



## AGENDA

### REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF ST. LOUIS COUNTY, MINNESOTA

**Tuesday, October 7, 2014, 9:30 A.M.**

**County Board Room, Second Floor  
St. Louis County Courthouse  
100 N. 5<sup>th</sup> Avenue West  
Duluth, Minnesota**

**MIKE FORSMAN, Chair  
Fourth District**

**FRANK JEWELL  
First District**

**PATRICK BOYLE  
Second District**

**CHRIS DAHLBERG  
Third District**

**PETE STAUBER, Vice-Chair  
Fifth District**

**KEITH NELSON  
Sixth District**

**STEVE RAUKAR  
Seventh District**

County Auditor  
Donald Dicklich

County Administrator  
Kevin Gray

County Attorney  
Mark Rubin

Clerk of the Board  
Phil Chapman

The St. Louis County Board of Commissioners welcomes you to this meeting. This agenda contains a brief description of each item to be considered. The Board encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Board when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period at the beginning of the meeting. Except as otherwise provided by the Standing Rules of the County Board, no action shall be taken on any item not appearing in the agenda.

When addressing the Board, please sign in at the podium and state your name and address for the record. Please address the Board as a whole through the Chair. Comments to individual Commissioners or staff are not permitted. The St. Louis County Board promotes adherence to civility in conducting the business of the County. Civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issue before the Board. Tools of civility include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility [County Board Resolution No. 560, adopted on September 9, 2003]. Speakers will be limited to five (5) minutes.

**\*\*In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify Property Management 72 hours prior to the meeting at (218)725-5085.\*\***

All supporting documentation is available for public review in the County Auditor's Office, 100 North 5th Avenue West - Room No. 214, St. Louis County Courthouse, Duluth, MN, during regular business hours 8:00 A.M. - 4:30 P.M., Monday through Friday. Agenda is also available on our website at <http://www.stlouiscountymn.gov/GOVERNMENT/BoardofCommissioners.aspx>

**AGENDA**  
**St. Louis County Board**  
**October 7, 2014**  
**Page 2**

9:30 A.M. Moment of Silence  
Pledge of Allegiance  
Roll Call

AT THIS TIME CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD ON ITEMS NOT ON THE AGENDA. [Speakers will be limited to 5 minutes each.]

FOR ITEMS LISTED ON THE BOARD AGENDA OR COMMITTEE OF THE WHOLE AGENDA, CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD AT THE TIME A MOTION IS ON THE FLOOR.

9:40 A.M. PUBLIC HEARING, pursuant to Resolution No. 14-500, adopted September 23, 2014, to consider allegations of a liquor law violation by The Auto Club Group d/b/a AAA Minnesota/Iowa, Gnesen Township. **{14-361}**

9:45 A.M. PUBLIC HEARING, pursuant to Resolution No. 14-501, adopted September 23, 2014, to consider allegations of a liquor law violation by Shane Clemens d/b/a Alborn Rail Station, Alborn Township, MN. **{14-362}**

9:50 A.M. PUBLIC HEARING, pursuant to Resolution No. 14-502, adopted September 23, 2014, to consider violation allegations of St. Louis County Ordinance No. 28 (County Liquor Licenses) by Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19. **{14-363}**

**CONSENT AGENDA**

Approval of business submitted on the consent agenda.

**REGULAR AGENDA**

**Environment & Natural Resources Committee – Commissioner Dahlberg, Chair**

1. Request the Department of Natural Resources to reclassify Twin Lake, located about five (5) miles south of Ely, MN, from “Natural Environment” to “Recreational Development” (Morse Township). **{14-357} [Without recommendation.]**
2. Request for free conveyance of 80 acres of state tax forfeited land located in Section 13, Township 52 North, Range 15 West, to the Township of Fredenberg for public use. **{14-358}**
3. Reclassification of certain state tax forfeited lands to Non-Conservation (Duluth). **{14-364} [Without recommendation.]**

**AGENDA**  
**St. Louis County Board**  
**October 7, 2014**  
**Page 3**

**Finance & Budget Committee – Commissioner Nelson, Chair**

4. Purchase of office furniture for the Government Services Center Remodel Project, 4<sup>th</sup> through 7<sup>th</sup> floors. {14-365} **[Has not been to committee; requires consent of the Board to be considered.]**

**Central Management & Intergovernmental Committee – Commissioner Jewell, Chair**

5. The County Attorney has requested a closed session of the Committee of the Whole for litigation discussion. It is requested that the County Board convene a closed session immediately after the Board meeting adjourns.

**ADJOURNED:**

# **BOARD LETTER NO. 14 - 361**

## **FINANCE & BUDGET COMMITTEE**

### **OCTOBER 7, 2014 BOARD AGENDA 9:40 A.M. PUBLIC HEARING**

**DATE:** October 7, 2014

**RE:** Public Hearing to Consider  
Allegations of Liquor Law  
Violation – AAA Minnesota/ Iowa  
(Canosia Township)

**FROM:** Kevin Z. Gray  
County Administrator

Donald Dicklich  
County Auditor

Mark Rubin  
County Attorney

#### **RELATED DEPARTMENT GOAL:**

Provide mandated and discretionary licensing services in a timely manner.

#### **ACTION REQUESTED:**

The St. Louis County Board is requested to consider penalties and/or suspension of liquor license for alleged violation of the liquor law by The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township.

#### **BACKGROUND:**

The County Attorney and the County Auditor have received reports from the St. Louis County Sheriff's Office concerning liquor law violation on August 2, 2014, by The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township.

On September 2, 2014, the St. Louis County Liquor Licensing Committee met to discuss the alleged liquor law violation against AAA Minnesota/Iowa. After consideration of the allegations and circumstances, the committee recommended a ten (10) day license suspension and \$1,000 civil penalty, with nine (9) days and \$1,000 of the civil penalty stayed for one (1) year on the condition that the licensee have no same or similar violations during that year. The date of the one (1) day suspension will be October 13, 2014.

A public hearing was scheduled before the St. Louis County Board on October 7, 2014. The purpose of the hearing, pursuant to St. Louis County Ordinance No. 28, Section 13.01, is for the County Board to determine whether the licensee violated any liquor laws, regulations, or provisions of Ordinance No. 28, and, if so, what consequence should be

imposed upon the licensee. Ordinance No. 28 permits that a liquor license may be suspended or revoked for up to sixty days, a civil penalty of up to \$2,000 may be imposed for each violation, or a combination of any of these sanctions.

**RECOMMENDATION:**

It is recommended that the St. Louis County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor license issued to The Auto Club Group d/b/a AAA Minnesota/Iowa, including but not limited to, imposition of civil penalties for the violation.

**Public Hearing to Consider Allegations of Liquor Law Violation –  
AAA Minnesota/Iowa (Canosia Township)**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, The St. Louis County Liquor Licensing Committee met on September 2, 2014, to consider recommending action to be taken by the County Board as a result of an alleged liquor law violation on August 2, 2014, against The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township; and

WHEREAS, The Liquor Licensing Committee recommended a ten (10) day suspension and \$1,000 civil penalty, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed, for one year with no same or similar violations during that year; and

WHEREAS, After hearing testimony on the matter at a public hearing conducted on October 7, 2014 at 9:40 a.m., in the St. Louis County Courthouse, Duluth, MN, the St. Louis County Board determined the recommendation of the St. Louis County Liquor Licensing Committee to be an appropriate penalty for the liquor law violation;

THEREFORE, BE IT RESOLVED, That the On-Sale 3.2 Percent Malt Liquor License No. B15108, issued to The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township, is hereby suspended for ten (10) days and a \$1,000 civil penalty is due, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed for one (1) year, with no same or similar violations during that period;

RESOLVED FURTHER, That the date of suspension of the liquor license will be October 13, 2014;

RESOLVED FURTHER, That a new violation within the next year (ending October 7, 2015), will result in the imposition of the remainder of the suspension and civil penalty, and may also be cause for additional action against the liquor license of the licensee pursuant to St. Louis County Ordinance Number 28, Section 13.

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St. Louis County Board

File No. 59791

Date SEP 23 2014

Minutes  
September 2, 2014

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

\*\*\*\*\*

The meeting was called to order at 8:01 a.m., by Chair Keith Nelson, with the following members present Deputy Auditor Phil Chapman, Auditor Donald Dicklich, and Lt. Dave Rolland, Sheriff Ross Litman arrived just after the meeting convened, Assistant County Attorney James Nephew, arrived at 8:12 a.m., and Commissioner Chris Dahlberg arrived at 8:33 a.m.

Dicklich/Roland moved to approve the minutes of the August 5, 2014 meeting (3-0)

There was discussion regarding the alleged liquor law violation at A. P. Inc. d/b/a A. P. Liquor, Gnesen Township, sale to minor on August 2, 2014. Laura Beron appeared on behalf of owner Adam Riesland who is currently on active military duty. Sheriff Litman asked if the violator was the same as for the prior violation. Discussion of this item was tabled to allow Lt. Rolland to research Sheriff Litman's question.

There was discussion regarding the alleged liquor law violation at The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township sale to minor on August 2, 2014. Paul Laulunen club manager, appeared for The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosia Township. Auditor Dicklich made a motion, supported by Sheriff Litman, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$900.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. After further discussion, Auditor Dicklich amended the motion to a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$1,000.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (4-0)

Discussion of the previously tabled alleged liquor law violation at A. P. Liquor continued. Lt. Rolland informed the committee the violator was not the same person as the previous violator. Auditor Dicklich made a motion, supported by Sheriff Litman, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with eight (8) days and \$800.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 28, 2014. The motion passed. (4-0)

There was discussion regarding the alleged liquor law violation at Alborn Rail Station, Alborn Township, sale to minor, on August 2, 2014. Shane Clemens and Kristina Clemens appeared for Alborn Rail Station, Alborn Township. Sheriff Litman made a motion, supported by Auditor Dicklich, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$1,000.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (4-0) Commissioner Dahlberg abstained because he wasn't present for discussion of the alleged violation.

At the request of Sheriff Litman, there was discussion concerning various events occurring at Bayview Lodge Greenwood Township. Alissa Sundberg appeared for Bayview Lodge. Sheriff Litman expressed concern that Bayview Lodge has been open and operating under the liquor license and caterer's permit issued to Sawmill even though the Bayview Lodge liquor license was surrendered in September of 2013. Sheriff Litman asked Ms. Sundberg if she was aware of the requirement to notify local law enforcement before a catered event occurs. Ms. Sundberg said she notified Sgt. Backman by e-mail for three of the catered public events, but not for the private events. Attorney Nephew said that MN Statute § 340A.404, Subd. 12, states that law enforcement shall be notified regardless if the event is public or private. Chair Nelson asked Sheriff Litman to work with the County Attorney to draft an official communication to Greenwood Township.

Discussion continued regarding a recently built patio adjacent to Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19; the item was tabled at the August 5, 2014, meeting. The motion on

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the table was made by Commissioner Dahlberg, supported by Sheriff Litman, to recommend to the County Board, a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$800.00 stayed if no violations occur for sale/service outside the designated serving area for one (1) year. Mark and Lynette Hraban appeared for Ash Ka Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19.

Attorney Nephew stated that his opinion is that this offense is not a same or similar offense as the violation that occurred on August 30, 2013. Chair Nelson asked for the record to reflect that this is a first offense of Ordinance No. 28, not necessarily a liquor law violation, sale to minor.

Attorney Nephew provided clarification that this situation was permitting alcohol outside the serving area vs. service outside the serving area, which in his opinion is different than serving to an individual who's sitting at a table. Attorney Nephew discussed the following:

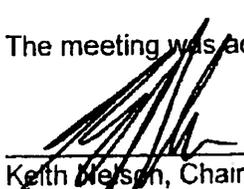
1. The committee has stepped up enforcement action of the underage drinking policy, which includes compliance checks and a distinct and clear set of consequences.
2. If the committee is starting a regime on establishments serving outside the serving area, then perhaps it would be a good idea to consider if the same penalties apply for this nature of offense vs. serving to an underage person. In other words, whether permitting a person to walk outside has the same gravity as serving to a minor.
3. This circumstance is complicated because it was on/near a public roadway, causing safety issues.
4. If the committee is creating precedence, we are inviting other private individuals/parties, law enforcement from other jurisdictions, etc., to report anytime they observe a business allowing serving or permitting alcohol out of their designated serving area, we would be beholden to enforce equally to all those other businesses just as well.

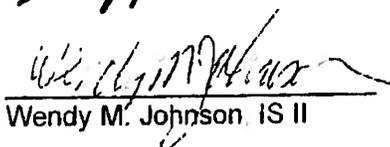
After further discussion, Chair Nelson said he would be willing to support the motion on the table if Commissioner Dahlberg would be willing to reduce the penalty to a \$100.00 fine. Commissioner Dahlberg amended the motion, supported by Sheriff Litman, to a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$900.00 stayed if no violations occur for sale/service outside the designated serving area within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (5-0)

Phil Chapman left the meeting at 9:25 a.m.

Chair Nelson said there needs to be further discussion on serving areas.

The meeting was adjourned at 9:28 a.m. (Dahlberg/Dicklich) (5-0)

  
Keith Nelson, Chair

  
Wendy M. Johnson, IS II



imposed upon the licensee. Ordinance No. 28 permits that a liquor license may be suspended or revoked for up to sixty days, a civil penalty of up to \$2,000 may be imposed for each violation, or a combination of any of these sanctions.

**RECOMMENDATION:**

It is recommended that the St. Louis County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor licenses issued to Shane Clemens d/b/a Alborn Rail Station, including but not limited to, imposition of civil penalties for the violation.

**Public Hearing to Consider Allegations of Liquor Law Violation –  
Alborn Rail Station (Alborn Township)**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, The St. Louis County Liquor Licensing Committee met on September 2, 2014, to consider recommending action to be taken by the County Board as a result of an alleged liquor law violation on August 2, 2014, against Shane Clemens d/b/a Alborn Rail Station, Alborn Township; and

WHEREAS, The Liquor Licensing Committee recommended a ten (10) day suspension and \$1,000 civil penalty, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed, for one year with no same or similar violations during that year; and

WHEREAS, After hearing testimony on the matter at a public hearing conducted on October 7, 2014, at 9:45 a.m., in the St. Louis County Courthouse, Duluth, MN, the St. Louis County Board determined the recommendation of the St. Louis County Liquor Licensing Committee to be an appropriate penalty for the liquor law violation;

THEREFORE, BE IT RESOLVED, That the Combination On/Off-Sale Intoxicating Liquor License No. CMB15154 and Sunday On-Sale Intoxicating Liquor License No. SUN15154, issued to Shane Clemens d/b/a Alborn Rail Station, Alborn Township, are hereby suspended for ten (10) days and a \$1,000 civil penalty is due, with nine (9) days of the suspension and \$1,000 of the civil penalty stayed for one (1) year, with no same or similar violations during that period;

RESOLVED FURTHER, That the date of suspension of the liquor licenses will be October 13, 2014;

RESOLVED FURTHER, That a new violation within the next year (ending October 7, 2015), will result in the imposition of the remainder of the suspension and civil penalty, and may also be cause for additional action against the liquor licenses of the licensee pursuant to St. Louis County Ordinance Number 28, Section 13.

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St. Louis County Board

File No. 59791

Date SEP 23 2014

Minutes

September 2, 2014

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

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Discussion continued regarding a recently built patio adjacent to Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19; the item was tabled at the August 5, 2014, meeting. The motion on

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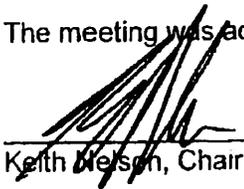
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3. This circumstance is complicated because it was on/near a public roadway, causing safety issues.
4. If the committee is creating precedence, we are inviting other private individuals/parties, law enforcement from other jurisdictions, etc., to report anytime they observe a business allowing serving or permitting alcohol out of their designated serving area, we would be beholden to enforce equally to all those other businesses just as well.

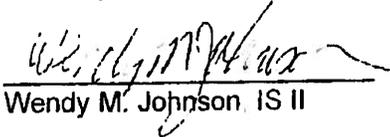
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Phil Chapman left the meeting at 9:25 a.m.

Chair Nelson said there needs to be further discussion on serving areas.

The meeting was adjourned at 9:28 a.m. (Dahlberg/Dicklich) (5-0)

  
Keith Nelson, Chair

  
Wendy M. Johnson, IS II

# **BOARD LETTER NO. 14 - 363**

## **FINANCE & BUDGET COMMITTEE**

### **OCTOBER 7, 2014 BOARD AGENDA 9:50 A.M. PUBLIC HEARING**

**DATE:** October 7, 2014

**RE:** Public Hearing to Consider  
Violation Allegations of St. Louis  
County Ordinance No. 28 (Ash-Ka-  
Nam, Unorganized Township 68-19)

**FROM:** Kevin Z. Gray  
County Administrator

Donald Dicklich  
County Auditor

Mark Rubin  
County Attorney

#### **RELATED DEPARTMENT GOAL:**

Provide mandated and discretionary licensing services in a timely manner.

#### **ACTION REQUESTED:**

The St. Louis County Board is requested to consider penalties and/or suspension of liquor licenses for an alleged violation of St. Louis County Ordinance No. 28 by Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19.

#### **BACKGROUND:**

The County Attorney and the County Auditor have received reports from the St. Louis County Sheriff's Office concerning a violation of St. Louis County Ordinance No. 28 on June 27, 2014, by Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19.

On September 2, 2014, the St. Louis County Liquor Licensing Committee met to discuss the alleged liquor law violation against Ash-Ka-Nam. After consideration of the allegations and circumstances, the committee recommended a ten (10) day license suspension and \$1,000 civil penalty, with nine (9) days and \$900 of the civil penalty stayed for one (1) year on the condition that the licensee have no same or similar violations during that year. The date of the one (1) day suspension will be October 13, 2014.

A public hearing was scheduled before the St. Louis County Board on October 7, 2014. The purpose of the hearing, pursuant to St. Louis County Ordinance No. 28, Section 13.01, is for the County Board to determine whether the licensee violated any liquor laws,

regulations, or provisions of Ordinance No. 28, and, if so, what consequence should be imposed upon the licensee. Ordinance No. 28 permits that a liquor license may be suspended or revoked for up to sixty days, a civil penalty of up to \$2,000 may be imposed for each violation, or a combination of any of these sanctions.

**RECOMMENDATION:**

It is recommended that the County Board receive testimony at the public hearing and consider suspension, revocation, or other sanctions of the liquor licenses issued to Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19, including but not limited to, imposition of civil penalties for the violation.

**Public Hearing to Consider Violation Allegations of St. Louis County  
Ordinance No. 28 (Ash-Ka-Nam, Unorganized Township 68-19)**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, The St. Louis County Liquor Licensing Committee met on September 2, 2014, to consider recommending action to be taken by the County Board as a result of an alleged liquor law violation on June 27, 2014, against Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19; and

WHEREAS, The Liquor Licensing Committee recommended a ten (10) day license suspension and \$1,000 civil penalty, with nine (9) days and \$900 of the civil penalty stayed for one (1) year on the condition that the licensee have no same or similar violations during that year; and

WHEREAS, After hearing testimony on the matter at a public hearing conducted on October 7, 2014, at 9:50 a.m., in the St. Louis County Courthouse, Duluth, MN, the St. Louis County Board determined the recommendation of the St. Louis County Liquor Licensing Committee to be an appropriate penalty for the liquor ordinance violation;

THEREFORE, BE IT RESOLVED, That the Combination On/Off-Sale Intoxicating Liquor License No. CMB15107 and Sunday On-Sale Intoxicating Liquor License No. SUN15107, issued to Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19, are hereby suspended for ten (10) days and a \$1,000 civil penalty is due, with nine (9) days and \$900 of the civil penalty stayed for one (1) year on the condition that the licensee have no same or similar violations during that year;

RESOLVED FURTHER, That the date of suspension of the liquor licenses will be October 13, 2014;

RESOLVED FURTHER, That a new violation within the next year (ending October 7, 2015) may also be cause for additional action against the liquor licenses of the licensee pursuant to St. Louis County Ordinance No. 28, Section 13.

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File No. 59791

Date SEP 23 2014

Minutes

September 2, 2014

ST. LOUIS COUNTY LIQUOR LICENSING COMMITTEE MEETING

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Dicklich/Roland moved to approve the minutes of the August 5, 2014 meeting (3-0)

There was discussion regarding the alleged liquor law violation at A. P. Inc. d/b/a A. P. Liquor, Gnesen Township, sale to minor on August 2, 2014. Laura Beron appeared on behalf of owner Adam Riesland who is currently on active military duty. Sheriff Litman asked if the violator was the same as for the prior violation. Discussion of this item was tabled to allow Lt. Rolland to research Sheriff Litman's question.

There was discussion regarding the alleged liquor law violation at The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosa Township sale to minor on August 2, 2014. Paul Laulunen club manager, appeared for The Auto Club Group d/b/a AAA Minnesota/Iowa, Canosa Township. Auditor Dicklich made a motion, supported by Sheriff Litman, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$900.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. After further discussion, Auditor Dicklich amended the motion to a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$1,000.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (4-0)

Discussion of the previously tabled alleged liquor law violation at A. P. Liquor continued. Lt. Rolland informed the committee the violator was not the same person as the previous violator. Auditor Dicklich made a motion, supported by Sheriff Litman, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with eight (8) days and \$800.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 28, 2014. The motion passed. (4-0)

There was discussion regarding the alleged liquor law violation at Alborn Rail Station, Alborn Township, sale to minor, on August 2, 2014. Shane Clemens and Kristina Clemens appeared for Alborn Rail Station, Alborn Township. Sheriff Litman made a motion, supported by Auditor Dicklich, to recommend to the County Board a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$1,000.00 stayed if no same or similar violations occur within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (4-0) Commissioner Dahlberg abstained because he wasn't present for discussion of the alleged violation.

At the request of Sheriff Litman, there was discussion concerning various events occurring at Bayview Lodge, Greenwood Township. Alissa Sundberg appeared for Bayview Lodge. Sheriff Litman expressed concern that Bayview Lodge has been open and operating under the liquor license and caterer's permit issued to Sawmill even though the Bayview Lodge liquor license was surrendered in September of 2013. Sheriff Litman asked Ms. Sundberg if she was aware of the requirement to notify local law enforcement before a catered event occurs. Ms. Sundberg said she notified Sgt. Backman by e-mail for three of the catered public events, but not for the private events. Attorney Nephew said that MN Statute § 340A.404, Subd. 12, states that law enforcement shall be notified regardless if the event is public or private. Chair Nelson asked Sheriff Litman to work with the County Attorney to draft an official communication to Greenwood Township.

Discussion continued regarding a recently built patio adjacent to Ash-Ka-Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19; the item was tabled at the August 5, 2014, meeting. The motion on

COPY

the table was made by Commissioner Dahlberg, supported by Sheriff Litman, to recommend to the County Board, a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$800.00 stayed if no violations occur for sale/service outside the designated serving area for one (1) year. Mark and Lynette Hraban appeared for Ash Ka Nam Resort & Lodge, LLC d/b/a Ash-Ka-Nam, Unorganized Township 68-19.

Attorney Nephew stated that his opinion is that this offense is not a same or similar offense as the violation that occurred on August 30, 2013. Chair Nelson asked for the record to reflect that this is a first offense of Ordinance No. 28, not necessarily a liquor law violation, sale to minor.

Attorney Nephew provided clarification that this situation was permitting alcohol outside the serving area vs. service outside the serving area, which in his opinion is different than serving to an individual who's sitting at a table. Attorney Nephew discussed the following:

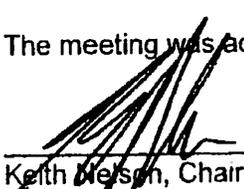
1. The committee has stepped up enforcement action of the underage drinking policy, which includes compliance checks and a distinct and clear set of consequences.
2. If the committee is starting a regime on establishments serving outside the serving area, then perhaps it would be a good idea to consider if the same penalties apply for this nature of offense vs. serving to an underage person. In other words, whether permitting a person to walk outside has the same gravity as serving to a minor.
3. This circumstance is complicated because it was on/near a public roadway, causing safety issues.
4. If the committee is creating precedence, we are inviting other private individuals/parties, law enforcement from other jurisdictions, etc., to report anytime they observe a business allowing serving or permitting alcohol out of their designated serving area, we would be beholden to enforce equally to all those other businesses just as well.

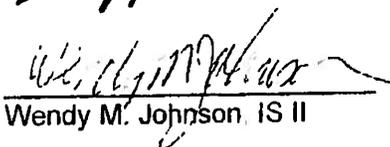
After further discussion, Chair Nelson said he would be willing to support the motion on the table if Commissioner Dahlberg would be willing to reduce the penalty to a \$100.00 fine. Commissioner Dahlberg amended the motion, supported by Sheriff Litman, to a ten (10) day suspension and \$1,000.00 fine with nine (9) days and \$900.00 stayed if no violations occur for sale/service outside the designated serving area within one year, subject to additional penalties that may be imposed by the County Board. A public hearing will be scheduled for October 7, 2014. The motion passed. (5-0)

Phil Chapman left the meeting at 9:25 a.m.

Chair Nelson said there needs to be further discussion on serving areas.

The meeting was adjourned at 9:28 a.m. (Dahlberg/Dicklich) (5-0)

  
Keith Nelson, Chair

  
Wendy M. Johnson, IS II

# **BOARD LETTER NO. 14 – 357**

## **ENVIRONMENT AND NATURAL RESOURCES COMMITTEE AGENDA NO. 1**

### **OCTOBER 7, 2014 BOARD AGENDA NO. 1**

**DATE:** September 23, 2014                      **RE:** Request the DNR to Reclassify  
Twin Lake from “Natural  
Environment” to “Recreational  
Development” (Ely, MN)

**FROM:** Kevin Z. Gray  
County Administrator

#### **RELATED DEPARTMENT GOAL:**

To exercise responsible stewardship of county resources.

#### **ACTION REQUESTED:**

The St. Louis County Board is requested to consider a resolution asking that the Minnesota Department of Natural Resources (DNR) change the shoreland management classification of Twin Lake, (ID # 69016300), near Ely, MN, from “Natural Environment” to “Recreational Development.”

#### **BACKGROUND:**

Commissioner Forsman received a letter dated July 5, 2014 from Mr. Marty Breaker of St. Cloud, MN, requesting that the County Board ask the Minnesota DNR to change the current classification of Twin Lake, which is located about five miles south of Ely, MN, from “Natural Environment” to “Recreational Development.” In his letter, Mr. Breaker indicates that he owns property on the 224 acre lake which is 51 feet deep, has a concrete boat ramp, parking area and a dozen cabins. Mr. Breaker feels the lake should be more appropriately classified as “Recreational Development,” which he believes would allow him to develop his property. Under the current “Natural Environment” shoreland management classification, he cannot meet the 150 foot shoreline setback requirement. The legal process for defining and classifying lakes is found in Minn. Rule 6120.3000 which is attached for reference purposes.

On September 18, 2012, the St. Louis County Board of Adjustment considered a request by Mr. Breaker for a variance to allow the construction of a dwelling on his Twin Lake property at a reduced shoreline setback. The variance was denied and the “Findings of Fact, Conclusions and Decisions” of that hearing are also included with this packet. Noted in the findings is the opposition from the Town of Morse and other property owners on Twin Lake.

**RECOMMENDATION:**

Should the County Board find there is appropriate data to support a request to the Commissioner of the Minnesota Department of Natural Resources to change the shoreland management classification of Twin Lake from "Natural Environment" to "Recreational Development," a resolution is attached requesting such an action.

**Request the DNR to Reclassify Twin Lake from “Natural Environment” to  
“Recreational Development” (Ely, MN)**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, The St. Louis County Board has received a letter from Mr. Marty Breaker of St. Cloud, MN, requesting that the County Board ask the Commissioner of the Minnesota Department of Natural Resources (DNR) to change the current shoreland management classification of Twin Lake (ID # 69016300), located about five miles south of Ely, MN from “Natural Environment” to “Recreational Development;” and

WHEREAS, According to the DNR's website, “Natural Environment Lakes usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep;” and

WHEREAS, According to the same website, “Recreational Development Lakes usually have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline, and are more than 15 feet deep;” and

WHEREAS, Using these standards, the St. Louis County Board believes Twin Lake most properly should be reclassified as a Recreational Development Lake, since it has 224 acres of water, it has about 80 acres of water per mile of shoreline, it has 4-5 dwellings per mile of shoreline, and is 51 feet deep;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board requests the Commissioner of the Minnesota Department of Natural Resources to consider changing the shoreland management classification of Twin Lake (ID # 69016300), located about five miles south of Ely, MN, in the County of St. Louis, from “Natural Environment” to “Recreational Development.”

## **Minn. Rule 6120.3000:**

### Subp. 1a. Classes.

The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, forested river segments, transition river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. General descriptions of each class follow:

**A. Natural environment** lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

**B. Recreational development** lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

...

**Subp. 3. Classification procedures.** Public waters shall be classified by the commissioner. The commissioner shall document each classification with appropriate supporting data. A preliminary list of classified public waters shall be submitted to each affected local government. Each affected local government shall be given an opportunity to request a change in the proposed classification. If a local government feels such a change is needed, a written request with supporting data may be submitted to the commissioner for consideration. If a local government requests a change in a proposed shoreland management classification and the public water is located partially within the jurisdiction of another governmental unit, the commissioner shall review the recommendations of the other governmental units before making a final decision on the proposed change.

**Subp. 4. Reclassification.** The commissioner may, as the need arises, reclassify any public water. Also, any local government may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the commissioner for consideration.

Marty Breaker  
4010 Clearwater Rd.  
St. Cloud, MN 56301  
breaker@gra.midco.net

July 5, 2014

Dear Commissioner Forsman,

I ask that St. Louis County request from the Minnesota Department of Natural Resources a change in the classification of Twin Lakes, ID # 69016300, from Natural Environment to Recreational Development as more properly fits this lake. I requested a change in classification from the MN DNR, but I received a letter from Mr. Steve Hirsch stating any change request must come from the County.

There are several "Twin" lakes in St. Louis County, so to describe this one further, it is located about five miles south of Ely, and reached by going west on Hwy 169 from Ely about four miles, then south on West Boundary Rd. to the lake shore.

I own property on this 224 acre, 51 feet deep lake that has a concrete boat ramp, parking area, and a dozen cabins. It also has approximately 3 miles of shoreline. According to the DNR's website:

**Natural Environment Lakes** usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep.

**Recreational Development Lakes** usually have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

Using these standards, Twin Lakes most properly fits as a Recreational Development Lake. It has 224 acres, it has about 80 acres of water per mile of shoreline, it has 4-5 dwellings per mile of shoreline, and is way more than 15 feet deep (actually 51 feet deep).

Further, **all** the lakes near Twin Lakes, except for a couple of tiny ponds or potholes, are classified as Recreational Development: Mitchell, 69011600, which is similar in size but shallower than Twin Lakes and into which Twin Lakes flows; Robinson, 69021700, which is much smaller at 135 acres, less developed, and much shallower at 8 feet; Wolf Lake, 69016100, similar in size but only 28 feet deep; Armstrong, 69027800, a very similar lake; and Clear Lake, 69027700, half the size of Twin Lakes and only 24 feet deep.

Although it is unclear to me why the lake was originally classified as Natural Environment, it was perhaps because it appears it was done so in the 1970's before the boat ramp and parking lot, and the development on the lake happened.

A Natural Environment lake requires a 150 foot setback. The property I own is an unusual lot in that it is a long peninsula that is at most 264 feet wide, but rises about 70 feet above the water in the center. While the property otherwise meets the RES-5 zoning classification for the lake, I cannot meet the 150 foot setback requirement for a Natural Environment lake.

Thank you for your assistance.

Sincerely,

Marty Breaker



# Saint Louis County

Administration • 100 North Fifth Avenue West, Room 202 • Duluth, MN 55802  
Phone: (218) 726-2450 • Fax: (218) 726-2469 • [www.stlouiscountymn.gov](http://www.stlouiscountymn.gov)

**Kevin Z. Gray**  
County Administrator

September 8, 2014

Dear ,

This letter is being sent to you as an adjacent property owner to an action made by the St. Louis County Board of Adjustment in September 2012 related to a variance request by Mr. Marty Breaker. At that time the County Board of Adjustment denied the variance to allow construction of a dwelling at a reduced shoreline setback on a narrow peninsula that separates the two halves of Twin Lake (ID # 69016300), located approximately five miles south of Ely, MN.

Mr. Breaker has asked that the St. Louis County Board of Commissioners make a request to the Minnesota Department of Natural Resources for a change in the shoreland management classification of Twin Lake from its current status of a "Natural Environment Lake" to a "Recreational Development Lake." The County Board is scheduled to consider the supporting data for this change in classification at its Committee of the Whole meeting to be held in the Babbitt City Hall, 71 South Drive, Babbitt, MN, on Tuesday September 23, 2014. The Board meeting will begin at 9:30 a.m.

Your name was included in the initial mailing required for notification of the 2012 County Board of Adjustment hearing. Because of this, you are being sent notice of the upcoming St. Louis County Board of Commissioners meeting, should you wish to testify or provide written comments regarding the request for reclassification, either by regular mail or email.

If you have any questions regarding this meeting or the process for requesting a change of the Twin Lake shoreland management classification, feel free to contact me at 218.726.2447 or by email at: [eckenbergg@stlouiscountymn.gov](mailto:eckenbergg@stlouiscountymn.gov).

Sincerely,

Gary Eckenberg  
Deputy County Administrator

C: Barbara Hayden, Director  
Planning & Community Development Department

1199743

Office of the County Recorder  
St. Louis County, Minnesota

Recorded on 11/02/2012  
at 11:38AM

Document No. 01199743

Mark A. Monacelli  
County Recorder

By Brenda Goodreau, Deputy

AFR 292450



**DO NOT REMOVE**

**ST LOUIS COUNTY BOARD OF ADJUSTMENT  
FINDINGS OF FACT, CONCLUSIONS AND DECISION**

**Inspection Date:** 5-2-2012

**Report Date:** 8-31-2012

**Meeting Date:** 9-18-2012

**Report By:** T.J. Lampella

Case # 5905

**APPLICANT:** Marty Breaker Ent. Inc  
c/o Marty Breaker  
604 E Boundary Street  
Ely, MN 55731

**SITE ADDRESS:** Water access on Twin Lake, no address assigned

**LEGAL DESCRIPTION:** Part of GL 7, S15, T62N, R13W (Morse).

**VARIANCE REQUEST:** The applicant is requesting relief from St. Louis County Zoning Ordinance 46, Article III, Section 4, to allow the construction of a dwelling at a reduced shoreline setback.

**PROPOSAL DETAILS:** The subject parcel is located on a narrow peninsula that separates the two halves of the lake. The applicant is proposing to construct an 864 sq. ft. dwelling 60.56 ft from the shore where 150 ft. is required. The maximum width of the proposed structure is 20 ft. and the maximum length is 48ft. The 48 ft length runs parallel to the shoreline. There is no other development on the parcel. There is no place on the parcel that meets the required shoreline setback. The proposed building site is located in the shore impact zone and is on a bluff.

*SLC Planning*  
AFR #: 292450  
Cash 400 / che

**GENERAL LAND USE:**

**Location of Property** – 5.4 miles southwest of the city of Ely

**Road access and functional class** – Water access

**Watershed or Lake Name** – Twin Lake (69016300)

**Shoreland Classification** – Natural Environment

**Zone District** – Residential (RES-5) (2.5 acres/200 ft width min.)

**Comprehensive Land Use Plan** – Town of Morse February 1, 1979

Natural Resources goal:

“Land should be developed in a manner which provides the proper balance between environmental and economic considerations.”

**Mitigation points required?** No

**Description of development in the area:** There is a small public access on the west end of the lake .There are 9 seasonal residences on the lake

**Development trends, if any.** None noted

**SITE SPECIFICS:**

**Acres in development** – 7.5 deeded acreage. Actual acreage may be substantially less. A survey of the property shows 2.58 total acres.

**Frontage on road, lake etc** – The parcel is over 950 ft. long with over 2,100 ft. of lake frontage

**Vegetative cover** – wooded

**Wetland issues** – none

**Flood plain issues** – none

**Existing development on the property** – none

**Topography and other physical features** – The peninsula is very steep and narrow. There is a relatively flat area approximately 25 ft by 157 ft. roughly centered on the widest portion of the peninsula. This area is surrounded by bluff. All of this flat area that is located in the bluff impact zone.

**CONCLUSIONS:**

1. The request of the applicant is substantial because the proposed location of the dwelling is less than half the required lake setback which places it in the shore impact zone.
2. The variance will not have an effect on government services because the distance that the structure is located from the lake will not have an impact on government services in this instance.
3. If approved, the variance absolutely would change the character of the neighborhood or be detrimental to the neighborhood because there are no other structures on the lake located this close to the shoreline. Placing a structure at the proposed location would set a bad example for future development on the lake. Building in a bluff this close to the lake greatly increases the potential for harmful erosion.
4. An alternative that could be used to eliminate the need for variance or decrease the extent of the variance being requested is use the property for something other than a building site. The applicant owns other property on the lake that may be more suitable for development.
5. The practical difficulty occurred because of the topography and narrow width of the peninsula.

6. Taking everything already mentioned into consideration, the variance should be denied because there is no suitable building area on the parcel.

**RECOMMENDATION:** Based on the aforementioned facts and conclusions, it is recommended that the request to construct on the subject parcel not be approved.

**TESTIMONY AT THE SEPTEMBER 18, 2012, MEETING**

*Mary Anderson*, Acting Secretary, suggested that because the next two cases are interconnected between the sewage treatment and a structure variance and there are people in the audience that wish to speak to both, the cases can both be heard before the Board makes a decision. *Diana Werschay*, Chair, stated that this is the procedure the Board will use.

*Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to construct a 20 foot by 48 foot dwelling located 60.56 feet from the shoreline of Twin Lakes where 150 feet is required for a Natural Environment lake.
- B. There is no place on the parcel that will meet the 150 foot lake setback and virtually no buildable area that will meet a 100 foot setback.
- C. The proposed building site is located on the crest of a ridge that is a peninsula that virtually divides the lake in two. The ridge is comprised of soil that is highly prone to erosion if disturbed. Getting materials to the building site will be problematic.
- D. Much of the property has very steep slopes. There is a small, level area on top of the hill with a maximum width of about 25 feet.
- E. The maximum width of the parcel is about 260 feet, but the area of the peninsula is a triangular shape.

*Tyler Lampella* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the proposed location for the dwelling is less than half of the required setback which places it within the shore impact zone.
2. The variance will not have an effect on government services.
3. If approved, the variance absolutely would change the character of the neighborhood or be detrimental to the neighborhood because there are no other structures on the lake located this close to the shoreline. Placing a structure at the proposed location would set a bad example for future development on the lake. Building in a bluff this close to the lake greatly increases the potential for harmful erosion.
4. An alternative that could be used to eliminate the need for variance or decrease the extent of the variance being requested is to use the property for something other than a building site. The applicant owns other property on the lake that may be more suitable for development.
5. The practical difficulty occurred because of the topography and narrow width of the peninsula.
6. Taking everything already mentioned into consideration, the variance should be denied because there is no suitable building area on the parcel.

*Tyler Lampella* noted eleven items of correspondence from the Town of Morse, Stacy and Kevin Casper, Susan Remes and Matthew Pierce, Walt and Kristine Thompson, John Skolte, Kail

Katzenmeier, Geoffrey Sass and Shelli Ainsworth, Garrett Drake, Dan McLaughlin, Marc and Jeannie Melhus, and Daryl R. Carlson in opposition of this variance request.

**STAFF RECOMMENDATION:**

Staff recommends the variance request not be approved.

*Marty Breaker*, the applicant, stated he did not know the lot was unbuildable when he purchased the property. He bought the property because one of the previous owners was dying. He was surprised to find out he needed a variance to build on the property. The county had approved the creation of this lot. He fully thought that the property was seven acres, but a survey done this year indicated the property was 2.58 acres. He did not create the issue on this parcel, because there is topography. Because of the activity on the lake, he would take objection to the fact it is a Natural Environment lake. He believes there are also structures closer than 150 feet. He wants to build on top of the bluff in order to prevent erosion into the lake. He believes he should be allowed use of his property just like any other property owner on the lake. He presented a model of the peninsula to demonstrate the narrow building area on the property. A picture of the model was taken and will be placed in the file.

Six members of the audience spoke in opposition regarding both variance requests:

*Matt Pierce*, 1501 West 28<sup>th</sup> Street, Minneapolis, MN. He owns a cabin across the bay from the Breaker property. The property sits on sand and gravel which is unconsolidated and permeable soil. It is more subject to erosion and could create higher contamination of the lake. The peninsula is a glacial esker which is comprised of sand and gravel and is not a glacial till.

*Sue Remes*, 1501 West 28<sup>th</sup> Street, Minneapolis, MN. She and her husband did an exhaustive search of lake property before they purchased property on this lake. She wanted to be on a lake with actual setbacks. She questioned the due diligence that Mr. Breaker did not know about the lake setback. While her neighbors do own watercraft, they use their watercraft to reach their property. To approve this variance would show complete disregard to the lake landowners.

*John Skolte*, 38 East Kraft Road, St. Paul, MN. He stated that the applicant wants to sell the peninsula property for high profit after buying it inexpensively. Fourteen out of fourteen landowners on the lake and the town of Morse oppose both variances.

*Kail Katzenmeier*, 1083 Wildcat Creek, Manhattan, KS. He stated that he agrees with the other testimony. In order to approve the variance requests, the Board would have to re-characterize the lake.

*Dan McLaughlin*, 6002 East Superior Street, Duluth, MN. When they purchased property, they were looking for natural environment. Everything on the Breaker peninsula would be seen from a 365 degree angle.

*Dave Sherman*, 1862 Birch Lake Avenue, White Bear Lake, MN. When he built his cabin, he had to move the cabin back a few inches to the required 150 foot lake setback, which cost him financially. While there is a deck on the cabin, the deck is allowed to be closer to the lake. The

proposals should be denied because they do not play well with what the lake is about. He inquired about when transportation on the lake changed the character of the lake.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked if the applicant really created the hardship. *Mary Anderson* stated that the applicant really has no guarantee that they will be able to obtain permits or variances when he purchased the property. The applicant is taking a chance with the variance.
- B. Board member *Johnson* asked if the proposal would have an effect on government services due to the fact that it would be more difficult for the local fire department to access the parcel. *Tyler Lampella* asked if the variance itself would have an effect on government services or if the development on the parcel would. The variance itself would have little effect on government services.
- C. Inquired about the septic approval being based on the notion there will be a three bedroom cabin. *Mark St. Lawrence* iterated that the proposed peat filter system is designed for a three bedroom cabin. There is nothing that ties the septic system to any approval of a cabin.
- D. Board member *Coombe* stated that the septic request is the easiest request to handle. The peat filter system is a safe system to approve. He has no problem approving a septic system on a small piece of land. *Tyler Lampella* stated that performance standard permits are typically issued for septic systems to correct situations on lots with existing development, not for new development.
- E. Inquired what good it would do to approve a septic system when there is no structure approved to put on the property. Board member *Johnson* stated that it would be up to the applicant to decide if a septic should be installed.
- F. Board member *Werschay* asked staff about the setbacks for other structures along the lake. *Tyler Lampella* stated that he checked structure setbacks using GIS measurements and found that, to the best of his knowledge, they meet or exceed the 150 foot lake setback.
- G. Stated concern over the 'what-if' scenarios of both proposals. There is no compelling reason for this variance except to have variances when the property is sold. The variance is not for the applicant. Board member *Johnson* stated that whether or not the applicant builds on this property does not matter. This variance will follow the property and someone else could build on the lot.

#### **MOTION**

**Motion by Werschay/Johnson** to suspend the rules of voting on the first proposal and vote on the land use variance first.

**In Favor:** Coombe, Johnson, Long, Pollock, Werschay – 5

**Opposed:** None – 0

**Motion carried 5-0**

#### **MOTION FOR PLANNING VARIANCE**

**Motion by Johnson/Pollock** to deny the variance proposal, based on the aforementioned conclusions of staff, as submitted.

**DISCUSSION**

Board member *Coombe* stated he was in favor of granting the variances until he saw the structure height as submitted in the application. He would be willing to give variances for shoreline setback, but not for the height. He is also concerned about justice being served. Board member *Pollock* agreed and said he would be more comfortable seeing an actual building plan. Board member *Werschay* agreed that it would be different if there was an actual concrete plan.

Board member *Johnson* asked if the applicant could return for another variance. *Mary Anderson*, Acting Secretary, stated that the applicant could return with a variance as long as it is a different proposal.

**DECISION**

The above motion was carried as follows:

**In Favor:** Johnson, Long, Pollock, Werschay – 4

**Opposed:** Coombe – 1

**Motion carried 4-1**

119974

00797451

Schedule "A" Legal Description

All of Government Lot Seven (7), Section Fifteen (15) Township Sixty-Two (62) North, Range Thirteen (13) West of the Fourth Principal Meridian, St. Louis County, Minnesota, EXCEPT the East 864.61 feet of said Government Lot 7. AND EXCEPT that portion of Government Lot 7 lying South of the following described line: Assuming the East line of said Section 15 to bear North 00 degree 07'42" West and from the Southeast corner of Section 15, run North 00 degree 07'42" West along said East line, a distance of 1,965.00 feet to the POINT OF BEGINNING. Thence South 89 degrees 52'18" West, a distance of 897.22 feet; thence North 00 degree 07'42" West, a distance of 300.00 feet; thence South 89 degrees 52'18" West, a distance of 440 feet more or less to the West line of said Government Lot 7, extended North, and there to terminate. Said parcel contains 7.05 acres more or less. *465-30-2400*

Subject to mineral rights, and all other rights, reservations, restrictions and easements of record.

1199743

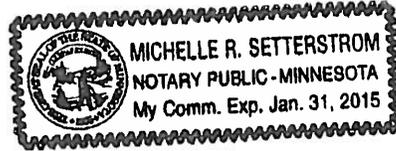
**BY ORDER OF THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT**

*Diana Werschay*  
Chair – Diana Werschay

*Mary Anderson*  
Acting Secretary - Mary Anderson

Subscribed to and sworn to before me on  
this 26 day of October, 2012.

*Michelle R. Setterstrom*  
Notary Public



Recorded pursuant to MN Statutes 394.27, Subd. 8

**Upon receipt of this Decision and prior to construction, a Land Use Permit must be obtained for each structure which will require an additional fee.**

# Shoreland Management Lake Classifications

Minnesota's lakes range from the sterile, rock basin lakes of the Arrowhead region to the naturally fertile, shallow lakes of the southwest prairie region. These different types of lakes require different shoreland development standards. A classification system was developed so that the appropriate development standards could be applied. This classification system has been in effect since the early 1970's when the shoreland management program was originally established. It includes public waters basins (lakes) down to 25 acres in size in unincorporated areas and ten acres in size in incorporated areas that have DNR-approved shoreland ordinances. Lakes are divided into the following classes based on a combination of factors:

- **Natural Environment Lakes** usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep.
- **Recreational Development Lakes** usually have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline, and are more than 15 feet deep.
- **General Development Lakes** usually have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

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**[Lake Shoreland Classifications List by County](#)** [PDF](#) (6.5 Mb)

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To obtain more lake shoreland classification information, contact the **[DNR area hydrologist](#)** [PDF](#) or the **[local unit of government](#)**.



**Request for Free Conveyance of State Tax Forfeited Land  
to the Township of Fredenberg**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, Pursuant to Minn. Stat. § 282.01, Subd. 1a, upon recommendation of the County Board, the Commissioner of Revenue may convey state tax forfeited land to another governmental subdivision for an authorized public use; and

WHEREAS, The Township of Fredenberg has requested a free conveyance of eighty acres of state tax forfeited land to use as pristine park land for public use, legally described as:

TOWNSHIP OF FREDENBERG  
E1/2 of SE1/4, Township 52 North, Range 15 West, Section 13  
Parcel Code: 365-0010-02320  
80 Acres

THEREFORE, BE IT RESOLVED, That the St. Louis County Board recommends that the Commissioner of Revenue convey the above described state tax forfeited land to the Township of Fredenberg for an authorized public use, upon payment of \$250 administrative fee, \$250 Department of Revenue fee, \$25 deed fee, \$1.65 deed tax, and \$46 recording fee; for a total of \$572.65, to be deposited into Fund 240 (Forfeited Tax Fund).

RESOLVED FURTHER, That should the Township of Fredenberg fail to develop and implement the authorized public use stipulated in the Minnesota Department of Revenue Conditional Use Deed within the statutory time period allowed, the land will revert to the state of Minnesota tax forfeited trust, and be sold at public auction by the St. Louis County Land and Minerals Department, providing that all easements and trails currently existing are protected prior to the sale.

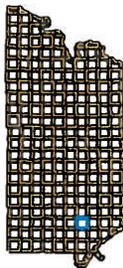


# St. Louis County Land and Minerals Department



## Legend

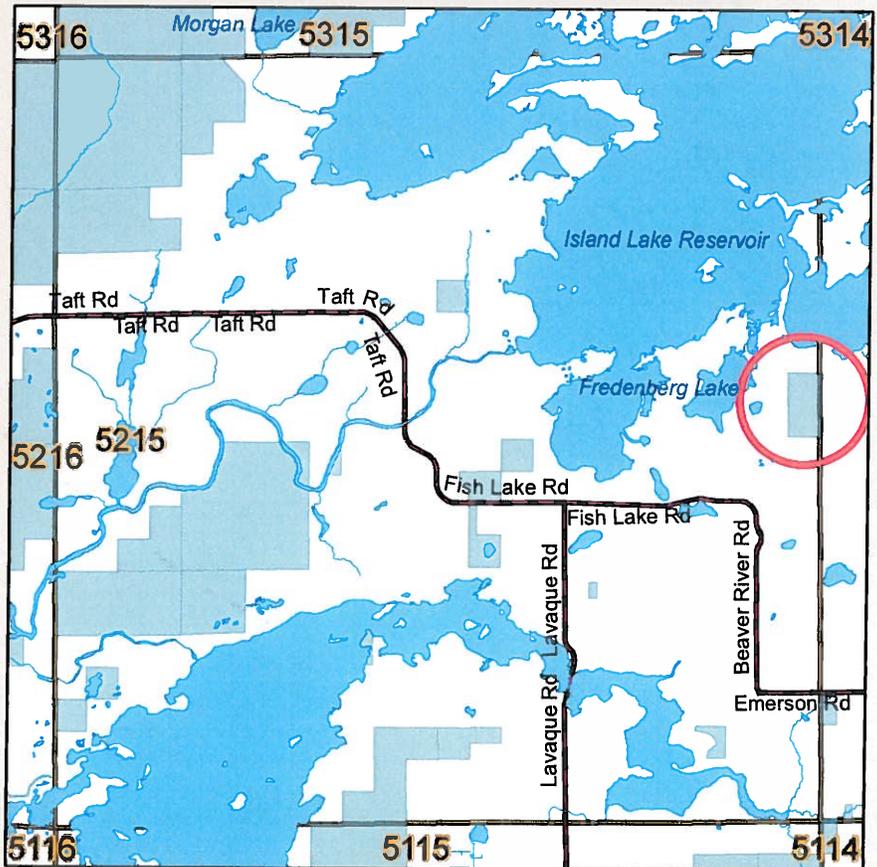
- State Tax Forfeited Land
- Water
- Road
- Area of Interest
- Tract



St. Louis County, Minnesota

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. This drawing is a compilation of recorded information and data located in various city, county, state and federal offices. St. Louis County is not responsible for any incorrectness herein.

**St. Louis County Land and Minerals Department**



RECEIVED

AUG 11 2014

*Town of Fredenberg*  
*A pleasant blend of progress and tradition*

SLC ADMIN

5104 Fish Lake Rd  
Duluth, MN 55803

Routed to:

Comms.

Admin.

Board File

Other Land + Minerals Dir.

Phone (218) 721-3991

Fax (218) 721-3991

7 August 2014

St. Louis County Board  
Land Commissioner's Office  
320 W 2<sup>nd</sup> St.  
Duluth, MN 55802

Dear County Board,

In accordance with your letter dated July 8, 2014 on Reclassification of State tax forfeited land – Board Resolution #14-391, dated July 1, 2014; the Town Board of Fredenberg is interested in acquiring parcel ID #365-0010-02320. Legal description of the parcel is: E ½ of SE ¼ of Section 13, Township 52.0.

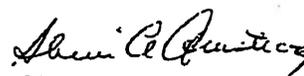
It is our understanding that we may request this property withheld from sale as long as we have complied with sending you the form LD Withhold 9/02, which is attached. We are also attaching a resolution #14-005, which we intend to act on at our September 3, 2014 meeting. It is the intent of the Board to turn this land into pristine park land for public use.

If you have any question, please feel free to contact the office at (218) 721-3991 or email us At [fredenbergtwp@aol.com](mailto:fredenbergtwp@aol.com).

For the Town Board

Mark Toms  
Vice Chairperson



  
Sherri A. Armstrong  
Clerk

RESOLUTION #14-005

RESOLUTION CONCERNING THE LAND ACQUISITION OF  
PARCEL #365-0010-02320 ON THE DATKA ROAD

WHEREAS: the St. Louis County Board; Land and Material Department has, a parcel of land ID 365-0010-02320, legal description: E ½ of SE ¼ of Section 13, Township 52.0, up for land reclassification, and

WHEREAS: the 80 acre parcel on the Datka Road in the Town of Fredenberg would be a nice addition to the township;

NOW, THEREFORE, BE IT RESOLVED: that the Fredenberg Town Board is requesting that the parcel previously identified be freely given to the Town of Fredenberg from St, Louis County as park land for public use, and,

BE IT FURTHER RESOLVED: that this parcel of land be kept in its current natural state to be used for public use for hiking, cross country skiing and snowmobiling.

Clay Creek moved to adopt the resolution, supported by,

Mark Toms and was declared adopted on 3 September 2014 on the following vote:

YEAS: 3 NAY: 0 ABSTAIN 0

Sherrri A. Armstrong  
Sherrri A. Armstrong  
Clerk

Mark Toms  
Mark Toms  
Vice Chair

Note 2 members absent from mtg.

9/23/14  
COW.

clayton cich Handout  
LD Withhold 9/02

Date: 6 Aug 14.

To: St. Louis County Board  
c/o Land and Minerals Department  
320 West 2nd Street, Room 208  
Duluth, MN 55802

From: Town of Fredenberg.  
City/Town Clerk

Re: Application to Withhold Tax Forfeited Land From Sale Pending Acquisition

The Town Board of Fredenberg does hereby request the following-described  
City Council/Town Board City/Town  
parcel of tax forfeit land be withheld from public sale for six (6) months. #365-000-02320.

Legal Description

E 1/2 of SE 1/4 of Section B, Township 52.0.

Type of Acquisition

- Free conveyance for an authorized public use.
- Purchase for appraised value for an authorized public purpose.

Describe public purpose or use in detail:

The Town Board wishes to use this 80 acres parcel as parkland for Public Use. The Board's intent at this time is to leave the land in the natural state it currently is for the public enjoyment for hiking, cross country skiing, and snowmobiling. Dog Sledding All

Note: Please attach a certified copy of a City Council/Town Board Resolution specifying the means of acquisition and a description of the proposed public purpose (for purchase) or proposed public use (for free conveyance), and a copy of the statute, law, or local charter which authorizes the intended public purpose or use.

By Clayton Cich 

ST. LOUIS COUNTY LAND DEPARTMENT ADDENDUM  
TO THE APPLICATION BY A GOVERNMENTAL  
SUBDIVISION FOR CONVEYANCE OF TAX-FORFEITED  
LAND FOR AN AUTHORIZED PUBLIC USE  
IN ST. LOUIS COUNTY  
(to be completed by the applicant)

Name of governmental subdivision (applicant): Town of Fredenberg

Mailing address of applicant: 5104 Fish Lake Rd.  
Duluth, MN 55803

Date requested property was forfeited to the State: \_\_\_\_\_  
(month) (day) (year)

Legal description of property (include name of the city/town in which the property is located):  
E 1/2 of SE 1/4 of Section 13, TWP 52

In preparation of presentation of this application for conveyance of tax-forfeited land to the St. Louis County Board, please complete the following questionnaire:

1. Is the proposed use authorized by statute, law, or local charter? Yes  No
2. How is the proposed use likely to serve the public's interest as much or more than returning the parcel to the tax rolls? Rationale will be used as a public use area in its natural state.
3. Does the parcel contain valuable natural resources? Yes  No
4. Does the parcel have public scenic or aesthetic values? Yes  No
5. Does the parcel contain unique geological features? Yes  No   
If yes, what? \_\_\_\_\_
6. According to ordinarily available information, is the parcel absent of rare plants or animals? Yes  No  If no, which? \_\_\_\_\_
7. According to ordinarily available information, is the parcel absent of important, historic or archeological features? Yes  No   
If no, which? \_\_\_\_\_

8. Is the parcel adjacent to a meandered lake or other public water or water course?  
Yes      No  If yes, which? \_\_\_\_\_
9. What is the zoning designation for the parcel? SMA-7.  
Which zoning authority? St. Louis City.
10. What are the low income requirements for this proposed project? \$ N/A  
(If applicable)
11. What are the moderate income requirements for this proposed project?  
\$ N/A  
(If applicable)

**Supplemental Information for a Conditional Use Deed**

ALL applications (State Deed Application Form) for a conditional use deed **must** be accompanied by a completed Conditional Use Deed Supplement form.

<b>Property</b>	Property identification number (MNS) for registered property (attach additional sheets if necessary): <b>365-0010 - 02320</b>	Total acreage of request for property: <b>80</b>
	Market value of requested property: <b>\$ 89,400</b>	
<b>Forfeiture</b>	Date of recording of auditor's certificate of forfeiture with the county recorder (if applicable):	Mediator's Certificate number (if applicable):
	Date of recording of auditor's certificate of forfeiture with the county registrar of titles (if applicable):	Register's Certificate number (if applicable):
	Describe current condition of the land (identify any improvements and natural features): <b>natural state.</b>	

**Authorized Public Use**

M.S. 282.01, subd. 1a, part (c) limits the authorized public uses for conditional use deeds to the following list. Please check the appropriate box below:

<b>Public Use</b>	Road or right-of-way for a road	<input checked="" type="checkbox"/> Park	Will the park be available to and accessible by the public? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Trails		Will there be signage indicating to the public this is a park? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Transit facilities		Will the park contain amenities maintained for active utilization by the public? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Public beach or boat launch		Type of amenities:
	Public parking		Will the park primarily be open space? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Civic recreation or conference facilities	Public service facilities	Type of facility:

Describe in detail the intended public use of the property:

Do you anticipate establishing the proposed use within 3-years?  Yes  No  
If "no" when do you anticipate the use being established?

**Fee Required**

Minn. Stat. § 282.01, subd. 1g requires a fee of \$250 to be submitted to the Commissioner of Revenue along with this application. If this application is denied, the Commissioner shall refund \$150 of the application fee.

The required fee is enclosed.

**Supporting Documentation**

Indicate the supporting documentation that you have included for consideration during the review of your application. Please note that some forms of documentation are required. Check all that apply:

- Photos (required)
- Maps (required)
- Other:
- Resolution authorizing application by the governmental subdivision (required)
- Plans documenting the intended use

**Office Use only**

This application is hereby: <input type="checkbox"/> rejected <input checked="" type="checkbox"/> granted	Fee Paid: Refund:
By _____ Commissioner of Revenue	



## **Reclassification of State Tax Forfeited Lands to Non-Conservation (Duluth)**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, All parcels of land becoming the property of the State of Minnesota in Trust through forfeiture for nonpayment of real estate taxes shall be classified or reclassified as conservation or non-conservation as required by Minn. Stat. § 282.01, Subd. 1; and

WHEREAS, The parcels described in the attached County Board File forfeited to the State of Minnesota for nonpayment of real estate taxes and were previously classified as conservation; and

WHEREAS, The St. Louis County Land and Minerals Department has recommended that the parcels be reclassified as non-conservation and approved for sale after considering, among other things, the present use of adjacent land, the productivity of the soil, the character of forest or other growth, the accessibility of lands to established roads, schools, and other public services, and their peculiar suitability or desirability for particular uses; and

WHEREAS, These parcels of land may be located inside the boundaries of a municipality or town and Minn. Stat. § 282.01 provides that classification or reclassification and sale of lands situated within a municipality or town must be approved by the governing body of the municipality or town; and

WHEREAS, The reclassification and sale of the parcels will be deemed approved if the county board does not receive notice of the municipality's or town's disapproval of the reclassification and sale of any parcel within 60 days of the date on which this resolution is delivered to the clerk of the municipality or town in which the parcels are located;

THEREFORE, BE IT RESOLVED, That the state tax forfeited parcels described in County Board File No. 59938 shall be reclassified as non-conservation and offered for sale, and the request for approval of the reclassification shall be transmitted by the St. Louis County Land and Minerals Department to the clerk of the municipality or town in which the parcels are located.

# Tax Forfeit Parcels to be Reclassified to Non-Conservation

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Parcel Code	LDKey	Legal Description
010-4400-00440	104329	LOT 85, UPPER DULUTH ST LOUIS AVENUE
010-4400-00450	118537	LOT 87, UPPER DULUTH ST LOUIS AVENUE
010-4400-00460	118538	LOT 89, UPPER DULUTH ST LOUIS AVENUE
010-4400-00470	118539	LOT 91, UPPER DULUTH ST LOUIS AVENUE
010-4400-00480	118540	LOT 93, UPPER DULUTH ST LOUIS AVENUE
010-4400-00490	118541	LOT 95, UPPER DULUTH ST LOUIS AVENUE
010-4400-00500	118542	LOT 97, UPPER DULUTH ST LOUIS AVENUE
010-4400-00510	118543	LOT 99, UPPER DULUTH ST LOUIS AVENUE
010-4400-00520	118544	LOT 101, UPPER DULUTH ST LOUIS AVENUE
010-4400-00530	118545	LOT 103, UPPER DULUTH ST LOUIS AVENUE
010-4400-00540	118546	LOT 105, UPPER DULUTH ST LOUIS AVENUE
010-4400-00550	118547	LOT 107, UPPER DULUTH ST LOUIS AVENUE
010-4400-00560	118553	LOT 109, UPPER DULUTH ST LOUIS AVENUE
010-4400-00570	118548	LOT 111, UPPER DULUTH ST LOUIS AVENUE
010-4400-00580	118549	LOT 113, UPPER DULUTH ST LOUIS AVENUE
010-4400-00590	118550	LOT 115, UPPER DULUTH ST LOUIS AVENUE
010-4400-00600	118551	LOT 117, UPPER DULUTH ST LOUIS AVENUE
010-4400-00610	118552	LOT 119, UPPER DULUTH ST LOUIS AVENUE



# Saint Louis County

Administration • 100 North Fifth Avenue West, Room 202 • Duluth, MN 55802  
Phone: (218) 726-2450 • Fax: (218) 726-2469 • [www.stlouiscountymn.gov](http://www.stlouiscountymn.gov)

September 26, 2014

## **MEMORANDUM**

To: County Commissioners

From: Gary Eckenberg  
Deputy County Administrator

**RE: Reclassification of Tax Forfeited Lands on Park Point**

At the October 7, 2014 County Board Meeting, Commissioners will consider a resolution to reclassify state tax forfeited lands to “Non-Conservation” status. The eighteen (18) parcels are located between 13<sup>th</sup> Street and 15<sup>th</sup> Street along St. Louis Avenue on Park Point in the city of Duluth. St. Louis Avenue is a platted street between the St. Louis Bay and Minnesota Avenue, which is the main road running through the Park Point neighborhood.

The resolution before the County Board is the result of a motion to “divide the question” at the September 23<sup>rd</sup> Committee of the Whole (COTW) meeting. At that time a much larger list of tax forfeited lands was proposed for reclassification from “Conservation” to “Non-Conservation,” but there were questions raised about the 18 individual lots noted above, and they were considered separately.

At the COTW meeting, one adjacent property owner gave testimony suggesting that the parcels had been in “Non-Conservation” status since 2001, noting that they could have been sold to adjacent residents at any time since then. The adjacent property owner and his advocate, former County Commissioner Dennis Fink, indicated the parcels were also NONCONFORMING to city residential zoning building requirements, and therefore, should have been offered for sale only to the adjacent owners when requests were made of the County Land & Minerals Department to do so.

Commissioners asked for clarification as to whether these parcels had been classified as “Non-Conservation” by earlier board action. If so, commissioners felt they did not need to be addressed again. And, if this had already occurred, adjacent owners felt they should have been afforded the opportunity to directly purchase the lots at that point. (Of course, if they were CONFORMING to Duluth’s zoning codes, sale by public auction would have been necessary then, as well.)

The answer to these questions required review of County Board agendas and resolutions, along with Duluth City Council and Planning Commission actions. After searching these records, County Administration has determined the following facts to be true, and is providing this information to Commissioners to help in the decision to reclassify these tax forfeited lands on October 7, in preparation for public auction.

In 2010, the city adopted a new zoning code, called the Unified Development Chapter (UDC). Among other things, it changed the zoning classifications of all properties in Duluth. For the properties in question, the zoning classification changed from W-1 to I-W (Industrial-Waterfront). Similar uses are allowed in this district as in the old W-1 zone. **The I-W zone does not have a minimum lot size or lot area. Therefore, the parcels have remained CONFORMING, according to City of Duluth zoning codes.**

3. Prior to 2006, Duluth's residential zoning requirements were classified as R-1A, R-1B, and R-1C. Each of these zoning classes had specific minimum square footage requirements for buildable lots. For example, R-1A required 4,000 square feet of land; R-1B required 7,500 square feet; and R-1C required at least 10,000 square feet for development. Residential development in Park Point was zoned as R-1C.
4. With adoption of the city of Duluth's Unified Development Chapter (UDC) in 2010, the three residential zoning classifications were collapsed into a single R-1 (Residential Traditional) class, which requires a minimum of only 4,000 square feet for development. Recently, the two large tax forfeited parcels between 13<sup>th</sup> and 15<sup>th</sup> Streets along St. Louis Avenue were divided into buildable city lots of 40 feet by 100 feet, consistent with original city of Duluth plat maps, dating back to the early 1900s.
5. Now the city is proposing to rezone the tax forfeited parcels from I-W to R-1 (Residential-Traditional). The rezoning will allow these properties to be sold in conformance with the future land use designation, as contemplated in the Comprehensive Plan. The R-1 district allows uses such as single family homes and duplexes.

Under the new R-1 zoning, buildable lots on Park Point will require a minimum of only 4,000 square feet, or 40 feet by 100 feet. As stated above, the tax forfeited lands were divided into lots of this size at the request of the city and several adjoining owners who expressed a desire to purchase the lots adjacent to their property at public auction. **Therefore, the 18 tax forfeited lots between 13<sup>th</sup> and 15<sup>th</sup> Streets are considered to be CONFORMING to the new R-1 zoning, and must be sold at public auction according to state statute.**

#### **CONCLUSION:**

**Although complex in explanation, the simple answer regarding classification and zoning conformity can be stated as follows:**

The County Board Resolution to be considered on October 7 requesting reclassification of state tax forfeited lands is correct. The tax forfeited lands identified as Lots 85-119 (odd), Upper Duluth St. Louis Avenue, remain in "Conservation" status, and must be reclassified to "Non-Conservation" before they can be restored to the tax rolls through public auction, and made available for future housing development.

The tax forfeited lands containing the 18 individual lots, referenced in the County Board Resolution, have always been CONFORMING to Duluth's zoning codes, both prior to, and after, the adoption of the city's 2006 Comprehensive Plan and the 2010 Unified Development Chapter.

01-0710R

RESOLUTION REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF ST. LOUIS COUNTY TO RECLASSIFY FROM CONSERVATION TO NONCONSERVATION AND TO OFFER FOR SALE CERTAIN TAX FORFEITED PARCELS NOW WITHHELD FROM SALE IN CONSERVATION.

BY COUNCILOR STENBERG:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from conservation to nonconservation and to offer for sale the following tax forfeited parcels now withheld from sale in conservation:

File #	Applicant Name	Legal Description	Location
01093	City of Duluth facilities management division	Lots 85 (10-4400-440), 87-119 (odd) (10-4400-450) and 102 and 104 (10-4400-1680), Upper Duluth, St. Louis Avenue	St. Louis Avenue between 13th and 15th streets (Park Point)
01129	City of Duluth	Lot Y, Crescent View Park Division (10-760-2810)	intersection of 38th Avenue East and Third Street (Congdon Park)

STATEMENT OF PURPOSE: This resolution approves these requests that were reviewed by the city planning commission at their regular September 11, 2001, meeting and recommended these parcels for reclassification. Those parcels located in areas where planning groups are active were reviewed for consistency with plans for those neighborhoods.

- Legend**
- Zoning (Final)
  - Future Land Use**
  - Preservation
  - Recreation
  - Rural Residential
  - Low-density Neighborhood
  - Traditional Neighborhood
  - Urban Residential
  - Neighborhood Commercial
  - Neighborhood Mixed Use
  - General Mixed Use
  - Central Business Secondary
  - Central Business Primary
  - Auto Oriented Commercial
  - Large-scale Commercial
  - Business Park
  - Tourism/Entertainment District
  - Medical District
  - Institutional
  - Commercial Waterfront
  - Industrial Waterfront
  - Light Industrial
  - General Industrial
  - Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



# BOARD LETTER NO. 14 - 365

## FINANCE & BUDGET COMMITTEE

### OCTOBER 7, 2014 BOARD AGENDA NO. 4

**DATE:** October 7, 2014

**RE:** Government Services Center  
Remodeling Project – Office  
Furniture Purchase for 4<sup>th</sup> through  
7<sup>th</sup> Floors

**FROM:** Kevin Z. Gray  
County Administrator

Tony Mancuso, Director  
Property Management

**RELATED DEPARTMENT GOAL:**

To perform deferred building maintenance, to bring facilities up to current building and life safety codes, to extend life cycle of facilities, and to increase building operational efficiency.

**ACTION REQUESTED:**

The St. Louis County Board is requested to approve the purchase of office furniture for the 4<sup>th</sup> through 7<sup>th</sup> floor of the Duluth Government Services Center (GSC).

**BACKGROUND:**

The St. Louis County Board approved the sale of General Obligation Capital Improvement Bonds for the purpose of financing the improvements to the Government Services Center in an amount of \$20,650,000 (County Board Resolution No. 13-509). This amount included hard construction costs, design costs, some furniture fixtures and equipment (FFE) and all other costs associated with the completion of the project. Northern Business Products of Duluth/Hibbing has a current State of Minnesota contract for Herman Miller (manufacturer) office furniture and systems. The State contract cost for the furniture and systems in total is \$2,265,000 of which \$791,000 is funded from bond proceeds and \$1,474,900 is funded from the Public Health & Human Services (PHHS) assigned fund balance.

As the County Board is aware, planning for this significant capital project began eighteen months before the bonds were sold. During this time, the Board supported the assignment of one-time additional revenue received in PHHS for the PHHS-specific GSC remodel costs (see assignment of funds in the 4<sup>th</sup> Quarter Budget Adjustment resolutions No. 13-266 (#47) and 14-320 (#45). The transfer of these funds into an account for the costs associated with PHHS employee workstation furniture was approved in Quarterly Budget Adjustment Resolutions No. 13-651 (#8) and No. 14-359 (#5). These dollars significantly offset the total FFE bond expense for the project.

In addition, the 4<sup>th</sup> floor includes some customization of furniture to meet the needs of the County Attorney's Office. The Attorney's 2014 budget includes funds to account for the \$16,370.45 difference for this furniture from the planned project budget.

**RECOMMENDATION:**

It is recommended that the St. Louis County Board approve the purchase of office furniture in the amount of \$1,420,289.46 from Northern Business Products of Duluth/Hibbing under State contract for the Government Services Center remodeling project. Funding in the amount of \$716,436.35 is available from Fund 440, Agency 440001; \$687,482.66 is available from Fund 400, Agency 400037; and \$16,370.45 is available from Fund 100, Agency 113002.

**Government Services Center Remodeling Project – Office Furniture Purchase  
for 4<sup>th</sup> through 7<sup>th</sup> Floors**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, The St. Louis County Board approved the General Obligation Bond funded project to renovate and remodel the Duluth Government Services Center (GSC) in an amount of \$20,650,000; and

WHEREAS, This amount included hard construction costs, design costs, some furniture fixtures and equipment, and all other costs associated with the completion of the project;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board authorizes the purchase of office furniture from Northern Business Products of Duluth/Hibbing in the amount of \$1,420,289.46 under State of Minnesota contract pricing, for the Duluth GSC project.

RESOLVED FURTHER, That funding in the amount of \$716,436.35 is available from Fund 440, Agency 440001; \$687,482.66 is available from Fund 400, Agency 400037; and \$16,370.45 is available from Fund 100, Agency 113002.

**Resolution for Closed Session of the  
Committee of the Whole for Litigation Purposes**

BY COMMISSIONER \_\_\_\_\_

WHEREAS, Pursuant to Minn. Stat. § 13D.05, Subd. 3(b), the St. Louis County Board may close a meeting as permitted by the attorney/client privilege; and

WHEREAS, The County Attorney requires candid and open discussion to provide legal advice to the County Board with respect to potential settlement and litigation strategy in a closed session of the Committee of the Whole; and

WHEREAS, A closed session would benefit the public because potential financial liability could result in the expenditure of public funds;

THEREFORE, BE IT RESOLVED, That the St. Louis County Board will convene in a closed meeting of the Committee of the Whole on October 7, 2014, for the purpose of discussing settlement and litigation strategy immediately following the Board meeting, in accord with Minn. Stat. § 13D.05, Subd. 3(b).

RESOLVED FURTHER, That no other pending public business will be discussed at this closed session.