fund - total	4,617,500
540	Steam fund - total	7,749,022
550	Street lighting - total	1,994,500

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2012.

Councilor Fedora moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Halberg, Hartman and President Gardner -- 6

Nays: Councilors Fedora, Fosle and Stauber -- 3

Passed December 19, 2011
Approved December 19, 2011
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 10131

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2012.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2012 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,316,900 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 sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,316,900.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2011

Section 3. That this ordinance shall take effect January 1, 2012.

Councilor Fedora moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Anderson, Boyle, Cuneo, Fedora, Fosle, Halberg, Hartman, Stauber and President Gardner -- 9

Nays: None -- 0

Passed December 19, 2011
Approved December 19, 2011
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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