



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
1995**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 9, 1995, 6:00 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Keenan, Prettner, Wheeler and President Talarico -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0109-01 Jeffrey and Susan Thompson, et al. (six signatures) petitioning for vacation of the easement of Selkirk Street from the point of Tyrol Street to Gearhart Street. -- Assessor

95-0109-02 Minnesota pollution control agency submitting:

(a) Permit No. 19487 for the construction and operation of a sanitary sewer extension system for the proposed Northwest Airlines maintenance facility;

(b) Permit No. 19474 for the construction and operation of a sanitary sewer extension system for Maxwell Street. -- Sewer division

95-0109-14 Jack Green submitting communication regarding a roof drain connection at 129-31 East First Street. -- Received

95-0109-03 James E. Linder submitting acceptance of concurrent use permit conditions granted by Ordinance No. 9219 on October 17, 1994. -- Received

95-0109-04 Roger Nelson submitting letter regarding garbage hauling routes. -- Received

95-0109-05 Ed Oja submitting inflow and infiltration recommendations. -- Received

95-0109-06 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Minnesota Power on February 16, 1995. -- Received

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REPORTS OF OFFICERS

95-0109-07 Assessor submitting letter of sufficiency regarding petition to vacate the easement of Selkirk Street from the point of Tyrol Street to Gearhart Street. -- Received

95-0109-08 Parks and recreation department director submitting minutes of the board of directors for the Lake Superior zoological society for: (a) November 19; (b) December 15, 1994 meetings. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0109-09 Civil service board minutes of: (a) November 7; (b) November 17, 1994 meetings. -- Received

95-0109-10 Duluth airport authority submitting: (a) Minutes of November 7, 1994 meeting; (b) Minutes of November 15, 1994 meeting; (c) November 30, 1994 unaudited balance sheet. -- Received

95-0109-11 Planning commission minutes of November 8, 1994 meeting. -- Received

95-0109-12 Seaway Port authority of Duluth: (a) Minutes of October 20, 1994 meeting; (b) September 1994 financial statement. -- Received

95-0109-13 Spirit Mountain recreation area authority minutes of September 26, 1994 meeting. -- Received

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REPORTS OF COUNCILORS

President Talarico announced the election of officers for 1995 would now take place.

Councilor Downs nominated Councilor Keenan for president, which motion was seconded by Councilor Wheeler.

There being no further nominations, Councilor Keenan was elected president upon a unanimous vote.

Councilor Wheeler nominated Councilor Prettner for vice president, which motion was seconded by Councilor Hardesty.

There being no further nominations, Councilor Prettner was elected vice president upon a unanimous vote.

Councilor Prettner nominated Jeffrey Cox for secretary, which motion was seconded by Councilor Downs.

There being no further nominations, Mr. Cox was elected secretary upon a unanimous vote.

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Councilor Talarico expressed appreciation for the opportunity to serve as council president for the previous year, and encouraged cooperation in the coming year. He introduced councilors and President Keenan.

President Keenan thanked councilors for their support and voiced optimism for accomplishments in the coming year. He introduced Mayor Doty.

Mayor Doty presented the 1995 State of the City Address (Public Document No. 95-0119-16).

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to amend an agreement in the amount of an additional \$120,000 with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 95-0109-15, and under which agreement the bureau will provide advertising and promotion services to the city during

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the year 1995 at a cost to the city of not to exceed \$710,000, payable from Fund 258. \$590,000 of this contract will be paid out of current year revenues (1995), with the additional \$120,000 to be funded from prior year reserves (1994).

Resolution 94-1112 was unanimously adopted.

Approved January 9, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the off sale nonintoxicating malt liquor license for the period ending April 30, 1995, subject to departmental approvals, and the payment of sales and property taxes:

Gold Knight, Inc. (Charlie's Club), 5527 Grand Avenue, with Vickie Haugland, president, secretary, treasurer, 100% stockholder, and James Pirkola, vice president.

Resolution 95-0002 was unanimously adopted.

Approved January 9, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the following transfer of the on sale intoxicating liquor license, on sale Sunday license and dancing license, for the period ending August 31, 1995, subject to departmental approvals and the payment of sales and property taxes:

Greysolon Enterprises, Inc. (Greysolon Plaza Ballroom), 213 East Superior Street, with John Verlooy, president/treasurer and 100% stockholder, and Karen Perfetti, vice president.

Resolution 95-0003 was unanimously adopted.

Approved January 9, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 1995, subject to departmental approvals, and the payment of sales and property taxes:

Barbara Majewski (Polish Hearth Restaurant), 114 West First Street.

Resolution 95-0004 was unanimously adopted.

Approved January 9, 1995

GARY L. DOTY, Mayor

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Mayor Doty introduced the 1994 employees of the month and announced the selection of David Putzke as employee of the year.

The meeting was adjourned at 7:00 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, January 17, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0117-04 Judith Oleson Long submitting letter supporting the Youth and Adult Compulsive Gambling Education Prevention Program. -- Received

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REPORTS OF OFFICERS

95-0117-01 Community development division manager submitting HRA housing rehabilitation report for September 1994. -- Received

95-0117-02 Engineering division submitting January 1, 1995 monthly project status report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0117-03 Spirit Mountain recreation area authority submitting minutes of November 28, 1994 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price commented on Lake Superior watershed protection laws and requested that the council meet with Superior Mayor Bergson regarding the issue of removal of barrels from Lake Superior.

Mayor Doty indicated his support for the issue to be further reviewed and pursued at the state level.

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RESOLUTIONS TABLED

Councilor Wheeler moved to remove from the table Resolution 94-1121, requesting the administration to enforce compliance with the city's roof drain regulations in the downtown area by October 1, 1995, which motion was seconded and unanimously carried.

Councilor Wheeler moved to withdraw the resolution in order to study the administration's proposal regarding this issue, which motion was seconded and unanimously carried.

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Councilor Talarico moved to remove from the table Resolutions 94-1051, setting forth the solid waste structure for the city of Duluth and 94-1052, establishing solid waste assessment collection fees, which motion was seconded and unanimously carried.

Councilor Talarico moved to amend Resolution 94-1051 as follows:

<u>Service level</u>	<u>Percent of base rate (proposed)</u>	<u>Amendment</u>
one, 20-gallon can once every other week	70%	50%
one, 20-gallon can every week	90%	70%
two, 32-gallon cans every week	130%	135%

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three, 32-gallon cans
every week

160%

170%

Councilor Talarico said the purpose of his amendment is to reduce the rate for people who produce less garbage and to penalize larger users. He recognized that a fixed amount of revenue is needed to provide solid waste collection service, and responded to Councilor Bohlmann that the amendment is reflective of the current rates being charged. He added that the base rate is set at 32-gallons because that is by far the greatest category of users.

Councilor Prettner did not favor subsidizing the lower end, stating her belief that subsidizing those rates will drive the rates up overall.

Councilor Wheeler noted the importance of encouraging people to recycle more and produce less garbage, and stated concern that the amended rates would create a negative economic impact.

Councilor Atkins supported the amendment, stating it sends the message that if you reduce your garbage your rates will be lower.

Councilor Bohlmann favored rewarding people for reducing garbage but said she does not agree with making 32-gallons the base rate rather than 20-gallons.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions. Jim VanDell felt there should be incentives for reduced garbage and that consumers should benefit from recycling.

Lyle Winters, MN Senior Federation, reviewed that seniors got involved in this issue because they feel garbage pricing is too high in Duluth compared to other cities. He felt the high costs are due to an inefficient system, and recommended a zoning system for better efficiency and closer monitoring.

George Mikrut reviewed garbage rates in past years, and said that since recyclables are more valuable now that garbage rates should be reduced by \$4.

Dan Hartel, Hartel's Garbage and Recycling Service, spoke in favor of the base rate system, but said he does not agree with the amendment to subsidize the lower levels of service even more, adding that it would be against the recommendation in the study. He said social engineering as proposed will not generate any less revenue because haulers must generate a certain amount of revenue, but it will penalize some people and reward others. Regarding recycling, Mr. Hartel said that \$3.75 of the \$4 fee is allocated to collection costs and only 25 cents for processing. He also spoke against the proposed increase in the license fee from \$200 to \$700.

Mark Honer, Zenith Kremer, questioned the proposed rate structure system and requested that if a higher license fee is to be implemented it be postponed until haulers can work it into their budgets. He said he is in favor of a base rate structure and supports incremental pricing for today but is uncertain about how it will work in the future. He suggested implementing a three to four year plan to lessen the subsidy, stating his concern that if too many people go into the subsidized structure there will not be enough people to pay the costs. He noted that the pooling option provides further subsidizing, and said that he would support once a month service but he does not support allowing both once a month service and pooling.

Kyle Backstrom, Twin Ports Environmental, outlined his company's efficiency efforts, stating he does not feel an organized collection system or a required base rate is necessary.

Councilor Talarico moved to call the question on his amendment, which motion was seconded and unanimously carried.

Councilor Talarico's amendment was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Prettner -- 1

Councilor Dahlberg moved to amend Resolution 94-1051 by adding a service level as follows:

<u>Service level</u>	<u>Percent of base rate</u>
one, 20-gallon can once a month	40%

which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Nays: Councilors Downs, Hardesty, Prettner, Talarico and Wheeler -- 5

Councilor Talarico moved to table Resolutions 94-1051 and 94-1052 for a public hearing on January 23, which motion was seconded and carried upon a unanimous vote.

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to January 17, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR PRETTNER

95-0065R - RESOLUTION AUTHORIZING HOME PROGRAM LOAN AGREEMENT WITH ARTSPACE PROJECTS, INC. FOR WASHINGTON SCHOOL PROJECT IN THE AMOUNT OF \$100,000, PAYABLE FROM FUND 260, AGENCY 020, ORGANIZATION 2621, OBJECT H003.

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BY COUNCILOR PRETTNER

95-0066R - RESOLUTION AUTHORIZING CHDO OPERATING GRANT AGREEMENT WITH NORTHERN COMMUNITIES LAND TRUST IN THE AMOUNT OF \$10,000, PAYABLE FROM FUND 260, AGENCY 020, ORGANIZATION 2632, OBJECT H009.

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BY COUNCILOR PRETTNER

95-0068R - RESOLUTION AUTHORIZING A CONTRACT WITH GAMBLERS' INTERVENTION SERVICES FOR THE OPERATION OF THE LOW INCOME OUTREACH COMPULSIVE GAMBLING PROGRAM DURING 1995, AT A COST TO THE CITY OF \$25,000.

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BY COUNCILOR ATKINS

95-0061R - RESOLUTION MODIFYING CITY CONTRACT #17159 WITH ST. LOUIS COUNTY, ACCEPTING AN ADDITIONAL \$90,192 TO PROVIDE STRIDE CASE MANAGEMENT PROGRAM SERVICES, EMPLOYMENT AND TRAINING BLOCK GRANT SERVICES AND COMMUNITY WORK EXPERIENCE PROGRAM SERVICES. MODIFICATION INCREASES CONTRACT MAXIMUM AMOUNT TO \$623,908.

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Resolution 95-0038, establishing the salary and fringe benefits of the mayor and Resolution 95-0039, authorizing execution of an amendment to the city's employment contract with Karl Nollenberger, by Councilor Wheeler, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on these resolutions.

Jim VanDell said the income of Duluth citizenry has gone down in the past few years and he feels it is inappropriate for the mayor, administrative assistant and council to receive a pay

raise. He felt the pay increase should be justified before the public.

Resolutions 95-0038 and 95-0039 were adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that effective January 1, 1995, the annual salary of the mayor shall be \$71,021.

RESOLVED, FURTHER, that the mayor shall be entitled to the following fringe benefits:

(a) A monthly car allowance in the amount of \$400;

(b) Hospital-medical insurance benefits that are available to city employees, including family coverage. The city shall pay the entire cost of single coverage and up to \$350 per month of the cost of family coverage;

(c) Dental insurance benefits that are available to city employees, including the right to cover eligible dependents under the city's dental care plan. The city shall pay the entire cost of single coverage, but shall not be responsible for any of the cost of dependent coverage;

(d) Group term life insurance in the amount of \$50,000;

(e) Long term disability income benefits that are available to other city employees.

Resolution 95-0038 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute Amendment No. 3 to the city's employment contract with Karl Nollenberger, which document is on file in the office of the city clerk as Public Document No. 95-0117-05.

Resolution 95-0039 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Approved January 17, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0069, by Councilor Wheeler, establishing a citizens' task force to recommend the appropriate compensation level of the mayor and city councilors, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Tom Paradice felt that public employee pay and benefits are high when compared to the private sector and recommended that the task force be encouraged to use private sector data to make salary comparisons.

Councilor Talarico supported the resolution, stating he would like to know how the citizens feel about this issue.

Councilor Bohlmann noted that councilors are public servants, and suggested putting the issue on the ballot at the next election. She and Councilor Downs felt the council should make this decision and that the council should not delegate its decision making to task forces.

Councilor Wheeler said he would not be opposed to the charter commission reviewing this issue instead of appointing a task force, although he felt citizens need to be involved in setting the salaries for elected officials.

Councilor Talarico moved to amend the resolution to "strike any language referring to the city council," which motion was seconded and unanimously carried. He said the task force would

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only make a recommendation to the council and it is the council's responsibility to determine the salary. He felt appointing a task force makes the salary setting process less political.

Councilor Atkins moved to amend the resolution to include the administrative assistant position in this process, which motion was not seconded.

Resolution 95-0069, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, the council, by Resolution 94-0055, adopted on January 18, 1994, committed itself to establishing the mayor's salary for the next mayoral term in June of 1995; and

WHEREAS, setting the pay of the mayor has in the past been a difficult and dissatisfying experience; and

WHEREAS, the process for setting the pay of the mayor has in the past involved very little opportunity for input from the general citizenry; and

WHEREAS, the city council feels that it is very important that the citizens of Duluth have a significant role in determining the pay level of their elected officials;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby establishes an ad hoc citizens' task force, comprised of a chairperson and six other members to be appointed by the city council, which shall have the task of reviewing the pay of the mayor and recommending to the council any changes in such pay levels as it deems appropriate.

RESOLVED FURTHER, that the task force shall complete its review and report its recommendations to the city council no later than May, 1995.

Resolution 95-0069, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and Wheeler -- 7

Nays: Councilor Bohlmann and President Keenan -- 2

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Resolution 94-1045 to Arrowhead Equipment Company for furnishing one dump body, be amended to increase the amount by \$9,745 for a new total of \$19,490, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E425.

Resolution 95-0008 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 1995, and the contract for publishing the proceedings of the city council of the city of Duluth and all other matter required by law to be published by the city of Duluth, hereby is awarded to the Duluth News-Tribune on its bid for said publications of \$.65 per line on the first insertion and \$.39 per line for each subsequent insertion of the same notice, these being the legal rates for the state of Minnesota. Estimated total annual cost \$26,000.

The billing is to be on a mutually agreed average inch rate. Terms: net 30 and payable out of the various funds, dept./agency various, organization various, object various.

Resolution 95-0011 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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BY COUNCILOR DOWNS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment for the fleet services division, for an estimated total of \$10,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0012 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute a one year consulting agreement for software support services with Geographic Software Specialists, Inc., at an annual estimated cost of \$5,760, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 95-0013 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing approximately 310,000 gallons of fuel for a one year period for the fleet services division in accordance with specifications on its low specification bid of approximately \$259,315, terms net 30, FOB job site, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5212.

Resolution 95-0016 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that North Country Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for John Deere equipment for the fleet services division, for an estimated total of \$48,000, terms net 30, FOB shipping point, \$45,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$3,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 95-0017 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc. to conduct a Youth and Adult Compulsive Gambling Education/Prevention Program during 1995 at a cost to the city of \$93,465, which shall be payable from Fund 255.

Resolution 95-0021 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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Resolution 95-0022, by Councilor Downs, authorizing the purchase of employee assistance program services during 1995 from Miller-Dwan Medical Center at an estimated cost of \$6,000, was introduced for discussion.

Councilor Downs moved to return the resolution to the administration, which motion was seconded and unanimously carried.

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BY COUNCILOR DOWNS:

RESOLVED, that W.P. & R.S. Mars Company be and hereby is awarded a contract for furnishing and delivering 42 sections of steel industrial shelving for the fleet services division in accordance with specifications on its low specification bid of \$6,758.06, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5210.

Resolution 95-0030 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that B.A.N. Corporation be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for city paint striping truck as required for a 12 month period for the fleet services division, estimated to total \$8,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0031 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Case equipment for the fleet services division as needed during 1995, estimated to total \$20,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0037 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that The Duluth Clinic Ltd be and hereby is awarded a contract for 1) medical services, 2) drug & alcohol testing, 3) alcohol testing and 4) drug testing for the various city departments and divisions in accordance with specifications on its low specification bid of approximately \$18,200, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0049 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Falk Paper Company be and hereby is awarded a contract for furnishing

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and delivering approximately 400 cases of copy paper for the purchasing central purchases revolving account in accordance with specifications on its low specification bid of \$9,840.60, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS25.

Resolution 95-0051 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that St. Luke's Occupational Medicine, Inc., be and hereby is awarded a contract for 1) physical exams and 2) blood alcohol testing for the various city departments and divisions in accordance with specifications on its low specification bid of approximately \$12,000, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0055 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Schindler Elevator Corporation be and hereby is awarded a contract for furnishing full service elevator maintenance of city elevators for the various city departments in accordance with specifications on its low specification bid of \$12,240 per year, terms net, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0058 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering seven police squad cars for the fleet services division in accordance with specifications on its low specification bid of \$125,692, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0060 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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Resolution 95-0067, by Councilor Downs, approving the issuance of lawful gambling premises permits, was introduced for discussion.

Councilor Prettner said she will not support issuing premises permits to Hermantown Hockey and CLIMB Theatre, Inc., primarily because the organizations are outside of the city of Duluth and she believes that if gambling proceeds are to go to support projects in the city of Duluth, that those project funds need to stay within the city of Duluth.

Councilor Downs moved to divide the resolution to separate the first two organizations listed from the second two, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Talarico and Wheeler -- 7

Nays: Councilor Hardesty and President Keenan -- 2

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

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John McGovern, Hermantown Hockey, noted that his organization is currently operating at a Duluth location and said that his organization is within the trade area.

Councilor Wheeler said he is going to abstain from voting on this issue because he feels the council made a mistake when allowing the license at this location and he feels the social costs may not be worth the benefit.

Councilor Prettner responded that councilors have an obligation to vote on issues and should only abstain if there is a conflict of interest.

Councilor Hardesty moved to table the resolution relating to Hermantown Hockey and CLIMB Theatre, Inc., until the council can receive budget information from those organizations, which motion was seconded and passed upon the following vote:

Yeas: Councilors Bohlmann, Downs, Hardesty, Talarico and Wheeler -- 5

Nays: Councilors Atkins, Dahlberg, Prettner and President Keenan -- 4

Resolution 95-0067(a) was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. Duluth Softball Players Association	2224 West Superior Street	January 3, 1995
2. Piedmont Heights Hockey	2224 West Superior Street	January 3, 1995

Resolution 95-0067(a), as amended, was adopted upon the following vote:

Yeas: Councilors Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan --

6

Nays: Councilors Atkins, Bohlmann and Wheeler -- 3

Approved January 17, 1995

GARY L. DOTY, Mayor

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Resolution 95-0064, by Councilor Bohlmann, confirming appointment of Robin K. Tello to Spirit Mountain recreation area authority, replacing William Burns, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR BOHLMANN:

WHEREAS, Laws of Minnesota 1994, Chapter 471 provides for appointment of a city councilor to the Miller-Dwan Hospital board of directors of trusts by the city council;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby appoints Lynn Hardesty

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

as the city councilor on such board, for a term of six years or until her tenure on the city council ends, whichever occurs sooner.

Resolution 95-0083 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

WHEREAS, the citizens task force on inflow and infiltration was established in September of 1994 to study the I & I problem, make recommendations to the council on methods of dealing with such problem, and advise the council on any difficulties resulting from implementation of regulations adopted by the council to deal with I & I matters; and

WHEREAS, this task force presented its report and recommendations to the council on December 15, 1994, after holding numerous public hearings and spending a great deal of time on the matter; and

WHEREAS, the report produced by the task force is extremely well done, and contains analysis and recommendations regarding the I & I problem that will be of great value to the council and city administration in implementing resolution to this problem;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby accepts the report of the citizens task force on inflow and infiltration and expresses its gratitude to the task force for its hard work on this matter and for the quality of the product it has produced.

RESOLVED FURTHER, that the council reaffirms its desire to have the task force continue in existence to advise the council on any issues which may arise from implementation of any solutions to the I & I problem.

Resolution 95-0084 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the first amendment to City Contract No. 17097, a copy of which is on file in the office of the city clerk and Public Document No. 95-0117-06, with the Duluth Housing Trust Fund, Inc., extending the term thereof through December 31st of 1995.

Resolution 95-0007 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Huntingdon Engineering & Environmental, Inc., for the sum of not to exceed \$910, from Capital Fund 450, Obj. C412, for providing certain geotechnical engineering services to the city of Duluth in connection with Washington School Community Center, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0117-07.

Resolution 95-0027 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Fourth Avenue West more legally described as:

The northerly 140 feet of Fourth Avenue West adjacent to Lot 64, Block 57, and Lot 66, Block 58, Duluth Proper Third Division, Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission conditionally approved the vacation petition at its December 13, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fourth Avenue West as described above, reserving for pedestrian and utility easement purposes the westerly 53 feet as more particularly described on Public Document No. 95-0117-08.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and the easements to be retained.

Resolution 95-0041 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the southerly five feet of Glenwood Street adjacent to Lot 18, Block 7, Brighton Gardens Second Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its December 13, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the southerly five feet of Glenwood Street adjacent to Lot 18, Block 7, Brighton Gardens Second Division, described above, and as more particularly described on Public Document No. 95-0117-09.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 95-0042 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

parcels now withheld from sale in conservation:

<u>FILE NO.</u>	<u>APPLICANT</u>	<u>LEGAL DESCRIPTION</u>	<u>LOCATION</u>
94160	Patricia Albertson	Lot 28, Block 8 Clague and Prindle Addition (540-2400)	east side of Triggs b/w Hovita and Davis Streets (Lower Kenwood)
94176	Chris Tuominen	Lot 28 & 30 (540-2400, 2420) Block 8, Clague & Prindle Addition	east side of Triggs Avenue North of Davis Street (Lower Kenwood)
94202	Kevin Lammi	Lot 11, Block 27, Gary 1st Division (10-1800-6300)	east side of Commonwealth b/w Dickson & Gary Street (Gary-New Duluth)
94203	Tracy Grandi	Minnewakan Addition Lots 1-4, Block 1-4 (10-3210-1150, 1160, 1170, 1180)	east side of McLeod, 88th Avenue West b/w Swenson & Beaudry Streets
94205	St. Louis County	Greysolon Garms, 1st Division, Block 4, Lots 9-13, (10-2010-940-950-960-970-980)	west side of Vermillion Road b/w Pleasant View and Elk Street
94206	Linda Laliberte	Lot 8, Block 190 West Duluth 7th Division (10-4530-3930)	west side of 52nd Avenue West b/w Ramsey and Wadena Streets (West Duluth Ramsey)
94207	Lance Johnson	Lot 11, Block 190 West Duluth 7th Division (10-4530-3930)	west side of 52nd Avenue West b/w Ramsey and Wadena Street (West Duluth-Ramsey)
94218	Nathan Norman	Lot 17, Block 6 Edgebrook Division (10-1390-1120)	east side of 54th Avenue East b/w Ivanhoe and Norman Streets (Lester Park)

Resolution 95-0043 was unanimously adopted.
 Approved January 17, 1995
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an easement legally described as:

Alley abutting upon the following described property:

Lots 2, 4, 6, 8, 10, 12, 14 and 16, West Fourth Street, Duluth Proper, First Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Lots 1, 3, 5, 7, 9, 11, 13 and 15, West Third Street, Duluth Proper, First Division; and WHEREAS, the city planning commission approved unanimously the vacation petition at its December 13, 1994 meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the alley easement described above, and as more particularly described on Public Document No. 95-0117-10.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 95-0045 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, certain areas of the city of Duluth, Minnesota, are subject to periodic flooding causing serious damage to properties within these areas; and

WHEREAS, financial relief is available to the residents of this city through the sale of flood insurance as authorized by the National Flood Insurance Program (NFIP); and

WHEREAS, most forms of federally insured and financed loans, grants and disaster assistance within 100-year floodplain areas are now contingent upon the purchase of flood insurance;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth hereby:

(a) Will take advantage of opportunities to inform its residents of the location and extent of flood-prone areas within the community;

(b) Is supportive of the Detroit District of the U.S. Army Corps of Engineers to place floodplain markers at no cost to the city on permanent structures indicating the approximate height of the 100 year flood for various locations within the city;

(c) Desires these floodplain markers to be placed at the locations specified on Attachment A (Public Document No. 95-0117-18) to this resolution.

Resolution 95-0046 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Minnesota Power be and hereby is awarded a contract for the installation of a 2000 KW generator for the Duluth Entertainment Convention Center in accordance with specifications on its proposal of \$82,000, terms net, FOB job site, payable out of DECC Improvement Fund 470, Dept./Agency 570, Object 5520.

Resolution 95-0014 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the city is hereby authorized to pay \$10,000 to the John Beargrease Sled Dog Marathon, Inc., which donation shall be payable from Fund 258 - donations.

Resolution 95-0020 was unanimously adopted.

Approved January 17, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Salo Engineering, Inc., for the sum of \$2,480, from Capital Fund 450, Object C404, for providing certain topographic surveying services to the city of Duluth in connection with the city soccer complex, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0117-11.

Resolution 95-0026 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that pursuant to the provisions of Section 35-11(c) of the Duluth City Code, 1959, as amended, the following rates are hereby set for admission at the Lake Superior Zoological Gardens located in Fairmont Park:

	<u>12 years or older</u>	<u>4-11 years old</u>	<u>0-3 years old</u>
April 1 - October 31	regular - \$3.72 group - \$3.27	\$1.86 \$1.40	free free
November 1 - March 31	regular - \$1.86 group - \$1.40	\$.93 \$.47	free free

(a) Group rates are available only to groups of 10 or more people who have made prior arrangements for a group zoo tour and where one payment is made for the entire block of tickets;

(b) Groups of school children on school sponsored zoo tours shall be admitted at a rate of \$.93 per child during the months of September through June;

(c) Admission to the zoo on the first Tuesday of each month will be free from opening time until 11:00 a.m.;

(d) Groups of persons with bona fide special needs or disabilities may apply to the Director of the Zoo for a special rate of \$.93 per person;

(e) Special discounts for promotional, marketing and public relations purposes and for special events held at the zoo may be granted by the director of the zoo, but only after approval by the board of directors of the Arrowhead Zoological Society.

RESOLVED FURTHER, that all former zoo admission rates inconsistent with this resolution are repealed and, as set forth in Ordinance 9017, this resolution shall have the effect of repealing subsections (a) and (b) of Section 35-11 of the Duluth City Code, 1959, as amended.

Resolution 95-0034 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, that proper city officials are hereby authorized to accept \$27,915 in Juvenile Justice and Delinquency Prevention (Title V) funds from the Minnesota department of economic security for the period January 1, 1995, through December 30, 1995. Funds will provide Dropout

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Recovery Program services and curfew enforcement/underage alcohol abuse prevention services. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 95-0117-12.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited to Fund #268, Budget Item 6240.

Resolution 95-0028 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Abstention: Councilor Hardesty -- 1

Approved January 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, that proper city officials are hereby authorized to amend City Contract #16943 with the state of Minnesota extending the contract date to June 30, 1995, and accepting an additional \$2,625 for a total grant amount of \$18,625. In all other aspects this contract shall remain the same. A copy of this modification shall be on file in the city clerk's office as Public Document. No. 95-0117-13.

FURTHER RESOLVED, that monies received shall be deposited in and costs incurred shall continue to be charged to Fund #268, Budget Item 6224.

Resolution 95-0029 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, by Resolution 94-1100, the city council authorized execution of an agreement with Canosia Township relating to construction of an access road from Martin Road to the Northwest Airlines facility at the Duluth airport; and

WHEREAS, before it enters into this agreement, Canosia Township would like a commitment from the city council that the city will not annex property adjacent to the proposed access road lying in Canosia Township; and

WHEREAS, the city council cannot legally bind itself to not exercise its legislative authority to annex this property in the future, but the present city council can indicate its intention not to vote for such an annexation;

NOW, THEREFORE, BE IT RESOLVED, that if Canosia Township enters into and performs the agreement approved by Resolution 94-1100, the present Duluth City Council hereby states its intent to not annex the property adjacent to the proposed access road lying in Canosia Township.

Resolution 95-0044 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to execute a 25 year license to cross protected waters with the Minnesota department of natural resources, said license to be substantially in the form of that certain document on file in the office of the city clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Document No. 95-0117-14; the \$192 fee for the term of this license to be paid from the public utility gas fund.

Resolution 95-0006 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, the city of Duluth desires to complete the rehabilitation of the Tischer Creek Pipe Bridge located at East First Street and North 33rd Avenue East; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering design services required to complete the rehabilitation of the bridge; and

WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$7,050, will be payable from the Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0009 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Uniform Connection, Inc., be and hereby is awarded a contract for furnishing and delivering uniforms for the water and gas department, library department and Duluth zoo in accordance with specifications on its low specification bid of \$27,371.25, terms net 30, FOB destination, \$9,500 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5218; \$15,871.25 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5218; \$500 payable out of General Fund 100, Dept./Agency 300, Organization 1703, Object 5218 and \$1,500 payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5218.

Resolution 95-0035 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Radix Corporation be and hereby is awarded a contract for furnishing annual maintenance for hand-held meter reading equipment and the annual software license for the water and gas department and sewer division in accordance with specifications on its low specification bid of \$5,760, terms net 30, FOB destination, \$1,920 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5404; \$1,920 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5404 and \$1,920 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0515, Object 5404.

Resolution 95-0036 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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BY COUNCILOR DAHLBERG:

WHEREAS, the proper city officers are hereby authorized to execute an agreement with the Duluth Community Action Program, Inc. (CAP), under which CAP would administer an emergency energy assistance program using \$16,086 in funds that the city will receive from the Ordean Foundation for such purpose, which agreement is on file in the office of the city clerk as Public Document No. 95-0117-15; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020.

Resolution 95-0047 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, the proper city officers are hereby authorized to execute an agreement with Northern Energetics for professional services relating to energy audits of 500 single and multi family homes during 1995, which agreement is on file in the office of the city clerk as Public Document No. 95-0117-16; payment not to exceed \$25,000, payable from the Public Utility Gas Fund 556/Dept. 950/Obj. 5441.

Resolution 95-0048 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of a six inch watermain in Yosemite Avenue between Walnut Street and North Street for the water and gas department in accordance with specifications on its low specification bid of \$22,390, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0050 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Commercial Electric Company be and hereby is awarded a contract for furnishing annual emergency electrical services for the Duluth Steam Cooperative, water division and sewer division in accordance with specifications estimated to total of \$10,400, terms net 30, FOB job sites, \$500 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5400; \$4,400 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0550, Object 5404; \$4,750 payable out of Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5220 and \$750 payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 95-0052 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that The Henry Pratt Company be and hereby is awarded a contract for the repair of a 16 inch motorized ball valve for the water and gas department in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

specifications on its low specification bid of \$6,461, terms net, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 95-0059 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED, by the city council of the city of Duluth, that First Avenue West between Third and Fourth Streets is hereby designated as a roadway for two-way traffic, and the one-way up-bound designation established in Section One of Ordinance 7060 effective October 26, 1956, is hereby rescinded as it applied to said one block segment of roadway.

Resolution 95-0001 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a limited use permit with the Minnesota department of transportation covering the use of certain real estate southeast of the intersection of Superior Street and Fifth Avenue East for directional sign purposes for an indefinite period; said agreement to be substantially in the form of that certain document on file with the city clerk as Public Document No. 95-0117-17.

Resolution 95-0005 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering atmospheric tester maintenance and repairs for the sewer division in accordance with specifications on its low specification bid of approximately \$6,100, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5404.

Resolution 95-0010 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for improvements to Fifth Street Alley from 23rd Avenue East to 24th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$39,986.30, terms net, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5271, Object 5530.

Resolution 95-0033 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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Resolutions 95-0040, adjusting the customer charge and user charges for the city's wastewater facilities; 95-0062, accepting and responding to the report of the citizens task force

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

on inflow and infiltration dated December 15, 1994, and Resolution 95-0063, requesting that the administration study and make recommendations with respect to the establishment of a storm sewer utility, by Councilor Talarico, were introduced for discussion.

Frank Nichols, member of Blue Heron Beaver Project and member of Old Downtown steering committee, felt disconnecting roof drains from downtown buildings could become quite expensive and could prove detrimental to some businesses. He offered alternative solutions to the inflow and infiltration problem and described how sewage problems are handled in other cities.

Ed Oja congratulated the I&I task force for its good work and commented on its report.

Tom Paradise requested a report to the citizens of Duluth about the information exchanged between Dr. Gearheart and the various principal parties, and said it should be expected that the citizens of Duluth look closely at the \$89 million proposal to reconstruct 80 percent of the Duluth sewer system.

Councilor Bohlmann questioned if the council is getting the right information on this issue, saying she does not feel it is fair for the taxpayers to pay for all of the costs involved.

Councilor Talarico moved to table Resolutions 95-0040, 95-0062 and 95-0063 for further information, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a conversion and/or reconstruction of four sanitary sewer lift stations; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to complete the reconstruction of the lift stations; and

WHEREAS, R.R.E.M., Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with R.R.E.M., Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$26,638, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5532.

Resolution 95-0054 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Larson Chevrolet be and hereby is awarded a contract for furnishing and delivering one truck cab & chassis and one van for the sewer division and fleet services division in accordance with specifications on its low specification bid of \$45,143, terms net, FOB destination, \$23,249 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580 and \$21,894 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E501.

Resolution 95-0056 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR TALARICO:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering one truck cab & chassis for the sewer division in accordance with specifications on its low specification bid of \$19,317, terms net, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0057 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that LeTourneau and Sons, Inc., be and hereby is awarded a contract for the demolition and proper disposal of debris of 21 condemned structures for the building inspection division in accordance with specifications on its low specification bid of \$45,450, terms net, FOB job sites, payable out of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 95-0015 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the Duluth fire department is hereby authorized on behalf of the city to submit a grant proposal to the Minnesota department of public safety, state fire marshal division, division of emergency management, to establish a regional hazardous materials emergency response/chemical assessment team.

RESOLVED FURTHER, that the Duluth fire chief is hereby designated as the person authorized to administer, on behalf of the city, any contract which may result from submittal of such grant proposal.

Resolution 95-0023 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute Amendment No. 1 to Grant Agreement No. 07-20069850-01 with the state of Minnesota, department of public safety, division of emergency management, under which the city will receive \$1,093.20 to reimburse it for costs incurred in conducting emergency exercises in 1994.

Resolution 95-0024 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following "no parking" zone is hereby rescinded:

the east side of Eighth Avenue East from First Street to Third Street.

Resolution 95-0025 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Uniform Connection, Inc., be and hereby is awarded a contract for furnishing and delivering uniforms for the police department in accordance with specifications on its low specification bid of \$6,001, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5218.

Resolution 95-0032 was unanimously adopted.

Approved January 17, 1995

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR TALARICO

94-0055 - AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTION, AMENDING SECTIONS 24-2, 24-10, 24-12, 24-17, 24-18, 24-21, 24-24 AND 24-25, AND REPEALING ARTICLE VII OF CHAPTER 24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Talarico moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Talarico moved to amend the ordinance, in Section 24-21, fifth sentence, to read as follows: "No hauler shall charge a rate greater than that computed by multiplying the base rate times the appropriate increment set forth in the rate structure," which motion was seconded and carried upon a unanimous vote.

Councilor Talarico moved to amend the ordinance, in Section 24-12, to insert the sum of "\$700" in the blank for the per annum license fee for each vehicle, which motion was seconded and failed upon the following vote:

Yeas: Councilors Downs, Prettnner, Talarico and Wheeler -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg, Hardesty and President Keenan -- 5

Councilor Dahlberg moved to amend the ordinance, in Section 24-17(c), fifth sentence, to insert the words "in person or by mail" after the word "agreement," which motion was seconded and unanimously carried.

Councilor Downs moved to amend the ordinance, in Section 24-20(a), to add a last sentence as follows: "No collections shall be made on any day before 6 a.m.," which motion was seconded. Councilor Prettnner moved to add as a friendly amendment the words "in residential districts" at the end of that sentence, which motion was seconded and unanimously carried. Councilor Downs' amendment unanimously carried.

Councilor Talarico moved to retable the ordinance, which motion was seconded and unanimously carried.

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The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-002 - AN ORDINANCE AMENDING THE 1995 BUDGET ORDINANCE, NO. 9228-SECTION 3, RELATING TO TRANSFER AUTHORITY.

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BY COUNCILOR PRETTNER

95-001 - AN ORDINANCE AMENDING THE PENALTY PROVISIONS FOR ZONING VIOLATIONS; INCREASING THE MAXIMUM FINE FROM \$300 TO \$700 AND ELIMINATING PENALTIES OF INCARCERATION; AMENDING SECTION 50-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- - -

Councilor Atkins moved to remove from the table Resolution 95-0067(b), by Councilor Downs, approving the issuance of lawful gambling premises permits (Hermantown Hockey and CLIMB Theatre, Inc.), which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Hardesty -- 1

Councilor Atkins questioned the legality of the council tabling this resolution earlier this evening. He said the gambling ordinance does not address the issue of licensing organizations from outside of Duluth, but it does require that 60% of the organization's proceeds be spent in the trade area.

City Attorney Dinan stated that he does not feel that a court would uphold as a rational basis denial of a premises permit simply because an organization does not have a place of business in Duluth.

Councilor Prettner noted that at the time that she voted on the license issue she indicated that she would be voting against premises permits for these two organizations.

Councilor Talarico moved to retable the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Downs, Hardesty, Talarico and Wheeler -- 5

Nays: Councilors Atkins, Dahlberg, Prettner and President Keenan -- 4

- - -

The meeting was adjourned at 11:30 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 23, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0123-03 Minnesota pollution control agency submitting Permit No. 19494 for construction and operation of a sanitary sewer extension system located in Bayfont Landing. -- Sewer division

95-0123-13 Bob Baldwin submitting letter regarding his support of a Human Rights Task Force. -- Received

95-0123-01 (a) John W. DeRosier; (b) Tom and Elaine Gemuenden; (c) Leverett Hoag submitting letters regarding proposed garbage collection and rates. -- Received

95-0123-09 The Head of the Lakes Waste Association submitting communication regarding reconsideration of the amended proposed rate structure for solid waste (94-1051R, 94-1052R and 94-0055 O). -- Received

95-0123-07 John S. Omundson, for Piedmont Heights Hockey Association submitting letter regarding bingo hall licenses (95-0067R(b)). -- Received

95-0123-04 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Heidi Hennemuth on February 11, 1995; (b) Summit School on February 25, 1995. -- Received

95-0123-02 Andy Strommen submitting letter regarding increase in city taxes. -- Received

95-0123-08 Jeffrey L. Thompson submitting letter regarding vacation of Selkirk Street through to Gearhart Street (95-0082R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0123-05 Duluth transit authority: (a) Minutes of December 28, 1994 meeting; (b) Financial statement for November 1994. -- Received

95-0123-06 Duluth SRO housing commission minutes of November 9, 1994 meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price presented a draft resolution supporting the declassification and removal of the barrels in Lake Superior. Mr. Price reviewed at length his intent to present this for the council's consideration and input, and said he hopes that it can be combined with the city of Superior's resolution to the proper governmental bodies.

- - -

RESOLUTION TABLED

Councilor Downs moved to remove from the table Resolution 95-0067(b), approving the issuance of lawful gambling premises permits, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Charlotte Kerelko stated her support for the resolution, noting that she is a social worker in the school system, and has worked with CLIMB Theatre. She felt that CLIMB'S programs are very effective in teaching self-esteem, respect and problem solving, and that when kids hear, see and actually act out situations, they are remembered.

Councilor Wheeler noted his concern is with the problem of an increasing amount of gambling activity and having programs against addictive behavior being funded by gambling proceeds, that is, there's a dependence for funding from lawful gambling to sustain programs.

Karen Wirkus, gambling manager for CLIMB Theatre, pointed out that there is such a thing as socially acceptable gambling as there is socially acceptable consumption of alcohol. She noted that their programs are directed to the addictive habits.

John McGovern, Hermantown Hockey, spoke in support of the resolution. To Councilor Talarico's questions, Mr. McGovern answered that the funds that have been generated in the Hermantown trade area are spent in Hermantown.

Assistant City Attorney Smedberg referenced his memo and answered councilor questions. He noted that the council can request that 100% of the profits be spent in the "trade area" but, by statutory definition, that includes the city of Duluth and all adjoining communities. To councilors' questions, he stated that he questions the legality of a Hermantown regulation that all funds be spent in Hermantown only.

John Vaydich, gambling manager of the Duluth Superior Softball Players Association (DSPA), spoke in support of the resolution. Mr. Vaydich reviewed at length the history of DSPA, including its involvement, initial sponsorship and monetary contributions to assist compulsive gambling programs in Duluth. He noted expertise is needed for anyone going into a new venture and a bingo hall is no different and that's where CLIMB Theatre's expertise comes into place. Mr. Vaydich noted the financial start-up of a bingo hall is not a one-charity project and that's why these four organizations are needed to get it off the ground and that there are not that many organizations that could adequately cover that. Mr. Vaydich stated that this is a non-profit operation and profits go to charities in the Duluth trade area. He noted to Councilor Atkins that other organizations have not expressed an interest to be participants of this project. In response to councilors, Mr. Vaydich reviewed at length the growth of DSPA funds from lawful gambling and that approximately 65% of their gross receipts come from lawful gambling. He added that bingo is the oldest form of gambling and thus is not an increase in the variety of gambling aspects, and he felt that all raffles and gambling operations need to be treated the same way.

Ron Jordan, building owner of the bingo hall, voiced support for the resolution. Mr. Jordan noted that the council has approved the bingo hall and two of four premises permits already, and that if the council wants to address the overall aspects of lawful gambling in the community, they can do that in the future.

Councilor Atkins noted that the city has already had a relationship with gambling through Fond-du-Luth and should support this resolution.

Resolution 95-0067(b) was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1. Hermantown Hockey	2224 West Superior Street	January 3, 1995
2. CLIMB Theatre, Inc.	2224 West Superior Street	January 3, 1995

Resolution 95-0067(b) was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilors Bohlmann and Wheeler -- 2

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

At this time, 8:00 p.m., President Keenan called the public hearing on solid waste to order (Public Document No. 95-0123-14).

- - -

At this time, 9:15 p.m., President Keenan adjourned the public hearing and the regular order of business was resumed.

- - -

UNFINISHED BUSINESS

Resolution 95-0065, by Councilor Prettner, authorizing home program loan agreement with Artspace Projects for the Washington School project in the amount of \$100,000, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Davy Jones expressed concern over some of the construction aspects of the Washington School project.

Resolution 95-0065 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME Program loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0123-10, with Artspace Projects, Inc., for the Washington Junior High School Project in the amount of not to exceed \$100,000, payable from Fund 260, Agency 020, Organization 2621, Object H003.

Resolution 95-0065 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0066, by Councilor Prettner, authorizing CHDO operating grant agreement with Northern Community's Land Trust in the amount of \$10,000, was introduced for discussion.

Councilor Dahlberg moved to table the resolution for further community review, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Wheeler and President Keenan -- 8

Nays: Councilor Talarico -- 1

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the city is hereby authorized to contract with Gamblers' Intervention Services for the operation of the Low Income Outreach Compulsive Gambling Program during

1995, at a cost to the city of \$25,000, which shall be payable from Fund 255.

Resolution 95-0068 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, proper city officials are hereby authorized to modify City Contract #17159 with St. Louis County. Modification is needed to accept an additional \$90,192 in funds under the Minnesota STRIDE Program case management services and employment and training block grant services and actual allowable expenses for the Community Work Experience Program at costs not to exceed \$623,908. All other parts of City Contract #17159 remain unchanged. A copy of this modification shall be on file with the city clerk's office as Public Document No. 95-0123-11.

RESOLVED FURTHER, that monies received under this agreement will continue to be deposited to Fund #269, Budget Items 6268, 6269, and 6270.

Resolution 95-0061 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to January 23, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR WHEELER

95-0089R - RESOLUTION GRANTING \$6,000 TO THE YOUTH BASKETBALL ASSOCIATION TO ASSIST WITH THE COST OF OPERATING THE YOUTH BASKETBALL PROGRAM DURING THE 1994-95 SCHOOL YEAR.

- - -

BY COUNCILOR TALARICO

95-0081R - RESOLUTION APPROVING SETTLEMENT OF CLAIM OF LYLE R. AND ROBERTA J. RONNING.

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 105,000 gallons of various fuels for a one year period for the various departments and divisions in accordance with specifications on its low specification bid of approximately \$94,038.50, terms net 30, FOB job site, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0076 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Hi-Way sand spreader and Elgin sweeper as needed during 1995 for the fleet services division, for an estimated total of \$15,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0078 was unanimously adopted.
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Maney International be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for International trucks as needed during 1995 for the fleet services division, for an estimated total of \$24,000, terms net 30, FOB shipping point, \$22,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$2,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 95-0079 was unanimously adopted.
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Network Services, Inc., be and hereby is awarded a contract for furnishing and delivering paper products, ordered as needed during a 12-month period (approximately \$6,700) for the various departments and divisions in accordance with specifications and referencing state of Minnesota Contract M-8529, release P-661 pricing, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0085 was unanimously adopted.
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that B. Miller Products, Inc., be and hereby is awarded a contract for furnishing and delivering janitorial supplies for the various departments and divisions in accordance with specifications on its low specification bid of \$22,900, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0086 was unanimously adopted.
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that A & E Business Products, Inc., be and hereby is awarded a contract for furnishing and delivering office supplies for the various departments and divisions in accordance with specifications on its low specification bid of approximately \$57,700, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0087 was unanimously adopted.
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the city is hereby authorized to sponsor an internship for Heili Nigulas, a citizen of Estonia, in connection with the Baltic Municipal Internship Program, which internship

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

shall be for an eight week period beginning on January 27, 1995, at a cost to the city of \$1,600, which shall be payable from the General Fund 015-1510-5310.

Resolution 95-0098 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

Resolutions 95-0070, confirming appointment of Richard Lepak to board of zoning appeals replacing Jon Nylander; 95-0071, confirming appointment of Walter Cressman replacing Eric Hylden and reappointments of Carol Bailey, Eric Kaiser and Joseph Leek to the park and recreation board; 95-0072, confirming appointments of Donn Larson and Michael Lang replacing John Carlson and Richard Pearson and reappointment of Stanley Gershgol to planning commission; 95-0073, confirming appointment of Robert Baeumler to technical design advisory committee for the Downtown Waterfront Mixed-Use Design Review District replacing Cindy Martins, and 95-0088, confirming appointment of Richard Pearson to the Duluth state convention center administrative board replacing Ada Scott, by Councilor Bohlmann, were introduced for discussion.

Councilor Bohlmann moved to table the resolutions for interviews, which motion was seconded and unanimously carried.

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

WOMEN'S COMMISSION

Susan Coultrap-McQuin for a term expiring September 17, 1997, replacing Ruth Cary.

Sharon Sanders for a term expiring September 17, 1997, replacing Sister Timothy Kirby.

Judith A. Trolander for a term expiring September 17, 1997, replacing Mary A. Lucas Houx.

Mary T. Vandecar for a term expiring September 17, 1995, replacing Susan Cruz, who resigned.

Resolution 95-0074 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed specifications for the new civil service classification of parking ramp attendant, which were approved by the civil service board on October 4, 1994, and which are filed with the city clerk as Public Document No. 95-0123-12, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be Range 14 (\$936-\$1,075).

Resolution 95-0099 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0082, by Councilor Prettner, denying the vacation of a portion of Selkirk Street between Tyrol Street and Gearhart Street (Thompson), was introduced for discussion.

Councilor Prettner moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0110, by President Keenan, et al., establishing a human rights task force, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Scott Fennel voiced support for the resolution and suggested that the task force have a diverse representation and clear responsibility of duties.

Councilor Dahlberg suggested an amendment that the task force not only study the benefits but come back with a draft ordinance as a recommendation.

Councilor Bohlmann stated that she doesn't feel that task force is needed because there is a state human rights commission and that would be a duplication of responsibilities.

Resolution 95-0110 was adopted as follows:

BY COUNCILORS KEENAN, TALARICO, PRETTNER, WHEELER AND HARDESTY:

WHEREAS, the prevention of discrimination and the protection of human rights is in the interest of every Duluth citizen; and

WHEREAS, the city council and the mayor and his administration act to assure the protection of citizens' rights consistent with the provisions of the Minnesota Human Rights Act (Minnesota Statutes Chapter 363);

NOW, THEREFORE, BE IT RESOLVED, that the city council and the mayor hereby establish a 15 member representative task force to determine the extent of the benefit to the citizens of the city of Duluth by the establishment of a human rights commission.

Resolution 95-0110 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Specialized Haulers, Inc., be and hereby is awarded a contract for furnishing ash hauling services from the Duluth Steam Plant at One Lake Place Drive to the WLSSD Rice Lake facility for the Duluth Steam Cooperative Association in accordance with specifications on its low specification bid estimated at \$17,640 (based on a unit price of \$140 per load), terms net 30, FOB job site, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5388.

Resolution 95-0080 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by Resolution 94-0998 the council requested that the commissioner of transportation grant the city of Duluth a design variance on the proposed reconstruction of Bridge No. 69614 on Skyline Parkway over Chester Creek, allowing a reduction of the urban state aid standards for the bridge approaches from the required 30 mph design to a 20 mph design; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rule 8820.9935 so as to allow a 20 mph design speed in lieu of the required 30 mph design speed, conditioned upon receipt by the commissioner of a resolution of the city council indemnifying the state for the granting of said variance;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of action arising out of or by reason of, the replacement of Bridge No. 69614 on Skyline Parkway (Municipal State Aid Street No. 179), between a point approximately 1.28 and 1.31 miles north of the junction of Trunk Highway No. 194 in the city of Duluth in any other manner than in accordance with Minnesota Rules 8820.9935 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of this variance.

Resolution 95-0090 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Masys Corporation be and hereby is awarded a contract for furnishing computer hardware and software maintenance during 1995 for the police department in accordance with specifications on its proposal of \$21,048, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 95-0077 was unanimously adopted.

Approved January 23, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-004 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 29 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-4 APARTMENT RESIDENTIAL TO C-4 CENTRAL BUSINESS, PROPERTY LOCATED BELOW THIRD STREET BETWEEN THIRD AND FOURTH AVENUES WEST (HANSEN).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

95-002 (9230) - AN ORDINANCE AMENDING THE 1995 BUDGET ORDINANCE, NO. 9228-SECTION THREE, RELATING TO TRANSFER AUTHORITY.

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

- - -

BY COUNCILOR PRETTNER

95-001 (9231) - AN ORDINANCE AMENDING THE PENALTY PROVISIONS FOR ZONING VIOLATIONS; INCREASING THE MAXIMUM FINE FROM \$300 TO \$700 AND ELIMINATING PENALTIES OF INCARCERATION; AMENDING SECTION 50-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 10:25 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9230

BY COUNCILOR WHEELER:

AN ORDINANCE AMENDING THE 1995 BUDGET ORDINANCE, NO. 9228-SECTION THREE RELATING TO TRANSFER AUTHORITY.

The city of Duluth does ordain:

Section 1. That Ord. No. 9228, Sec. 3 is amended as follows:

Section 3. That the mayor, the administrative assistant or the director of administrative services may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 1995. 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 this 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 010 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 in the sewer division, and 540 in the steam division.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 12, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed January 23, 1995

Approved January 23, 1995

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9231

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING THE PENALTY PROVISIONS FOR ZONING VIOLATIONS; INCREASING THE MAXIMUM FINE FROM \$300 TO \$700 AND ELIMINATING PENALTIES OF INCARCERATION; AMENDING SECTION 50-19 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 50-19 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-19. Penalties.

Any person violating any of the provisions of this Chapter or failing to comply therewith or building or altering a building in violation of any detailed statement or plan submitted and approved thereunder shall be deemed guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$700. The owner of any building or premise or part thereof, where anything in violation of this Chapter shall be placed or shall exist, and any architect, builder, contractor, agent or other person employed therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense. Each day's

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

violation existing in excess of 30 days after notification shall constitute a separate offense.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 5, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 23, 1995
Approved January 23, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, January 26, 1995, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Dahlberg -- 1

- - -

MOTIONS AND RESOLUTIONS

Resolution 95-0115, by Councilor Wheeler, providing for the issuance, sale and delivery of \$4,785,000 general obligation tax anticipation certificates of indebtedness of 1995 of the city of Duluth, Minnesota, and prescribing the terms thereof; creating a debt service fund therefor; and awarding the sale thereof, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Wayne Burgraff, representing Evensen Dodge, Financial Consultants, reviewed the bids received on this issue. He stated that the 4.9% interest rate is a very good, low rate and compares favorably to similar financing issues. He further noted the history of the firm that was the low bidder in that it was new to some of the councilors.

Robert Toftey, bond counsel, reviewed for Councilor Bohlmann that the city is borrowing only against the amount that is levied by property taxes and not against funds that come to the city from tax credits or aids.

Councilor Bohlmann stated that she felt the \$6 million received from the casino should have stayed in the general fund and therefore the city would not have to borrow in this case.

Resolution 95-0115 was adopted as follows:

BY COUNCILOR WHEELER:

BE IT RESOLVED by the City Council (the "City Council") of the City of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Pursuant to authority contained in Section 59 of the City Charter, Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue and sell general obligation tax anticipation certificates of indebtedness in anticipation of collection of taxes. The City Council has, by Ordinance No. 9229, adopted December 19, 1994, ordered the issuance, sale and delivery of \$4,785,000 General Obligation Tax Anticipation Certificates of Indebtedness of 1995 (the "Certificates") in anticipation of collection of taxes levied in the year 1994 for collection during the year 1995 (the "Taxes"), which is necessary for timely payment of anticipated expenditures from the City's general fund (including the levy for transit operations) (the "Fund").

Section 2. Pursuant to Minnesota Statutes, Section 475.60, Subdivision 2(9), the City Council has retained an independent financial advisor, has solicited proposals for the sale of the \$4,785,000 General Obligation Tax Anticipation Certificates of Indebtedness of 1995, dated February 8, 1995, and has received an offer from A.H. Williams & Co., Inc., of Philadelphia, Pennsylvania, (the "Purchaser"), to purchase the Certificates at a cash price of \$4,788,733 plus accrued interest on the total principal amount from February 8, 1995, to the date of delivery and upon the terms and conditions hereafter specified in this Resolution. The City Council, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are hereby authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's proposal, and to acknowledge receipt of the check given as security for the proposal.

Section 3. The City Council hereby declares that the full faith and credit and taxing power

of the City and the receipt of the General Fund Taxes (as hereinafter defined), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due.

Section 4. The Certificates to be issued hereunder shall be dated February 8, 1995, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 29, 1995 (the "Maturity Date"). The Certificates shall not be subject to redemption prior to the Maturity Date. The Certificates shall bear interest at the rate of 5.00 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 365-day year. The Bond Registrar designated below shall make the interest payment with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on December 14, 1995, whether or not a business day, at such owners' addresses shown on such bond registration records. Principal of each Certificate shall be payable in accordance with and on presentation and surrender of the Certificate to the Bond Registrar.

Section 5. The City Council hereby appoints Norwest Bank Minnesota, National Association of Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Certificates (such bank or its successor thereof is herein referred to as the "Bond Registrar"). No Certificate shall be valid or obligatory for any purpose unless or until the Bond Registrar's authentication certificate on such Certificate, substantially as set forth in Section 13 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

Section 6. A. In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds to the account of Cede & Co. on the Maturity Date at the address indicated in or pursuant to Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates. The Bond Registrar is hereby authorized and requested to execute the same and shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

Section 7. A. The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of such successor Bond Registrar as may be appointed by the

City Council.

B. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of a like aggregate principal amount, as requested by the transferor.

C. At the option of the registered owners, the Certificates may be exchanged for other Certificates of any authorized denomination, of a like aggregate principal amount, upon surrender of the Certificates to be exchanged at the principal corporate office of the Bond Registrar. Whenever any Certificates are so surrendered for exchange, the City shall execute and the Bond Registrar shall authenticate and deliver the Certificates which the registered owner making the exchange is entitled to receive.

D. All Certificates surrendered upon the exchange provided for in this Resolution shall be promptly canceled by the Bond Registrar and thereafter disposed of as directed by the City.

E. All Certificates issued in exchange for or upon transfer of the Certificates shall be valid obligations of the City evidencing the same debt and entitled to the same benefits under this Resolution as the Certificates surrendered for such exchange or transfer.

F. Every Certificate presented for a transfer or exchange shall (if so required by the City or the Bond Registrar) be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the City and the Bond Registrar, duly executed by the registered owner thereof or the owner's attorney duly authorized in writing.

G. The City may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of the Certificates, other than exchange which is expressly provided in this Resolution to be made without expense or without charge to the registered owner.

Section 8. Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. The City and the Bond Registrar shall not be required to make any transfer or exchange during the 15 days next preceding the Maturity Date. Each Certificate shall be dated the date of original issue and the Bond Registrar shall set forth the date of authentication on each Certificate.

Section 9. The City and the Bond Registrar may treat the person in whose name any Certificate is registered as the owner of such Certificate for the purpose of receiving payment of principal of and interest on such Certificate and for all other purposes whatsoever, whether or not such Certificate be overdue, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

Section 10. The principal of and interest on the Certificates shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 11. Delivery of the Certificates and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Certificates shall be furnished by the City without cost to the Purchaser on the date of settlement. The Certificates, when sold, prepared and executed in accordance with this Resolution, shall be delivered by or under the direction of the Treasurer of the City Council to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 12. The Certificates shall be prepared for execution in accordance with the form herein approved and shall be signed by the manual signature of the Mayor and attested by the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

manual signature of the City Clerk. If the legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. is not manually signed, the certificate as to legal opinion on each Certificate shall be executed by the manual signature of the City Clerk. In case any officer whose signature shall appear on the Certificates ceases to be an officer before delivery of the Certificates, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

Section 13. The Certificates to be issued hereunder shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION TAX ANTICIPATION CERTIFICATE
OF INDEBTEDNESS OF 1995

R-1 \$4,785,000

<u>Maturity</u> <u>Interest Rate</u>	<u>Date of</u> <u>Date</u>	<u>Original Issue</u>	<u>CUSIP</u>
_____%	December 29, 1995	February 8, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: FOUR MILLION SEVEN HUNDRED
EIGHTY-FIVE THOUSAND DOLLARS

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 365-day year. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records

maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day prior to the maturity date set forth above, whether or not a business day, at such owner's address shown on said bond registration records. Payment of principal of the Certificates shall be made to the registered owner upon presentation and surrender of this Certificate to the Bond Registrar when due.

This Certificate is issued by the City in the aggregate amount of \$4,785,000, pursuant to the authority contained in Ordinance No. 9229, adopted December 19, 1994, Section 59 of the City Charter, Chapter 475 of Minnesota Statutes, and all other laws and charter provisions thereunto enabling, and pursuant to Resolution No. 95-0115 adopted by the City Council of the City on January 26, 1995 (the "Resolution").

It is hereby certified and recited that a sum of \$5,987,247 was the amount embraced in the tax levies for the general fund (including the levy for transit operations) (the "Fund") of the City levied in the year 1994 for collection during the year 1995, and that none of said amount has at this time been collected and credited to the City's Fund; that heretofore no tax anticipation certificates have been issued against said levies for such Fund; and that this Certificate is issued in anticipation of collection of said taxes.

This Certificate constitutes a general obligation of the City, and the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged to provide monies for the prompt and full payment of principal and interest when due. This Certificate is payable from a special debt service fund of the City established for payment of the Certificates by the Resolution, to which reference is made for a full statement of rights and powers thereby conferred.

The Certificates of this series are issued as fully registered certificates without coupons, in the denomination of \$5,000 each, or any integral multiple thereof. Subject to limitations set forth in the Resolution, the City will, at the request of the registered owner, issue one or more new fully registered certificates in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of this Certificate, and of like tenor except as to number and principal amount. Subject to the limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate. No service charge shall be made for any transfer or exchange hereinbefore referred to but the City may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

IT IS FURTHER CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; and this Certificate, together with all other debts of the City outstanding on the date hereof and the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness; that all taxable property within the boundaries of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the Mayor and the City Clerk; and the City has caused this Certificate to be dated the 8th day of February, 1995.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Certificate registered in the name of the owner named above in the principal amount stated above and this Certificate is one of the Certificates of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Minneapolis, Minnesota

By _____
Authorized Representative

(Certificate as to Legal Opinion)

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by Bond Counsel on the issuance of the General Obligation Tax Anticipation Certificates of Indebtedness of 1995, of the City of Duluth which includes the within Certificate, dated as of the original date of delivery of and payment for the Certificates.

City Clerk

REGISTRATION CERTIFICATE

This Certificate must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Certificate shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Certificate and the interest accruing thereon is registered on the books of Norwest Bank Minnesota, National Association in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
2/8/95	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____

(Name and Address of Assignee)

Social Security or other
Identifying Number of
Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 14. A. The Treasurer shall credit \$4,785,000, less amounts used to pay a part of the interest cost of the Certificates as allowed by Minnesota Statutes, Section 475.56, from the proceeds of the sale of the Certificates to the General Fund maintained under Section 54 of the City Charter. A special account is hereby created in the Debt Service Fund of the City (the "Debt Service Account"), to be used solely for the payment of interest on and the principal of the Certificates when due. The City Treasurer shall credit to the Debt Service Account all proceeds of the Certificates in excess of \$4,785,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the Purchaser.

B. The City Council has appropriated \$200,000 to the Debt Service Account to be utilized in part to pay interest on the Certificates. The City Council hereby certifies that the General Fund Taxes are \$5,987,247 (which includes the levy for transit operations).

C. The City Council hereby declares that the full faith and credit and taxing power of the City and the proceeds of the current tax levies for the General Fund, which include the amounts levied in Sections 2 and 8 of Ordinance No. 9227, adopted by the City Council on December 12, 1994 (the "General Fund Taxes"), to the extent necessary to repay the Certificates, shall be and are hereby at all times irrevocably pledged for the payment of principal and interest on the Certificates when due. If the General Fund Taxes are insufficient to pay all principal and interest on the Certificates when due, the City Treasurer shall, nevertheless, provide sufficient monies from other funds of the City which are available for that purpose, and such other funds shall be reimbursed from said accounts when the balances therein are sufficient. It is recognized that the City's liability on the Certificates is not limited to the collection of said taxes, and the City Council covenants and agrees that it will levy upon all taxable property within the City of Duluth, and cause to be extended, assessed and collected, any additional taxes found necessary for full

payment of the principal and interest, without limitation as to rate or amount.

Section 15. The City Council covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to cause the interest on the Certificates to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

Section 16. The City Clerk is directed to file with the County Auditor of St. Louis County, Minnesota, a certified copy of this Resolution, and such other information as the County Auditor may require, and to obtain from the County Auditor a certificate stating that the Certificates herein authorized have been duly entered on the County Auditor's register.

Section 17. The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the Purchaser of the Certificates and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Certificates and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Certificates as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

Section 18. In the event of the absence or disability of the Mayor, the City Clerk or the Treasurer, such officers or members of the City Council, as in the opinion of the City's attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Certificates, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 95-0115 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

Approved January 26, 1995

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 30, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 8

Absent: Councilor Wheeler -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0130-01 DEDA, et al. (four signatures) petitioning for reclassification from IP to M-1, Block 3, Oneota, First Division. -- Assessor

95-0130-07 (a) Timothy A. Hagley; (b) Dot and Burnett Hojnack; (c) Joseph Hubert submitting letters regarding the closure of Lakeview Drive (94-1073R). -- Received

95-0130-08 Head of the Lakes Waste Association submitting communication regarding proposed rate structure for solid waste. -- Received

- - -

REPORTS OF OFFICERS

95-0130-02 Assessor submitting letter of sufficiency to reclassify Block 3, Oneota, First Division, from its current status of industrial park zoning to manufacturing-1. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0130-03 Board of directors of trust for Miller-Dwan Hospital and Medical Center minutes of December 15, 1994 meeting. -- Received

95-0130-04 Board of zoning appeals minutes of November 22, 1994 meeting. -- Received

95-0130-05 Duluth airport authority minutes of December 20, 1994 meeting. -- Received

95-0130-06 Special assessment board minutes of: (a) December 13, 1994; (b) January 13, 1995 meetings. -- Received

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RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolutions 95-0064, confirming appointment of Robin K. Teller to Spirit Mountain recreation area authority replacing William Burns; Resolution 95-0072, confirming appointments of Donn Larson and Michael Lang replacing John Carlson and Richard Pearson and reappointment of Stanley Gershgol to planning commission; and Resolution 95-0088, confirming appointment of Richard Pearson to the Duluth state convention center administrative board replacing Ada Scott, which motion was seconded and unanimously carried.

Resolutions 95-0064, 95-0072 and 95-0088 were adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Robin K. Teller for the term expiring June 30, 1997, replacing William Burns.

Resolution 95-0064 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments and reappointment by Mayor Doty be and the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

same are hereby confirmed:

PLANNING COMMISSION

Donn Larson for a term expiring December 31, 1998, replacing John Carlson.

Michael Lang for a term expiring December 31, 1998, replacing Richard Pearson.

Stanley Gershgol for a term expiring December 31, 1998.

Resolution 95-0072 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Richard B. Pearson for a term expiring June 30, 1995, replacing Ada Scott, who resigned.

Resolution 95-0088 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

Councilor Prettner moved to remove from the table Resolution 95-0066, authorizing CHDO operating grant agreement with Northern Communities Land Trust in the amount of \$10,000, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Ken Hogg stated that the Central Hillside Community Club and the Central Hillside Neighborhood Coalition have raised a number of questions about the staffing plans for the land trust, that he feels the council was not given all the pertinent information from the community development office and that the councilors need more information in order to vote on this resolution.

Patti Martin stated that she is representing herself on this issue and not the community club. She said the community club, neighborhood coalition, and land trust are meeting in two days to discuss a home ownership grant that has been approved thru the CDBG process. She reviewed that in 1993 the community club, neighborhood coalition, CAP and land trust had a grant approved for \$140,000 for housing in the Central Hillside. She said last August the land trust moved to hire a person who would help with this home ownership program, but found out that everything that person would do is already being provided, so that money is being held until the three groups can meet in two days and decide what to do. She requested that this resolution be tabled until after that meeting.

Councilor Dahlberg urged councilors to table this resolution to prevent duplication of services and creation of a position that may not be needed.

Councilor Prettner spoke in favor of the resolution. She stated that this money was committed by the council last year to the Northern Communities Land Trust, which is a volunteer, nonprofit organization that has put in lots of hard work without staff. She further stated that they have been working with Pam Kramer and the community development office to meet the contract criteria.

Liz Carlson, director of Northern Communities Land Trust, spoke on behalf of the resolution. She stated that the accomplishments made by the land trust are the result of a volunteer board and only recently has there been funds to pay staff. She further stated that in order for the organization to grow and develop housing, they need staff and this resolution would give them money for general operating costs, about 1/3 of which would be used for staff costs.

Councilor Bohlmann questioned if the duties of this organization could be combined with another organization that could assume these responsibilities instead of creating something new and hiring new staff.

Councilor Prettner replied that this is a nonprofit organization that has established itself and competed for and was accepted as a CHDO by HUD. She continued saying that there are lots of housing needs in Duluth and that the land trust is the only organization that deals with the very low income and keeps those homes in conservation for low income families.

Councilor Bohlmann moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico and President Keenan -- 7

Nays: Councilor Prettner -- 1

Absent: Councilor Wheeler -- 1

- - -

Councilor Talarico moved to remove from the table Resolution 94-1051, setting forth the solid waste structure for the city of Duluth and Resolution 94-1052, establishing solid waste assessment collection fees, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions.

Lyle Winters stated that a study was done for \$45,000 to hire experts to help the council to determine what the right way to go was, but the council seems to have chosen not to follow that recommendation and will end up with a form of free enterprise. He further stated that this means the garbage haulers will be crossing paths with other haulers in the same neighborhood competing for business, adding more traffic in the neighborhoods, and wearing down the streets. Mr. Winters questioned if the price of garbage removal goes up unjustly, will the councilors change the system to bring the prices back down.

Robert LaFlamme, president of the senior coalition, questioned that if the amount of garbage has gone down and people are recycling, why are the people being punished by acting as a subsidy to the garbage haulers.

George Mikrut spoke in favor of the new proposal of a base rate of 32 gallons.

Norm Mahla spoke as a former member of the solid waste advisory committee and as a member of the senior coalition. He spoke in favor of reinstating the one 20-gallon can per month rate for the people who do not generate much waste.

Jim VanDell questioned the status of the computer system being used to implement the garbage rates and compliance of the ordinance. He also stated that if people are producing less garbage, the haulers should be utilizing smaller trucks and possibly fewer trucks to do the same job.

Administrative Assistant Nollenberger replied that since the garbage license fees did not increase, there would be no money for mandatory enforcement or to purchase the computer system.

Tom Paradice spoke in favor of the city divesting itself of the garbage collection business. He further stated that the market system does work and those systems make it necessary that operations be efficient and cost effective. Mr. Paradice stated that the honest effort the council has made over the last years has proven to be fruitless and he hoped the councilors would quit wasting taxpayers dollars and let the marketplace work. He reviewed that the council is only mandated by the state to ensure that there is a garbage collection service with mandatory pickup and said that he feels those who produce the most waste should pay more.

Davy Jones emphasized that the council is making too many unnecessary rules regulating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the garbage service. His opinion was that there should be an ordinance mandating that property be clear of junk, that all garbage goes in cans, and homeowners take the responsibility to make their own arrangements for who picks up that garbage.

Kyle Backstrom, representing Twin Ports Environmental, questioned whether the new base rate will limit the level of competition in the industry. Mr. Backstrom felt that the marketplace is a better way of handling competition amongst the garbage haulers.

Councilor Dahlberg supported the one 20-gallon can a month rate for individuals living alone, senior citizens, and all low users of garbage, and moved to amend the resolution to allow a once a month 20-gallon can pickup with a 40% base rate. Councilor Dahlberg also stated he does not support the pooling because it would create more confusion with reporting and the one 20-gallon can once a month would be easier to monitor. The amendment was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettnner, Talarico and President Keenan -- 5

Absent: Councilor Wheeler -- 1

Resolution 94-1051 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to the provisions of Section 24-21 of the Duluth City Code, the Duluth City Council hereby sets the rate structure for solid waste collection rates in the city of Duluth as follows:

<u>Service level</u>	<u>Percent of base rate</u>
One, 20-gallon can once every other week	50%
One, 20-gallon can every week	70%
One, 32-gallon can every week-"base rate"	100%
Two, 32-gallon cans every week	135%
Three, 32-gallon cans every week	170%
Each additional 32-gallon can every week	+30%

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Extra solid waste, up to
20 gallons +10%

Resolution 94-1051, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico and President Keenan -- 6

Nays: Councilors Bohlmann and Dahlberg -- 2

Absent: Councilor Wheeler -- 1

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

Regarding Resolution 94-1052, Councilor Talarico stated that the fee being raised in this resolution will be used to cover the expense of producing the assessment lists.

Councilor Atkins questioned if this will reduce the 12-month lag time from when the list of delinquent garbage bills are turned into the city and reimbursement is requested by the haulers and the individual is assessed. Mr. Nollenberger replied that this fee does not change the process.

Councilor Bohlmann stated that if they let the haulers use the free market system, they could do their own collecting of the solid waste fees and the city wouldn't have to collect for them.

Councilor Talarico responded by saying that it used to take 18 months to reimburse the garbage haulers for unpaid bills and that hopefully with the increased fees it will create a better data collection system of unpaid customers. In response to Councilor Bohlmann, he stated that it is not a free enterprise market system because the city mandates garbage collection and the only way the city can enforce that collection is to put it on the assessment rolls.

Resolution 94-1052 was adopted as follows:

BY COUNCILOR TALARICO :

RESOLVED, pursuant to Section 24-25 of the Duluth City Code, the Duluth City Council hereby sets the solid waste collection assessment fee imposed on solid waste collection accounts going through the assessment process at \$25.

Resolution 94-1052 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Wheeler -- 1

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

ORDINANCE TABLED

BY COUNCILOR TALARICO

94-0055 (9233) - AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTION, AMENDING SECTIONS 24-2, 24-10, 24-12, 24-17, 24-18, 24-21, 24-24 AND 24-25, AND REPEALING ARTICLE VII OF CHAPTER 24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Talarico moved to remove the ordinance from the table at this time, which motion was seconded and unanimously carried.

Councilor Talarico urged councilors to support this ordinance as it puts into effect the items that passed in the resolution, such as creating pooling of garbage service under certain circumstances, and it addresses housekeeping issues such as the standard can size. He noted

that since the amendment proposed to change the license fee in Section 24-12 did not pass, the \$200 current license fee will remain in place.

Councilor Atkins moved to amend Section 24-21 of the ordinance to read as follows: "A 32-gallon container is determined to be the base unit size for collection of mixed municipal solid waste from the average small quantity household generator. Each licensed collector of solid waste shall set its own base rate for collection of each such base unit container. Each licensed collector shall establish a multiple unit pricing system which shall be adjusted to ensure that collection of amounts of waste generated in excess of the base unit amount is priced higher than the base unit price established by the licensee. Rate increments shall be adjusted upward to compensate for an increased number of containers collected. All collection rates charged customers shall be computed only by using the base rate increments set forth in the rate structure adopted by the licensed hauler. Licensed haulers shall file their base rates and their rate structure with the city clerk at least 30 days before the rates are to take effect. The base rates set by each collector shall, in all cases, be fair and reasonable, considering the collector's cost of operation, capital investment, and a reasonable rate of return on investment. The cost of operating recycling operations required by this Chapter may be considered in setting base rates."

Councilor Prettner stated that the ordinance lacks any reference to decreasing the rates for those that are below the base rate and only accommodates increasing the rate for those above the base rate.

Councilor Downs questioned what would prevent the haulers from setting rates that are too high.

Councilor Atkins replied that if the prices start to get out of control, the council can amend the ordinance and set the prices.

Councilor Dahlberg voiced support for the amendment, feeling it would not open the haulers up to collusion and would get the government out of the business of setting the rates.

Councilor Bohlmann stated that she is against the ordinance in its entirety as the city has no business guaranteeing a private industry any kind of profit, and she stated that she would support the amendment but would not support the ordinance.

Councilor Hardesty stated that she would not support the amendment as she feels it is not going in the direction of a change from the present system and that the proposed ordinance is working toward a change and it gives an incentive for people to produce less garbage.

The rules were suspended upon a unanimous vote to hear speakers on this ordinance.

Davy Jones spoke in favor of Councilor Atkins' amendment and the concept of the free enterprise system for garbage haulers.

Jim Borash of Thompson Spirit Valley Disposal urged councilors to support the amendment making it a win-win proposition for the haulers and the consumers. He said it would allow the haulers to compete on price and service by removing the city from having to decide what levels of service each hauling company will be required to offer leaving it to each individual company to decide what type of service they can afford to provide.

The amendment was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Nays: Councilors Downs, Hardesty, Prettner and Talarico -- 4

Absent: Councilor Wheeler -- 1

Councilor Talarico moved to call the question on Ordinance 94-0055, which motion was seconded and unanimously carried.

Councilor Talarico moved passage of the ordinance, as amended, and the same was

adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico and President Keenan -- 5

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Absent: Councilor Wheeler -- 1

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Councilor Talarico moved to remove from the table Resolution 94-1073, authorizing the closure of Lakeview Drive at its intersection with Snively Road, which motion was seconded and carried upon a unanimous vote.

Councilor Talarico moved that this resolution be sent back to the administration for an alternative solution, which motion was seconded and unanimously approved.

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Councilor Talarico moved to remove from the table Resolution 95-0040, adjusting the customer charge and user charges for the city's wastewater facilities; Resolution 95-0062, accepting and responding to the report of the citizens task force on inflow and infiltration dated December 15, 1994; and Resolution 95-0063, requesting that the administration study and make recommendations with respect to the establishment of a storm sewer utility, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions.

Mike McDonald informed the council that he recently attended an underground technology conference in Houston that addressed problems similar to the problems Duluth is experiencing. He stated that in most cases, once the excess flow has been eliminated, other cities have been able to make repairs to their systems and pipelines with the money that was saved from not having to treat the excess overflow. He encouraged looking into new technologies being used by other cities and countries for efficiency and cost savings. He felt it is premature to make decisions without more research into these issues.

Ken Hogg stated that the task force also feels it is premature to establish a final plan at this time and encouraged more research. With regard to the meeting held with city administrators on Thursday, he noted public works director, Dick Larson, agreed to split out the budget to clearly identify what costs are attributable to the I&I issue and which costs are attributable to the 50 year plan to improve the infrastructure of the present sewer system. Mr. Hogg stated that Mr. Larson agreed to provide information about how \$267,000 that the city will save this year in wastewater treatment fees because of a WLSSD reduction will be used. With regard to the recommendations provided to the council, Mr. Hogg clarified that the task force fears that the city storm sewer is inadequate and that the sanitary sewer infrastructure is crumbling because of neglect and a lack of appropriate long term maintenance. He noted concerns that adequate knowledge of the condition of the infrastructure within the city system is not available and that formulation of a long term plan should not be done until an assessment is complete. He stated that, in addition to these concerns, the task force believes that the sewer division is understaffed and has recommended that additional staff be added. He stated that the proposed hiring in the city plan seems excessive to the task force, at least for the short term. He said the task force is particularly concerned about adding staff for roof drain inspections and system surveying and monitoring that should be completed in a relatively short time and might be more profitably contracted out instead of adding city employees, even temporary employees. He also noted that the city plan envisions the purchase of considerably more capital equipment than the task force feels necessary to deal with the I&I issues and that it projects a 15 year cost of over \$550,000 for new building expense that the task force neither understands nor endorses. He stated that the task force also questioned the size of the proposed advertising budget for public education

efforts. He expressed concern that the city staff's approach is to try to rush the council to make a decision on the whole system, which he acknowledged does need studying; however, he noted that the only issue needing immediate attention is meeting the mandated requirements of the MPCA and that the task force believes that the effort and money should, at this point, be targeted to that issue and then as part of that process, the system will be surveyed, monitored and inspected to find out exactly what is necessary to efficiently update the system.

Dick Andre, representing the I&I task force, stated that the task force concluded that the most the city will save once all of the I&I is eliminated is \$250,000 per year, which is a minimal amount and will not cover anticipated costs of repair and restructuring. Mr. Andre stated that the task force opposes the long term plan of replacing six miles of sewer lines per year which has been proposed by city administrators. He supported replacement of sewers at the time of street improvement as long as replacement is necessary. He summarized that the task force does not support a 50 year capital outlay program, that the task force determined costs over a six year period to be approximately \$12.4 million and that rate increases would be roughly four percent in 1995 and an additional three percent in 1996 and about an additional four percent in 1997 and then remain constant. He stated the task force does not feel additional staffing of the sewer division should commence until 1996 because time is needed to determine where the additional staff will be best utilized and will also allow time to acquire equipment necessary to complete the project.

Responding to Councilor Prettner regarding whether it makes sense to replace six miles of sewer along with the street improvement program while the streets are open, Mr. Andre stated that that makes sense as long as the sewer is in need of repair or replacement.

Councilor Prettner stated that she doesn't feel that the city administration is recommending replacement of every inch of sewer line in the city; however she feels that sewers have a certain life and that replacing six miles per year would be about equivalent to the maintenance of city streets over an extended period of time.

Mr. Andre concurred with Councilor Bohlmann that the plan that the administration has presented and is asking the council to accept as the task force recommendation is not really what the task force recommendation is at all. Mr. Andre said that the recommendation is that the first six years be spent getting into compliance with the MPCA by reducing the inflow and infiltration and as that is done, study to find out where the problems are, correct them as best as is possible, inspect the entire system within that time period and then start a long term capital improvement project. He didn't believe that this year is the best time to start a capital project because they haven't determined yet where to start. He stated that the other difference between the city plan and the task force recommendation is that the task force didn't project funds beyond six years because there wasn't enough information available to plan that far into the future.

Richard Larson, director of public works, said that the two compliance officers to be hired will inspect roof drains until that project is finished and then would be moved into other wastewater compliance assignments that would include monitoring. He stated that the first year would be done on contract and then within that time period the city's hope is to acquire the expertise and equipment necessary to do the monitoring itself. In response to Mr. Andre's suggestion that existing city employees be reassigned to do this temporary work, Mr. Larson stated that borrowing from the present work force will cause serious disruption to present services levels. Mr. Larson stated agreement by the administration that the inflow and infiltration issue needs to be addressed first and that planning for future needs for the sanitary sewer needs to be done before that project is started. However, he didn't feel that the already deteriorated infrastructure project should wait five or six years to become even worse.

Blaise Taylor stated that to totally eliminate I&I from any system is economically and physically impossible. He stated that lower cost to the city is why the task force decided that consultants should be used for further studies. He noted contradicting information given to the task force by the administration regarding the cost of flat roof drain inspections and the percentage of the sanitary sewer system to be replaced. He expressed outrage that because of a technicality regarding utilities, the administration has neglected the maintenance of its sewer system. He supported contracting out the inspection services to local plumbers who felt they could develop a plan which would be cheaper and more efficient than that proposed by the city.

Frank Nichols encouraged studying alternatives such as Dr. Gearheart's wetland solution. He stated that the idea is not new and that he has a list of other cities and countries utilizing the method and that he is in the process of gathering data regarding results achieved with regard to utilization of this process. He urged the council not to rush to approve the \$89,000,000 plan proposed by the city administration. He questioned rumors of Oliver and the North Shore being added to the WLSSD system when it appears there is not enough capacity to handle Duluth.

Jim VanDell and Tom Paradice supported Dr. Gearheart's wetland alternative to alleviate the I&I situation.

Peter Nickitas praised the task force for its work and criticized the administration for attempting to make the recommendation look more expensive than what the report stated. He said he believes that a new sewer utility will create a needless layer of bureaucracy which will create an easy pool of money that has few controls and accountability. He encouraged caution and more studies to insure that the work the administration is proposing is truly necessary and spoke of numerous federal grant programs for possible funds to help with the costs of the project and suggested that applications be submitted for review.

In response to Councilor Bohlmann's question regarding the necessity for creation of a sewer utility, City Attorney Dinan stated that legislation contained in the Duluth City Charter requires separation of utility accounts. He explained that the merging of monies from the gas utility and the water utility or the sewer utility and the sanitary sewer system is prohibited. He noted that in the past, storm sewer repair and construction costs have been funded by the permanent improvement fund of the general fund.

Davy Jones supported letting the WLSSD handle all of the city's sewer issues to avoid duplication of effort and the necessity of dealing with two entities as has been done in the past.

Susie Millen noted that she attended Dr. Gearheart's presentation and questioned why the city administration doesn't take it seriously. She urged councilors to request a more in depth study and to not accept the administration's recommendation without asking a lot of questions. She stated she was told that utilization of Dr. Gearheart's methods is a decision entirely within the jurisdiction of WLSSD and questioned why, since 85 percent of the WLSSD's business is treating Duluth wastewater, the city isn't more involved in their operations. She encouraged cooperation and coordination of efforts between Duluth and WLSSD.

Councilor Atkins felt that the city overlooked the potential of Dr. Gearheart's method being utilized in Duluth because it is a new approach to sewage treatment and wasn't within the types of solutions city administrators expected. He encouraged further study of the method by the city and especially WLSSD. He urged joint cooperation between the two entities in resolving current issues and addressing future community needs.

Jon Dacken, administrative officer at North Shore Bank of Commerce, asked for the council's assistance in helping the North Shore Bank of Commerce building, and other building owners in the downtown, get their roof drains hooked into the storm sewer that was constructed but not

attached to their buildings during the Superior Street renovation. Regarding creation of a sewer utility, he stated his concern that the same governmental unit that has told him for four years that there is a storm sewer into his building will now be empowered with more money and more staff to repair the system. He requested an accounting for funding received during the Superior Street renovation for connection of the storm sewer system to downtown buildings and noted that he does not intend to pay for hook up to his building now that other businesses received at no cost five years ago.

Mr. Larson responded that most of the businesses not connected to the storm sewer are on the lower side of Superior Street and will be connected this summer with reconstruction of Michigan Street. He stated that the error made in connecting the North Shore Bank of Commerce is an isolated case and will be resolved at no cost to the building owner.

Responding to Councilor Bohlmann, Mr. Nollenberger and Mr. Larson stated that the information regarding connection to Michigan Street storm sewers was included with documents approved by the council in 1992 and in April of 1994.

Councilor Bohlmann conveyed that she is frustrated that she has had to ask numerous times to finally get the truth from the administration of how many downtown buildings are still not connected to the storm sewer system and that she is concerned that the administration cannot be trusted with \$89,000,000 of taxpayer money.

Councilor Atkins requested the administration to account for all monies allocated to the Superior Street project and asked for a report addressing which downtown buildings were to be connected.

Mr. Nollenberger commented that even though there may have been a few mistakes made during the Superior Street renovation, success has been achieved and he quoted statistics regarding downtown building roof drain connections to the storm sewer.

Responding to Councilor Hardesty's feeling that she is not adequately informed, Mr. Nollenberger explained documents councilors received on the I&I issue. He agreed that another evening of explanation is acceptable and emphasized that what councilors are being asked to approve is only a one year program, not a 15 or 50 year plan. He stated that this resolution allows the beginning of the flow monitoring and the televising and the other issues in the demonstration project. He reiterated that these resolutions do not approve any major capital construction programs. Mr. Nollenberger explained that the nine percent increase in sewer rates pays for costs related to the roof drain resource requirements, the costs of accelerated cleaning, the costs of the sewer system analysis and the cost of public information.

Discussion ensued regarding sewage rate increases and what the increases will be used for. It was emphasized that capital improvements will not be funded by rate increases.

Councilor Bohlmann moved to table the resolutions for more discussion and information, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty and President Keenan -- 5

Nays: Councilors Downs, Prettner and Talarico -- 3

Absent: Councilor Wheeler -- 1 - - -

UNFINISHED BUSINESS

BY COUNCILOR WHEELER (introduced by Councilor Wheeler):

RESOLVED, that the city council hereby approves a grant of \$6,000 to the Duluth Youth Basketball Association, the proceeds of such grant to be used by the association to pay expenses incurred in operating the Youth Basketball Program during the 1994-95 school year, which grant shall be payable from the General Fund 015-1514-5490.

Resolution 95-0089 was unanimously adopted.

Approved January 30, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officials are authorized to pay to Lyle R. Ronning and Roberta J. Ronning and their attorney, Mark A. Munger, \$148,000 in full and final settlement of the claim which arose out of an automobile accident occurring on January 4, 1993; payment to be made from the self-insurance fund.

Resolution 95-0081 was unanimously adopted.

Approved January 30, 1995
GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to January 30, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR KEENAN

95-0116R - RESOLUTION AUTHORIZING A CONSULTANT AGREEMENT WITH SALO ENGINEERING, INC., FOR PROVIDING CERTAIN ENGINEERING SERVICES TO THE CITY OF DULUTH IN CONNECTION WITH THE EXTENSION OF THE LESTER-AMITY LIGHTED SKI TRAIL, IN AN AMOUNT NOT TO EXCEED \$6,800.

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BY COUNCILOR KEENAN

95-0117R - RESOLUTION AUTHORIZING A CONSULTANT AGREEMENT WITH ARCHITECTURAL RESOURCES, INC., FOR PROVIDING CERTAIN ARCHITECTURAL SERVICES TO THE CITY OF DULUTH IN CONNECTION WITH THE LAKEWALK EAST ENHANCEMENTS AND THE LEIF ERIKSON PARK RESTROOM BUILDING, IN AN AMOUNT NOT TO EXCEED \$13,000.

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BY COUNCILOR KEENAN

95-0126R - RESOLUTION AUTHORIZING AMENDMENT #3 TO AGREEMENT #16429 WITH DAMBERG, SCOTT, PECK & BOOKER, FOR PROVIDING CERTAIN ARCHITECTURAL SERVICES TO THE CITY OF DULUTH IN CONNECTION WITH THE LAKE SUPERIOR ZOOLOGICAL GARDENS EXPANSION, PHASE II, IN AN AMOUNT NOT TO EXCEED \$19,400.

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BY COUNCILOR TALARICO

95-0130R - RESOLUTION AMENDING RULE 1 OF THE STANDING RULES OF THE CITY COUNCIL.

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BY COUNCILOR DOWNS:

WHEREAS, the city of Duluth and St. Louis County have a need for a grant to establish a comprehensive Duluth - St. Louis County computerized assessment system for property tax purposes (hereinafter project); and

WHEREAS, the board has awarded the city of Duluth and St. Louis County a grant of \$48,050 in order to accomplish the project; and

WHEREAS, the city of Duluth and St. Louis County have authorized the grantee to accept the board's grant on their behalf; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the grantee is a local government unit organized under the laws of the state of Minnesota; and

WHEREAS, the grantee understands that the board will not reimburse the grantee for costs incurred for the project prior to the date on which the grant contract is executed;

NOW, THEREFORE, BE IT RESOLVED, that the grantee hereby authorizes and approves the execution of a grant contract with the board for \$48,050 to accomplish the project.

BE IT RESOLVED, that the grantee's mayor is hereby authorized and directed to sign and submit a grant contract for the said grant funds.

Resolution 95-0134 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that, contingent upon St. Louis County's making a similar monetary arrangement, the city is hereby authorized to enter into an agreement for services in the amount of \$14,700 with the Copeland Community Center, which funds shall be used to assist the center's operations during calendar year 1995, which shall be paid in four equal installments, the first installment to be payable upon approval of this resolution, and the other installments to be payable on the first business day of each remaining quarter in 1995, and which payments shall be payable from the General Fund 015-1514, aid to other agencies.

Resolution 95-0101 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that North Star Ford be and hereby is awarded a contract for furnishing and delivering O.E.M. Ford parts and repairs for the fleet services division as needed during 1995, for an estimated annual total of \$20,000, terms net 30, FOB destination, \$18,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$2,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 95-0102 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Resolution 94-0892 to Higgins Industrial Supply for furnishing grader blades, be amended to increase the amount by \$13,241.98 for a new total of \$20,000, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0105 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with MAR Computer Services for the continued provision of professional training and emergency software services as needed for the department of administration, data processing division, at a rate of \$50 per hour at a total annual cost of approximately \$20,000, payable out

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 95-0109 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute a maintenance agreement with International Business Machines Corporation covering maintenance of various data processing and word processing machines for a five year period beginning January 1, 1995, at an estimated annual cost of approximately \$74,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5404; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. C16764-95.

Resolution 95-0111 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute an extension of the existing software license rental agreement with International Business Machines Corporation covering operating software for the IBM 4381 mainframe and the IBM 5520 word processing system for a one year period beginning January 1, 1995, to December 31, 1995, at an estimated annual cost of \$50,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 95-0112 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Larson Chevrolet be and hereby is awarded a contract for furnishing and delivering O.E.M. Chevrolet parts and repairs for the fleet services division as needed during 1995, for an estimated annual total of \$10,500, terms net 30, FOB destination, \$10,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$500 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 95-0118 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering three police package Chevrolet Caprice sedans for the fleet services division in accordance with specifications on its low specification bid of \$51,049.20, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0125 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointments by Mayor Doty be and the same are hereby confirmed:

BUILDING APPEAL BOARD

Edward B. Shanblott (res bldg const) for a term expiring February 1, 1998, replacing Sam Shanblott.

Lynn D. Beechler (realtor), Joseph B. Johnson (finance) and David Walsh (building materials supply) for terms expiring February 1, 1998.

Resolution 95-0075 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0128, by Councilors Bohlmann, Hardesty, Talarico, Wheeler and Keenan, relating to the declassification of information concerning the barrels deposited in Lake Superior, was introduced for discussion.

Councilor Bohlmann read the resolution in its entirety. She stated that the city of Superior adopted a similar resolution and it is her hope that all cities surrounding Lake Superior will join together in an effort to declassify information to get the issue of the barrels resolved.

Responding to Councilor Atkins, Mr. Nollenberger stated that Mayor Doty is presently working with Mr. Bergson and the city of Superior in an effort to resolve this issue.

Councilor Downs reviewed a letter he received from the MPCA which stated the agency's satisfaction that testing results show no trace of radioactive materials and the recommendation that there is no need for continued testing or removal of the barrels and that they believe the issue is now resolved. He stated that he would like to see the barrels removed too, and suggested that the Army Corps of Engineers is the most appropriate agency to address the issue at this point.

Councilor Atkins stated he believes the MPCA has glossed over this issue because it was the Army Corps of Engineers that dumped the barrels and not a private corporation. He expressed disappointment that there is a lack of support coming from the MPCA regarding this issue.

Councilor Bohlmann noted the seriousness of the very high incidence of cancer in the area and stated that enough information is known without declassification of data to warrant removal of all of the barrels.

President Keenan didn't feel that two individuals, one from the MPCA and one from the Army Corps of Engineers, are qualified to conclude that there is no health risk to the citizens from the samplings that have been done so far. He felt that comments made by the two officials are irresponsible and he stated support for the resolution.

Resolution 95-0128 was adopted as follows:

BY COUNCILORS BOHLMANN, HARDESTY, TALARICO, WHEELER AND KEENAN:

WHEREAS, recent material documenting the history and contents of the steel barrels dumped into Lake Superior has been made public; and

WHEREAS, material known to be carcinogenic has been detected in very high levels in Lake Superior in the Duluth vicinity; and

WHEREAS, the city of Duluth draws its drinking water from a Lake Superior source within close proximity to the barrels in question; and

WHEREAS, western Lake Superior has a recognized commercial and sports fishing industry;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council requests that any and

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all documents relating to 1) barrel contents, 2) containment, 3) transport, 4) present location be declassified and made available to the council and mayor of Duluth forthwith.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to send certified copies of this resolution to Congressman Oberstar and the members of the Duluth legislative delegation.

Resolution 95-0128 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilor Downs -- 1

Absent: Councilor Wheeler -- 1

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

COMMISSION ON AGING

Judy Greene for a term expiring July 1, 1995, replacing Judith Gerald who resigned.

Resolution 95-0129 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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Resolution 95-0091, by Councilor Prettner, authorizing amendment to contract No. 17124 with Maki & Overom, Chartered, for legal services related to NWA project in the amount of \$33,525.02, was introduced for discussion.

Councilor Bohlmann opposed expenditure of more funds for legal fees until bonds have been sold by the state. She felt the project is moving too slowly and that more visible progress needs to be made before any more city money is spent on legal fees and contracts.

Resolution 95-0091 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to city of Duluth Contract No. 17124, a copy of which is on file in the office of the city clerk as Public Document No. 95-0130-09, with Maki & Overom, Chartered, for legal services related to the Northwest Airlines Project in the amount of \$33,525.02, payable from Construction Fund 420.

Resolution 95-0091 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Wheeler -- 1

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to reimburse the Duluth Area Chamber of Commerce for expenses incurred by it in financing the TEAM Duluth Marketing Program, a copy of which is on file in the office of the city clerk as Public Document No.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

95-0130-10, in the amount of not to exceed \$40,000, payable from General Fund 020, Organization 1202, Object 5319.

Resolution 95-0092 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

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 parcel now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
94220	Robert Harry	NE'ly 20 ft of Lot 26 Fond du Lac, Water Street (10-1750-260 (pt))	between Water Street & St. Louis River Between Pembina & Ontario Sts. (Fond du Lac)

Resolution 95-0094 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the city of Duluth does hereby approve its 1995 Low-Income Housing Tax Credit Qualified Allocation Plan (QAP) on file in the office of the city clerk as Public Document No. 95-0130-11 and establishes the following fee structure: \$500 for non-profit entities; \$1,500 for for-profit entities and a five percent of total project allocation carry-over fee.

Resolution 95-0114 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Food Services of America, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 15,000 pounds of fruits and vegetables for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$6,702, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 95-0106 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that M.J. Widdes, Inc., be and hereby is awarded a contract for furnishing and delivering zoo animal bedding materials and food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$7,648.14, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 95-0107 was unanimously adopted.
Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Mice on Ice, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,250 various frozen mice and rats for zoo animal food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$5,570, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 95-0108 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 500 cases and 270 bags of specific animal food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$14,798.18, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 95-0124 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute a joint powers agreement relating to the purchase of three squad cars with the city of Superior, Wisconsin; said agreement to be substantially in the form of Public Document No. 95-0130-12, on file in the office of the city clerk; the \$51,049.20 payable and reimbursable thereunder to be paid from the Fleet Fund 660-015-1563-E506.

Resolution 95-0120 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Northern Water Works Supply be and hereby is awarded a contract for furnishing and delivering approximately 130 various size band type repair clamps for the water and gas department in accordance with specifications on its low specification bid of \$6,372.24, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0119 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Lakehead Constructors be and hereby is awarded a contract for repairs to the Minnesota Slip bridge for the street maintenance division in accordance with specifications on its low specification bid of \$5,586.86, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1920, Object 5455.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0104 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Lakehead Electric Company be and hereby is awarded a contract for electrical up-grades to the Leif Erikson Park recreation area for the city architect division in accordance with specifications on its low specification bid of \$69,300, terms net, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I428.

Resolution 95-0113 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 94-1098 to Contract Tile and Carpet, Inc., for furnishing additional 164 square yards of carpet and installation, be amended to increase the amount by \$4,541.16 for a new total of \$22,068.66, \$19,576.56 payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I425 and \$2,492.10 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5401.

Resolution 95-0122 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0123, by Councilor Talarico, awarding contract to Rice Industrial Supply, Inc., for Minnesota Slip Bridge mechanical components in accordance with specifications on its low specification bid of \$106,520.28, was introduced for discussion.

Responding to Councilor Bohlmann's question regarding the basis for funding of this contract from the self insurance fund, Mr. Nollenberger stated that the city is presently in dispute with the builders of the pedestrian lift bridge, and as soon as that dispute is finalized, whatever money is recovered will go back into the self insurance fund and then the difference will be made up out of the capital improvement program.

Councilor Bohlmann expressed disappointment that over a million dollars has been expended to keep this bridge in operation for a few short months during the year.

President Keenan requested that Mr. Nollenberger provide the council with another update which includes all expenses so far related to the pedestrian lift bridge.

Resolution 95-0123 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Rice Industrial Supply, Inc., be and hereby is awarded a contract for furnishing and delivering mechanical components required for the retrofit of the Minnesota Slip Pedestrian Bridge for the public works department in accordance with specifications on its low specification bid of \$106,520.58, terms 2% 10, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5220.

Resolution 95-0123 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, that the following handicapped parking zones are hereby established.

one stall on the side of 2951 Devonshire Street;

one stall in front of 922 East Fifth Street;

one stall in front of 1432 East Fourth Street;

one stall on the west side of Fourth Avenue East and Fourth Alley (side entrance to St. Mary's Star of the Sea Church).

Resolution 95-0093 was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0095, by Councilor Hardesty, to designate parking meter zones on Eighth Avenue East from Superior Street to First Street, and on First Street from Eighth Avenue East to Ninth Avenue East, was introduced for discussion.

Councilor Prettner moved to divide the resolution to vote on Eighth Avenue East and First Street separately. She stated her intent to vote against the second half (First Street) of the resolution because it sits directly opposite the apartment buildings, and that those tenants have a hard time finding parking already.

Councilor Prettner's motion was seconded and unanimously carried.

Resolution 95-0095(a), designating a parking meter zone on Eighth Avenue East from Superior Street to First Street, was adopted as follows:

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-108 of the Duluth City Code, 1959, as amended, the following named locations are hereby designated as parking meter zones and the parking or standing of a vehicle in a designated parking space within these zones shall be lawful at the rates provided herein:

west side of Eighth Avenue East from Superior Street to First Street; \$.25 (one quarter) for one hour with a 12-hour limit.

Resolution 95-0095(a) was unanimously adopted.

Approved January 30, 1995

GARY L. DOTY, Mayor

- - -

Councilor Atkins moved to table Resolution 95-0095(b), designating a parking meter zone on First Street from Eighth Avenue East to Ninth Avenue East, and requested that the parking commission consider establishment of a residential parking permit zone for the area, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty and President Keenan -- 6

Nays: Councilors Prettner and Talarico -- 2

Absent: Councilor Wheeler -- 1

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following one hour parking zone from 8:00 a.m. to 4:00 p.m. on school days is hereby established.

West side of Hawthorne Road from Fourth Street to 150 feet southerly.

BE IT FURTHER RESOLVED, that the no parking restrictions now in effect are hereby rescinded.

Resolution 95-0096 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following one hour parking zone from 8:00 a.m. to 4:00 p.m. on school days is hereby established:

East side of 25th Avenue West from Fifth Alley to Fifth Street.

BE IT FURTHER RESOLVED, that the no parking restrictions now in effect are hereby rescinded.

Resolution 95-0097 was unanimously adopted.
Approved January 30, 1995
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR HARDESTY

95-006 - AN ORDINANCE PERTAINING TO THE ISSUANCE OF CITATIONS BY MEMBERS OF THE FIRE DEPARTMENT, AMENDING SECTION 2-1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER:

95-004 (9232) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 29 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-4 APARTMENT RESIDENTIAL TO C-4 CENTRAL BUSINESS, PROPERTY LOCATED BELOW THIRD STREET BETWEEN THIRD AND FOURTH AVENUES WEST (HANSEN).

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

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The meeting was adjourned at 11:30 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9232

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 29 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-4 APARTMENT RESIDENTIAL TO C-4 CENTRAL BUSINESS, PROPERTY LOCATED BELOW THIRD STREET BETWEEN THIRD AND FOURTH AVENUES WEST (HANSEN).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The city of Duluth does ordain:

Section 1. That Plate No. 29 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)
(refer to page ___)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Wheeler -- 1

Passed January 30, 1995
Approved January 30, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9233

BY COUNCILOR TALARICO:

AN ORDINANCE PERTAINING TO SOLID WASTE COLLECTION, AMENDING SECTIONS 24-2, 24-10, 24-17, 24-18, 24-20, 24-21, 24-24 AND 24-25, AND REPEALING ARTICLE VII OF CHAPTER 24 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 24-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-2. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Ashes. Cinders and all solid products of complete combustion of wood, coal or other material; provided, that the same has been completely burned and is not mixed with any other solid wastes.

Backyard compost site. A site used to compost yard waste and other vegetative waste from dwelling units and yard waste only from commercial establishments.

Bulky items. Items of solid waste which do not fit within a 32 gallon solid waste container described in Section 24-18 of this Chapter.

Composting. The controlled microbial degradation of vegetative waste to yield a humus-like product.

Dead animals and parts thereof. All dead animals and fowl of every kind, or parts thereof, not slain for food or useful arts.

Dwelling Unit. Any room or group of rooms located within a structure used for residential purposes forming a single habitable unit equipped and intended to be used for living, sleeping, cooking and eating.

Garbage. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Hazardous substance. Has the meaning given it in Minnesota Statutes, Section 115B.02, Subdivision 8, except that it does not include household hazardous waste.

Hospital waste. All solid waste generated by a hospital except infectious waste and pathological waste.

Household hazardous waste. Those waste chemicals and compounds which would be considered hazardous substances under state law and are generated by residential dwelling units. List of household hazardous wastes shall be available from WLSSD.

Infectious waste. The same as provided in Minnesota Statutes, Section 116.76, Subdivision 12.

Licensed collector. Any person licensed to engage in the business of collecting or removing manure, solid waste or recyclable materials within the city.

Manure. The excreta of any domestic or other animal, livestock, or fowl, and hay, straw, and other material, when mixed with the excreta of any such animal, livestock or fowl.

Medical sharps:

(a) Discarded items that can cause subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities and industrial operations;

(b) Discarded glass or rigid plastic vials containing infectious agents.

Ordinary collection. The collection and removal of the following:

(a) Collection of solid waste as required by Section 24-17 of this Code;

(b) Any single bulky item, such as an appliance, a piece of furniture or a water heater, provided that arrangements are made in advance for the collection of such item, that such item is placed at the regular truck stop of the licensed collector, that there is a waste processing facility in the Duluth area that will accept the item from the licensed collector, and that the person disposing the item agrees to pay the licensed collector all out-of-pocket expenses incurred in disposing of the item. Out-of-pocket expenses for a bulky item disposal shall not be billed to the customer unless copies of paid expense receipts incurred by the licensed collector are submitted with the customer's bill;

(c) Monthly collection of recyclable materials as required by Section 24-17 of this Code.

Pathological waste. The same as provided in Minnesota Statutes, Section 116.76, Subdivision 14.

Recyclables or recyclable materials. Paper, glass, plastics and metals in forms that are designated as recyclable materials by regulation of the WLSSD.

Recycling facility. A facility used to collect, process and repair recyclable materials and reuse them in their original form or use them in manufacturing processes, but only if the facility has been issued a permit by the Minnesota pollution control agency or is exempt from such permit and has been designated a recycling facility by the WLSSD.

Rubbish. Nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, or litter of any kind, but excluding recyclable materials.

Solid waste. Any garbage, rubbish or other discarded solid materials, including solid waste materials resulting from industrial, commercial, agricultural and residential uses, but

does not include fill, boulders, rock, and other materials normally handled in construction projects, solids or dissolved materials in sewage or suspended solids and dissolved materials in industrial waste water effluents nor does it include automobiles, trucks, tractors, animal waste used as fertilizer, recyclables, yard waste, infectious waste, pathological waste, street sweepings, tires, lead acid batteries, used oil or unacceptable waste.

Unacceptable waste. Any material designated as unacceptable waste by regulation of the WLSSD.

WLSSD. The Western Lake Superior Sanitary District.

Yard waste. The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

Yard waste compost facility. A site used for the composting of yard waste which is operated by the WLSSD or a governmental unit or which is operated by a private person or entity under a permit issued by the Minnesota pollution control agency.

Section 2. That Section 24-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-10. Application and investigation.

Applications for a collector's license shall be made on forms provided by the city clerk. The application shall be accompanied by the license fee, bond and insurance required by this Chapter. Any renewal application shall be accompanied by a list of the street addresses of all properties in Duluth where the applicant is presently furnishing solid waste removal services and any other customer information the solid waste compliance officer deems necessary for the enforcement of the mandatory solid waste collection service requirements of Section 24-17. The street address list shall be updated quarterly during the license year by each licensee. Upon receipt of an application for a license, the city clerk shall immediately transmit a copy of the application to the solid waste compliance officer who shall make an investigation to determine if the vehicles and equipment which the applicant intends to operate pursuant to a license under this Chapter conform with the requirements of this Chapter and to determine the suitability of the applicant to operate pursuant to a license issued hereunder. Upon completion of such investigation, the solid waste compliance officer shall direct the city clerk to grant or refuse the license applied for. Any person denied a license may, in writing, within ten days appeal the denial to the administrative assistant. Appeals shall be heard as provided in Section 24-14.

Section 3. That Section 24-17 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-17. Duty of owner to remove and dispose of solid waste, etc., reports of violations.

(a) It shall be the duty of the owner of every residential structure containing four or less dwelling units to provide for the disposal of all solid waste and the collection of recyclables generated by such dwelling units through employment of the services of a licensed collector. Owners of residential structures containing more than four dwelling units or of commercial or industrial establishments shall either employ a licensed collector for the removal of all solid waste and recyclables from their premises or provide such removal service themselves, provided that any vehicle used for hauling solid waste shall

meet the requirements of Section 24-15 of this Chapter;

(b) Whenever it shall come to the attention of any licensed collector that any residential structure of four dwelling units or less is occupied and not provided with ordinary collection services from a licensed collector, the licensed collector shall promptly report that information to the solid waste compliance officer. The solid waste compliance officer shall then investigate the situation and take any actions necessary to secure compliance with this Section;

(c) The occupants of two dwelling units may combine and commingle their solid waste for collection as one account, but only as provided in this subsection. Only dwelling units located within 300 feet of each other, or those occupied by a mother, father, child, or grandparent of the occupant of the other dwelling unit shall qualify for combined solid waste collection. The combined solid waste shall be placed only in a standard sized container as set forth in the solid waste rate structure. Combined solid waste shall not exceed one 32 gallon container per collection period. The occupants of dwelling units combining solid waste must enter into a written agreement on a form provided by the city clerk and file said agreement in person or by mail with the city clerk and with their licensed collector. The agreement shall state the names and addresses of the parties, the name of the licensed collector, the size and number of cans to be collected, the party who will be responsible for paying the bill to the licensed collector, and the percentage of the total collection bill attributable to each property for assessment purposes if the bill is not paid. No agreement to combine solid waste is valid for any purpose until the agreement mentioned above is filed with both the city clerk and the licensed collector.

Section 4. That Section 24-18 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-18. Solid waste containers--required; specifications.

(a) It shall be the duty of the owner of every dwelling or place of business in the city to provide or cause to be provided, and at all times to keep and maintain or cause to be kept and maintained in good condition, sufficient portable watertight containers to hold all the solid waste which accumulates on such premises during the time between collections and removals. In the case of residential structures containing four or less dwelling units, such containers shall be of a maximum size of 32 gallons, shall be provided with handles and a tight and securely-fitted cover and shall be constructed of or lined with such material as to make them watertight. All solid waste, as the same accumulates upon such premises, shall be placed or deposited and kept in such containers which shall not be filled to nearer than three inches of the top and, in the case of residential structures containing four or less dwelling units, the contents which shall not exceed 45 pounds in weight. Collection of solid waste kept in containers in excess of a size of 32 gallons or kept in any container in amounts in excess of 45 pounds shall not be deemed an "ordinary collection" within the meaning of this Chapter;

(b) The container size limitations contained in paragraph (a) above shall not apply to automated loading solid waste collection systems and equipment;

(c) Solid waste containers shall, during the hours scheduled for collection, be kept or placed in a convenient location readily accessible to the collector;

(d) Except while loading or unloading, the tops and covers of all such containers shall be kept tightly covered and securely closed at all times when they contain putrescible solid waste. When such containers contain only non-putrescible solid waste,

they shall be kept covered when and as necessary to prevent such solid waste from being blown out of such container;

(e) It shall be the duty of each licensed collector to report violations of this Section to the solid waste compliance officer. The licensed collector shall also leave a tag setting forth the nature of any violations hereof on the premises where such violations are discovered and shall attach such tag either to the handle of a solid waste container used upon the premises or in some other conspicuous location.

Section 5. That Section 24-21 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-21. Fees for collections, etc.

The city council shall, by resolution, establish a solid waste collection rate structure. The structure shall consist of a "base rate," which shall be the rate charged for one 32 gallon container of solid waste collected once per week, and various upward and downward percentage increments to cover all solid waste collection services offered. The rate structure increments shall be adjusted upward or downward to compensate for increased number of containers collected, decreased size of containers collected, or decreased frequency of collection. Each hauler shall set its own base rate. No hauler shall charge a rate greater than that computed by multiplying the base rate times the appropriate increment set forth in the rate structure. Licensed haulers shall file their base rates with the city clerk at least 30 days before the rate is to take effect. The base rate set by each collector shall in all cases be fair and reasonable, considering the collector's cost of operation, capital investment, and a reasonable rate of return on investment. The cost of operating recycling operations required by this Chapter may be considered in setting base rates.

Section 6. That Section 24-24 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-24. Same--Notice.

On or before July first of each year, the city assessor shall certify the assessment roll to the city council. The city clerk shall give 20 days notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in said land stating the amount of the assessment, the description of the property, that the assessment roll is on file in the clerk's office and that any party aggrieved by the assessment may appeal the assessment to the city assessor by filing a written notice of appeal with the assessor within 20 days after the notice of assessment.

Section 7. That Section 24-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-25. Same--Appeal to the city assessor.

Any party aggrieved by an assessment made pursuant to this Chapter may appeal such assessment by filing a written notice of appeal with the city assessor. The notice shall state the precise grounds upon which the appeal is taken. The city assessor shall notify the appellant of the time and place of the hearing. At the hearing, the city assessor shall hear and determine all objections made to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular and the amounts claimed

had been properly billed to the occupant of the premises, the assessor shall correct any errors which may have been found in the assessment and shall thereupon recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October first of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent.

Section 8. That Article VII of Chapter 24 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 9. That Section 24-20 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 24-20. Collection schedules to be established; records.

(a) It shall be the duty of any licensed collector to collect and remove any of the solid waste and recyclables referred to in this Chapter and to establish and maintain a schedule for regular ordinary collection of such solid waste and recyclables providing for collection on at least a weekly basis for solid waste and a monthly basis for recyclables and to make available a schedule setting forth the days or day of the week and the hours within which such collections will be made. No collections shall be made on any day before 6 a.m. in residential districts;

(b) It shall also be the duty of any licensed collector to be available to and to make any collection and removal directed by the city pursuant to Section 24-36 of this Chapter. Such direction for service may be given by the city to either an individual licensed collector or through an answering and dispatching agency of two or more licensed collectors;

(c) Licensed collectors shall submit to the WLSSD reports of the type, tonnage and disposition of all recyclable materials collected, processed and marketed. The reports shall be made at times and on forms as directed by the WLSSD;

(d) Each licensed collector shall permit the solid waste compliance officers and representatives of the WLSSD to inspect its customer lists and other business records upon request during business hours.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 12, 1995)

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

Yeas: Councilors Downs, Hardesty, Prettnner, Talarico and President Keenan -- 5

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Absent: Councilor Wheeler -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 30, 1995
Approved January 30, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 6, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0206-01 (a) Manley Goldfine; (b) Mary and Bill Van Evera submitting letters regarding closure of Lakeview Drive (94-1073R). -- Received

95-0206-05 Mary P. Bredow submitting letter regarding Selkirk Street vacation. -- Received

95-0206-06 (a) Patty Beech, Northern Communities Land Trust; (b) Jim Glaeser, Duluth Community Action Program, Inc., submitting letters regarding CDBG grant (95-0066R). -- Received

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REPORTS OF OFFICERS

95-0206-02 Parks and recreation department director submitting minutes of the board of directors for the Lake Superior zoological society for December 14, 1994 meeting. -- Received

95-0206-20 Dick Larson, Director of Public Works submitting (a) January 23, 1995 council letter regarding I & I task force comments and (b) January 27, 1995 council letter regarding sanitary sewer utility revenue and expenditures projections. -- Received

95-0206-03 Purchasing agent submitting emergency purchase order for Fourth Avenue West skywalk shoring; awarded to LHB Engineers and Architects. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0206-04 Citywide citizens advisory committee minutes of January 24, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dan Conley stated concern about toxins that are getting into the St. Louis River and Lake Superior, and suggested identifying the responsible parties and declaring the dams a waste site.

Greg Price noted his concern about the barrels in Lake Superior, and spoke in support of the Lake Superior Watershed Protection Law and a ban on high level nuclear storage along the watershed of Lake Superior.

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RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0070, confirming appointment of Richard S. Lepak to the board of zoning appeals replacing John Nylander and Resolution 95-0071, confirming appointment of Walter Cressman replacing Eric Hylden and reappointments of Carol Bailey, Eric Kaiser and Joseph Leek to the park and recreation board, which motion was seconded and unanimously carried.

Resolutions 95-0070 and 95-0071 were adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

BOARD OF ZONING APPEALS

Richard S. Lepak for a term expiring July 31, 1997, replacing Jon Nylander who resigned.

Resolution 95-0070 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointments by Mayor Doty be and the same are hereby confirmed:

PARK AND RECREATION BOARD

Walter E. Cressman for a term expiring February 13, 1996, replacing Eric Hylden, who resigned.

Carol Bailey, Eric Kaiser and Joseph H. Leek for terms expiring February 13, 1998.

Resolution 95-0071 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

- - -

Councilor Prettner moved to remove from the table Resolution 95-0066, authorizing CHDO operating grant agreement with Northern Communities Land Trust in the amount of \$10,000, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Dahlberg -- 1

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Patty Martin spoke in opposition to the resolution, stating she does not feel it is a wise use of tax dollars.

Jon Dacken, Northern Communities Land Trust, reviewed accomplishments of the land trust during the past year.

Frank Jewell, Duluth housing trust fund, spoke in support of the resolution, stating that these funds are much needed in the central hillside neighborhood.

Kim Goodwin, community development office, supported the resolution, stating that the funds will be used for administrative support and operating funds to develop the land trust for various projects.

Councilor Dahlberg said residents of the hillside want to have input into housing issues in their neighborhood.

Councilor Hardesty said this is not a Central Hillside issue and she didn't feel the resolution should be tabled for clarification of an unrelated issue.

Councilor Dahlberg moved to table the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Resolution 95-0066 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an CHDO operating grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0206-07, with Northern Communities Land Trust in the amount of not to exceed \$10,000, payable from Fund 260, Agency 020, Organization 2632, Object H009.

Resolution 95-0066 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilors Bohlmann and Dahlberg -- 2

Approved February 6, 1995

GARY L. DOTY, Mayor

- - -

Councilor Atkins moved to remove from the table Resolution 94-1080, requesting the administration to cease all activity relating to the construction of the Bayfront outlet mall, which motion was seconded and unanimously carried.

Councilor Atkins moved to withdraw the resolution, which motion was seconded and unanimously carried.

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Councilor Talarico moved to remove from the table Resolution 95-0040, adjusting the customer charge and user charges for the city's wastewater facilities; Resolution 95-0062, accepting and responding to the report of the citizens task force on inflow and infiltration dated December 15, 1994; and Resolution 95-0063, requesting that the administration study and make recommendations with respect to the establishment of a storm sewer utility, which motion was seconded and unanimously carried.

Councilor Talarico moved to amend the Sewer Division Action Plan attached to Resolution 95-0062 in the paragraph entitled "Sanitary Sewer Rehabilitation" to delete the sentences "Approximately six miles of sanitary sewer will be rehabilitated or reconstructed each year beginning in 1995. The \$2,376,000 capital requirement will be provided through either state revolving loan program or through a city bond issue" and replace with "A plan to rehabilitate and reconstruct the city's sanitary sewer system will be developed in 1995," which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions.

Craig Carlson, Western Lake Superior Plumbing Heating Cooling Contractors Association, commented that they are the professionals in the piping industry and they have not been asked for advice or input regarding this issue. He said the association agrees with the findings of the I&I task force, and he felt the private sector should be performing the work that needs to be done rather the city. In response to Councilor Hardesty, Mr. Carlson said there is a sufficient trained work force available to perform the needed work.

Kim Ellerman reported that over 400 cities in the U.S. and Canada have alternative systems to the traditional waste treatment problem. He felt further research is needed and that this is an opportunity to enhance the quality of life in Duluth.

Frank Nichols felt the real problem is the overflow into the bay. He said the proposed roof drain solution is costly and not proven, and he offered other solutions to fulfill MPCA mandates.

Jon Dacken, North Shore Bank of Commerce, agreed that more information is needed on this issue, and discussed problems and costs for proposed roof drain solutions for his place of business.

Ken Hogg, chair of the I&I task force, spoke in favor of Councilor Talarico's amendment. He

expressed concerns about costs outlined in the action plan, particularly for roof drain disconnection, accelerated cleaning and sewer system analysis. He suggested that specifications for those three items be developed and both the city and private industry bid on those jobs. He felt the proposed nine percent increase in wastewater treatment rates is too high, noting that a major portion of that increase is for capital equipment. He said the task force calculated that first year increases needed to implement task force recommendations would not exceed 4.15 percent, and urged amending Resolution 95-0040 to limit the wastewater rate increases to 4.15 percent until the public works department can demonstrate the need for the higher increase. Regarding Resolution 95-0062, he suggested removing the dollar amounts from the Sewer Division Action Plan.

Councilor Wheeler moved to amend Resolution 95-0040 to "change the rates to reflect a five percent increase instead of a nine percent increase," which motion was seconded. Councilor Wheeler said he is concerned about expanding the size of government and felt a competitive bidding process could cost less.

Councilor Talarico stated concern about the overall effect of the amendment, and proposed a friendly amendment to Councilor Wheeler's amendment to tie the five percent increase to a statement to the administration that would request that they bid the project out or otherwise demonstrate that a five percent increase would be insufficient.

Councilor Wheeler did not accept Councilor Talarico's friendly amendment because of the possibility of increased rather than decreased costs if the bids come in too high and he said he would like the administration to solve the problem with less money.

Councilor Hardesty felt the council should accept the 4.15 percent increase recommended by the task force rather than change it to five percent.

Councilor Wheeler's amendment passed upon the following vote:

Councilors Atkins, Bohlmann, Dahlberg, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilors Downs and Hardesty -- 2

Councilor Talarico moved to amend the Sewer Division Action Plan attached to Resolution 95-0062 to delete all references to dollar amounts, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

Resolutions 95-0040, as amended, 95-0062, as amended, and 95-0063 were adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, pursuant to Sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purposes of recovering from users the cost of operation, maintenance (including replacement) and debt service of the city's wastewater facilities, and to recover Western Lake Superior Sanitary District wastewater facility user charges made to the city, there is established and shall be collected beginning with the meter readings made on March 6, 1995, and thereafter, a customer charge and user charges, based upon the volume of waste water

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

Customer charge	\$4.86 per month
User charge - Class I	\$1,982/ccf
User charge - Class II	\$2.759/ccf
User charge - Class III	\$3.441/ccf.

RESOLVED FURTHER, that the rate regulations established and approved by Resolution 92-0893 are rescinded as of March 6, 1995.

Resolution 95-0040, as amended, was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, infiltration and inflow to the city's sanitary sewer collection system causes overflows from pumping stations to Lake Superior, and peak loading at the Western Lake Superior Treatment Plant which temporarily degrade the quality of the waste water treatment available at that facility, thus making infiltration and inflow a water pollution issue; and

WHEREAS, there are a multitude of sources of infiltration and inflow, and the contribution to the overall problem from each source is at present unknown, and a determination of these source contributions is important to arriving at a permanent solution; and

WHEREAS, in response to public concern and support for solutions to these problems, a citizens task force on inflow and infiltration was appointed by Resolution 94-0812 to study this matter and to make recommendations on effective and affordable solutions to these problems; and

WHEREAS, the inflow and infiltration task force has diligently studied the issues, held hearings and meetings and analyzed a great deal of information and data and has presented its report dated December 15, 1994 (Public Document No. 95-0206-18), to the city council; and

WHEREAS, the Minnesota pollution control agency and the Western Lake Superior Sanitary District have recently issued two permits to the city for construction and operation of sanitary sewer extensions under the provisions of Minnesota Statutes Chapters 115 and 116 and have made these permits contingent upon certain conditions being met by the city; and

WHEREAS, the administration and council wish to express gratitude to the task force for its efforts, and have determined that the task force recommendations, if implemented as outlined in the Sewer Division Action Plan, will adequately address the concerns expressed in the conditions imposed by the MPCA and the WLSSD; and

WHEREAS, the city of Duluth has been doing most of what the task force recommends be done to eliminate inflow and infiltration to the sanitary sewer collection system, and will now be implementing those solutions on an accelerated basis;

NOW, THEREFORE, BE IT RESOLVED, that the council hereby adopts the Sewer Division Action Plan formulated in response to the task force, said action plan being on file in the office of the city clerk as Public Document No. 95-0206-19.

Resolution 95-0062, as amended, was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, Minnesota Statutes 444.075 does not by its terms apply to cities of the first class, and as a consequence, the city of Duluth does not have clear authority to establish a storm water utility; and

WHEREAS, a significant portion of the recommendation of the citizens task force on inflow and infiltration deal with rehabilitation and extension of the storm sewer system, the protection of wetlands and other areas providing retention of storm water runoff and the development of water conservation programs; and

WHEREAS, these items of concern can best be addressed and dealt with by the establishment of a storm water utility under Minnesota Statutes Chapter 444, and the establishment of such an entity will require study, consultation and deliberation to determine the scale of the problem and issues and best structure for a solution to the problems;

NOW, THEREFORE, the Duluth city council requests that the administration thoroughly study the storm water concerns and issues set forth in the report of the citizen task force on inflow and infiltration, and propose a balanced solution to those problems by the establishment of a storm water utility, and further study financing options to fund these solutions and make a recommendation to the council with respect thereto.

BE IT FURTHER RESOLVED, that the legislative program of the city of Duluth recommended in Resolution 94-1109 be supplemented with a request that the Duluth delegation support the adopting of any required special legislation necessary to allow the city to establish a storm sewer utility.

Resolution 95-0063 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved February 6, 1995

GARY L. DOTY, Mayor

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Councilor Hardesty moved to remove from the table Resolution 95-0095(b), to designate parking meter zones on First Street from Eighth Avenue East to Ninth Avenue East, which motion was seconded and unanimously carried.

Councilor Hardesty moved to refer the resolution back to the administration, which motion was seconded and unanimously carried.

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UNFINISHED BUSINESS

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Salo Engineering, Inc., for the sum of not to exceed \$6,800 from Capital Fund 450, Obj. C413, for providing certain engineering services to the city of Duluth in connection with extension of the Lester-Amity lighted ski trail, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0206-08.

Resolution 95-0116 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Resources, Inc., for the sum of not to exceed \$13,000 from Capital Fund 450, as follows: \$4,000 -- Agy. 015, Org. 1994, Obj. C408; \$9,000 -- Agy. 015, Org. 994, Obj. 419; for providing certain architectural services to the city of Duluth in connection with Lakewalk East enhancements and Leif Erikson Park restroom building, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0206-09.

Resolution 95-0117 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorize amendment #3 to agreement #16429 with Damberg, Scott, Peck & Booker, in an amount of \$19,400 from Capital Fund 450, Obj. C417, for providing certain additional architectural services to the city of Duluth in connection with the Lake Superior Zoological Gardens expansion, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0206-10.

Resolution 95-0126 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Rule 1 of the standing rules of the city council is hereby amended to read as follows:

Rule 1. Time of meetings.

(a) Regular meetings of the council shall be held every Monday of each month at 7:30 p.m.; provided, however, that if any Monday falls on a legal holiday, the meeting scheduled for that day shall be held the following Tuesday at 7:30 p.m.; and provided, further, that if the fourth Monday in December falls on December 24, the regular meeting set for that day shall be held on December 26 at 7:30 p.m. Special meetings may be held as provided for in the City Charter. The president of the council may cancel any regular meeting of the council by giving notice to each member of the council at least three days prior to the scheduled date of such meeting; provided that at least two regular meetings shall be held each month;

(b) Agenda meetings shall be held at 4:45 p.m. on each Thursday preceding a regular meeting of the council unless such agenda meeting falls on a legal holiday, in which case the president shall set another time and date for such agenda meeting and shall give notice of such time and date to each member of the council at least three days prior to such meeting. The council president may cancel or reschedule any agenda meeting by giving notice to each member of the council at least three days prior to the scheduled date of such meeting;

(c) No meeting of the council shall continue past 11:00 p.m. An uncompleted meeting may be adjourned to the next regularly scheduled meeting.

Resolution 95-0130 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the city council hereby requests the Duluth charter commission to recommend adoption of an ordinance adding a new Section 54(e) to the City Charter to establish a community investment trust fund, which proposed amendment is on file in the office of the city clerk as Public Document No. 95-0206-11.

Resolution 95-0145 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the Duluth city council hereby requests the Minnesota legislature to approve legislation amending Minnesota Statutes 475.58, Subdivision 1, to permit issuance of general obligation bonds without an election to finance improvements that will be paid for partially with federal funds, which legislation is on file in the office of the city clerk as Public Document No. 95-0206-12.

Resolution 95-0146 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that C.A. Anderson Sand and Gravel be and hereby is awarded a contract for the demolition of the former fleet service shop building at 103 East Central Entrance for the fleet services division in accordance with specifications on its low specification bid of \$14,700, terms net 30, FOB job site, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5453.

Resolution 95-0138 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$4,000, \$3,000 of which shall be payable from Capital Fund 450, Agy. 015, Org. 1994, Obj. C418, and \$1,500 shall be payable from Fund 100, Agy. 105, Org. 2020, Obj. MS17 (Old Main Park) for providing certain

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

engineering services to the city of Duluth in connection with restoration of the Old Main arches, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0206-13.

ALSO RESOLVED, that Resolution No. 94-0672 authorizing the proper city officials to execute an agreement with LHB Engineers and Architects in the amount of \$1,500 for similar work, is hereby rescinded.

Resolution 95-0053 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a sub-recipient memorandum of agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0206-14, with St. Louis County, Minnesota, related to the administration of the city's Community Development Block Grant Program in conjunction with said county.

Resolution 95-0135 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a subrecipient agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0206-15, with St. Louis County for the Fiscal Year 1995 HOME Investment Partnership Program.

Resolution 95-0136 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a sub-recipient memorandum of agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0206-16, with St. Louis County, Minnesota, related to the administration of the city's FY 1995 Emergency Shelter Grant "ESGP" Program in conjunction with said county.

Resolution 95-0137 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the city is hereby authorized to execute an agreement with the firm of APCO Associates, Inc., to provide federal government relations services to the city during 1995, which agreement is on file in the office of the city clerk as Public Document No. 95-0206-17, at a cost to the city of \$30,000, plus reasonable expenses, which shall be payable from the General Fund 100, Department 015, Division 1510, Object 5312.

Resolution 95-0142 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DAHLBERG:

WHEREAS, effective with the water meter readings of April 3, 1995, all customers of the water utility of the water and gas department of the city of Duluth, whose water supply is measured by meter, shall be charged for such water in accordance with the schedule of rates estimated by this resolution as follows:

MONTHLY METERED VOLUME

	Rate \$/CCF
First 4,000 cubic feet, per 100 cubic feet	\$ 1.31
Next 96,000 cubic feet, per 100 cubic feet	0.85
Next 900,000 cubic feet, per 100 cubic feet	0.71
Over 1,000,000 cubic feet, per 100 cubic feet	0.59

For consumers requiring water at an elevation in excess of 290 feet above Lake Superior, the rate for all water in excess of 100,000 cubic feet per month shall be \$0.85 per 100 cubic feet.

Minimum bill, 1 inch meter or smaller	\$ 5.24
Minimum bill, 1-1/2 inch meter	\$ 12.69
Minimum bill, 2 inch meter	\$ 18.64
Minimum bill, 3 inch meter	\$ 27.11
Minimum bill, 4 inch meter	\$ 40.62
Minimum bill, 5 inch meter	\$ 54.23
Minimum bill, 6 inch meter	\$ 67.58
Minimum bill, 8 inch meter	\$109.92
Minimum bill, 10 inch meter	\$151.96

Water metered at or beyond the city limits, for use by individual customers located outside the corporate limits of the city of Duluth:

All water, per 100 cubic feet	\$ 1.97
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Rates charged for water furnished to political subdivisions or state or federal government installations, located outside the corporate limits of the city will be by individual contract, using the following schedule:

First 100,000 cubic feet, per 100 cubic feet	\$ 1.81
Next 200,000 cubic feet, per 100 cubic feet	\$ 1.60
All over 300,000 cubic feet, per 100 cubic feet	\$ 1.45

Volumes exceeding 500,000 cubic feet per month, pumped to an elevation not exceeding 825 feet above Lake Superior shall be \$0.88 per cubic feet.

Resolution 95-0133 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that 3-M Company be and hereby is awarded a contract for furnishing and delivering 1995 requirements of 3-M reflective sheeting for traffic signs for the traffic operations division in accordance with specifications on its low specification bid estimated to total \$10,000,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1930, Object 5226.

Resolution 95-0140 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, that the following no parking from 2 a.m. to 6 a.m. on alternating days zones are hereby established:

First Street - 11th Avenue East to 14th Avenue East (42 feet);
Fourth Street - Mesaba Avenue to Fourth Avenue East (44 feet);
Fourth Street - 13th Avenue East to 14th Avenue East (44 feet);
12th Avenue East - First Street to Fourth Street (42 feet);
56th Avenue West - Grand Avenue to Elinor Street (36 feet);
57th Avenue West - Grand Avenue to Cody Street (36 feet);
59th Avenue West - Raleigh Street to Main Street (44 feet);
88th Avenue West - Arbor Street to Falcon Street (54 feet);
Elinor Street - Grand Avenue to Central Avenue (36 feet);
Superior Street - 14th Avenue East to 26th Avenue East (47 feet);
First Avenue West - Third Street to Fourth Street (42 feet);
McCulloch Street - 46th Avenue East to 47th Avenue East (44 feet).

The alternate side parking zones and no parking this side zones presently in effect on these streets and avenues is hereby rescinded.

Resolution 95-0131 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Masys Corporation be and hereby is awarded a contract for furnishing and delivering proprietary software upgrade to the existing police computer system for the police department in accordance with specifications on its proposal of \$78,900, terms net, FOB job site, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B516.

Resolution 95-0141 was unanimously adopted.

Approved February 6, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR TALARICO

95-007 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS TWO (2) AND FOUR (4), EAST SECOND STREET, DULUTH PROPER, FIRST DIVISION, TO INDEPENDENT SCHOOL DISTRICT NO. 709 FOR \$1.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HARDESTY

95-006 (9234) - AN ORDINANCE PERTAINING TO THE ISSUANCE OF CITATIONS BY MEMBERS OF THE FIRE DEPARTMENT, AMENDING SECTION 2-1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 10:05 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9234

BY COUNCILOR HARDESTY:

AN ORDINANCE PERTAINING TO THE ISSUANCE OF CITATIONS BY MEMBERS OF THE FIRE DEPARTMENT, AMENDING SECTION 2-1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2-1. Issuance of citations.

(a) In the performance of their official duties in the city of Duluth, the following persons may issue citations for criminal violations of the law in lieu of arresting or detaining the violator:

- (1) The building official and all inspectors on his staff;
- (2) The fire chief and his designees, the deputy fire chief and the fire marshal;
- (3) The poundmaster and his staff;
- (4) Parking meter monitors;
- (5) The snowmobile patrol;
- (6) Airport special police;
- (7) The director of parks and recreation or his designees;
- (8) The director of public works and his designees;

(b) In addition to the persons mentioned in (a) above, the chief of police is hereby authorized to designate any person to issue citations for parking violations in a designated area. If the chief of police exercises this power, he shall send a written notice of such designation to the city council and district court which includes the names or titles of persons or organizations authorized to issue parking citations and where they are authorized to issue them.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 19, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 6, 1995
Approved February 6, 1995
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 13, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0213-13 Jeffrey L. Thompson submitting letter supporting the vacation of a portion of Selkirk Street and Gearhart Street (95-0082R). -- Received

95-0213-01 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Laura Johnson on April 29, 1995. -- Received

95-0213-09 (a) Charles W. Williams, commissioner, Minnesota pollution control agency; (b) Citizens Coalition of Gary-New Duluth submitting letters regarding the barrels disposed of in Lake Superior and the landfill leaching into the St. Louis River in Cloquet. -- Received

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REPORTS OF OFFICERS

95-0213-02 Assessor submitting assessment roll for confirmation levied to defray the assessable portion of wooden stairway on Fir Avenue. -- Clerk

95-0213-03 Building official submitting appeals of board of zoning appeals':

(a) Reversal to relax the side yard setback from 30 feet to 15 feet on the Third Street side and 14.5 feet on the Fourth Street side, to relax the front yard setback from 30 feet to ten feet on the First Avenue West side frontage to allow parking in the required front yard; to relax from 163 to 107 the required number of parking spaces; 67 on site and 40 off-site by agreement with ISD #709 for the retrofit of the existing school building for 39 apartments' artist studios and public community center use on property which is located at 1 West Third Street (Washington School) (appealed by Central Hillside Community Club);

(b) Denial to request to relax the side yard depth from five feet to two feet and to relax aggregate depth from 12 feet to five feet; for the construction of a full second story addition on a 1.5 story dwelling located on property at 132 West Central Entrance (Shady). -- Committee 2 (planning)

95-0213-04 Engineering division submitting February 1, 1995 monthly status report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0213-05 Alcoholic beverage board submitting minutes of: (a) October 21; (b) November 16, 1994 meetings. -- Received

95-0213-06 Duluth transit authority submitting: (a) Minutes of January 1995 meeting; (b) Financial statement for December 1994 . -- Received

95-0213-07 Lawful gambling commission submitting minutes of: (a) October 11; (b) November 8; (c) November 28, 1994 meetings. -- Received

95-0213-08 Special assessment board minutes of January 24, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Joe Stojevich commented on and read a letter (Public Document No. 95-0213-09(b)) on behalf of the Citizens Coalition in Gary-New Duluth.

- - -

Greg Price expressed his concerns over the MPCA administration having been ineffective in protecting the environment, that the state hydrologist states contaminants from landfills are draining into the river and the issue of the barrels in Lake Superior.

Various councilors discussed this issue and noted a letter that they received from the MPCA (Public Document No. 95-0213-09(a)) regarding contaminants into the St. Louis River.

Councilor Bohlmann voiced her concern over the MPCA's quite vigorous enforcement of foundation and roof drains and not enforcing as vigorously potential toxic waste going into the river.

Councilor Talarico felt that these issues expressed by Mr. Price are separate and should be handled individually.

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RESOLUTIONS TABLED

Councilor Prettner moved to remove from the table Resolution 95-0082, denying the vacation of a portion of Selkirk Street between Tyrol Street and Gearhart Street and Resolution 95-0132, vacating a portion of Selkirk Street between Tyrol Street and Gearhart Street (Thompson), which motion was seconded and unanimously carried.

Councilor Prettner reviewed the planning committee meeting and the options of each resolution. She further noted that there has been discussion and sentiment toward the possibility of a concurrent use permit as an option, which would allow the use of the building during the life of that structure and then it would revert back to the city. Councilor Prettner noted that this could not be done now and that it would have to be done by ordinance.

Councilor Talarico stated that if it's the sentiment of the council to approve a concurrent use permit, then Resolution 95-0082 should be approved and the applicant should proceed with an application for a concurrent use permit.

Councilor Bohlmann stated that she supports Resolution 95-0132 because it is better than having the applicant tear down the building and that this resolution would remove that "cloud" on the title and issue a limited vacation.

Councilor Atkins stated the council should support Resolution 95-0132 and then have the applicant come back with a concurrent use permit application.

Resolution 95-0082 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Selkirk Street, northerly of Tyrol Street, legally described as:

Selkirk Street adjacent to Lot 1, Block 2, Tyrol Heights, and Lot 1, except the easterly 65 feet, Block 1, Home Builders Park, and Lot 13 Auditors Plat of Piedmont; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission unanimously denied the vacation petition at its January 10, 1995, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth denies the vacation of Selkirk Street as described above.

Resolution 95-0082 was unanimously adopted.
Approved February 13, 1995
GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to February 13, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR PRETTNER

95-0157R - RESOLUTION AUTHORIZING CHDO OPERATING GRANT AGREEMENT WITH CENTER CITY HOUSING CORPORATION IN THE AMOUNT OF \$8,000, PAYABLE FROM FUND 260, AGENCY 020, ORGANIZATION 2632, OBJECT H009.

- - -

BY COUNCILOR ATKINS

95-0100R - RESOLUTION MODIFYING CONTRACT #17080 WITH MRS. ALLEGRA FRENCH DENGLE BY BOWMAN CORPORATION FOR THE LEASING OF OFFICE SPACE IN THE BOARD OF TRADE BUILDING, MODIFYING THE TERM TO JUNE 30, 1995 AND INCREASING THE TOTAL AMOUNT OF THIS CONTRACT TO \$17,620; \$5,000 PAYABLE OUT OF FUND #269, BUDGET ITEM 6269; \$4,000 FROM FUND #269, BUDGET ITEM 6270; \$745 FROM FUND #268, BUDGET ITEM 6227; \$4,865 FROM FUND #268, BUDGET ITEM 6228; AND \$3,010 FROM FUND #269, BUDGET ITEM 6259.

- - -

BY COUNCILOR ATKINS

95-0147R - RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT AN EXTRAIDE GRANT FROM THE NATIONAL COUNCIL OF SENIOR CITIZENS, IN THE AMOUNT OF \$5,440 FOR A SENIOR EMPLOYMENT PROGRAM FOR THE PERIOD OCTOBER 1, 1994 THROUGH JUNE 30, 1995.

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute a one-year extension to a computer support maintenance agreement with Hewlett Packard (Auditor's Number C16233), at a cost of \$7,968, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309; said extension to be substantially in the form of those certain documents on file in the office of the city clerk as Public Document No. 93-0208-12.

Resolution 95-0152 was unanimously adopted.
Approved February 13, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Sonju Motors be and hereby is awarded a contract for furnishing and delivering one 4-wheel drive truck cab and chassis for the fleet services division in accordance with specifications on its low specification bid of \$22,264, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E427.

Resolution 95-0153 was unanimously adopted.
Approved February 13, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0150, by Councilor Bohlmann, confirming appointment of Janet Carter to the

housing and redevelopment authority replacing Helen Horral, was introduced for discussion.

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

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 95-0213-10, to City Contract No. 16721 with Center City Housing Corporation for Phase II of the Memorial Park project, extending the time for performance of their construction obligations thereunder to June 30, 1996.

Resolution 95-0121 was unanimously adopted.

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0149, by Councilor Prettner, authorizing consultancy agreement with Robert O. Ritchie related to the NWA project in the amount of \$25,000, was introduced for discussion.

Councilor Prettner stated that this resolution is to monitor the project and has no design aspects to it.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Jim VanDell voiced his concern over the increase of property values based on the expectation of the Northwest Airlines project which hasn't materialized yet, or that it isn't as large as expected. Mr. VanDell continued to express his concern over the funding level of \$45 million for this project and that this resolution appears to be trying to find alternative uses for the project that hasn't even started.

Councilor Wheeler noted that this is to insure that the operational design is as flexible as possible for any possible future needs and that this is a reimbursable cost.

Councilor Bohlmann voiced her concerns as to why the city should have somebody see that the building is built as flexible as possible in the case where the airbus facility hasn't even been started yet. She continued to note that there are only one or two airbuses that will probably come in each week and that other airlines are closing down air maintenance bases. In conclusion, Councilor Bohlmann stated that Northwest didn't even want this airbase and the state will sell bonds but the city of Duluth is liable for \$1.4 million for 30 years.

Councilor Prettner stated that this is not a \$45 million cost for the city, in that \$11 million is paid by the franchise fee from Minnesota Power and \$7 million from property taxes paid by Northwest Airlines and that there are no taxpayer dollars expended. Councilor Prettner concluded that Northwest has the brightest financial perspective of all airlines and it's prudent of the city of Duluth to cover all the bases that if in the unforeseeable situation that Northwest doesn't do well, then this property will be very marketable.

Councilor Talarico expressed his displeasure with this discussion, in that the public wanted the city to make good decisions, like bankers that approve financing, and that with this resolution the city is covering all the bases just in case the Northwest project does not proceed as successfully as planned.

Councilor Prettner moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Nays: Councilor Bohlmann -- 1

Resolution 95-0149 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0213-11 with Robert O. Ritchie for design consultancy services related to the Northwest Airlines Heavy Aircraft Maintenance Base project in the amount not to exceed \$25,000, payable from Fund 420.

Resolution 95-0149 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architects IV, for the sum of not to exceed \$2,268, from General Fund 100, Object I427, for providing certain architectural services to the city of Duluth in connection with reroofing of the Lakeview Ski Chalet, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0213-12.

Resolution 95-0148 was unanimously adopted.

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, during the week of February 19-25, the judges of the Sixth Judicial District in Minnesota have set aside time to applaud the efforts of jurors who provide support to the court system and fulfill the most important civic responsibility shared by every member of a democracy; and

WHEREAS, the judges and court personnel of the Sixth Judicial District are working in partnership to educate the public about jury duty and the importance of serving; and

WHEREAS, the judges and court personnel are vigilant in these efforts to assure equal access and the broadest level of juror participation; and

WHEREAS, the jury system is the one system of jurisprudence which guarantees necessary safeguards for the protection of rights of persons and property, and that this system should be preserved in its essence; and

WHEREAS, it is important to be dedicated to protecting the rights given to us by our founding fathers more than two centuries ago in the Bill of Rights, which among other freedoms, guarantees citizens one of the most precious rights we have -- "The Right to Trial By Jury";

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby proclaims the week of February 19-25, 1995, as "Jury Service Appreciation Week" in the city of Duluth, and calls upon all the residents of the city to join in observing this week.

Resolution 95-0154 was unanimously adopted.

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0156, by President Keenan, appointing members to the citizens' task force to recommend the appropriate compensation level of the mayor, was introduced for discussion.

Councilor Downs suggested that the name "John Scott" be amended in as an alternate because Mr. Scott's application was postmarked in time, it just hadn't been received before the cutoff.

Councilor Wheeler moved to amend the resolution to include the name "John Scott" as an alternate, which motion was seconded by Councilor Downs and unanimously carried.

Councilor Bohlmann has stated that the Charter has the city council setting the mayor's salary and this task force takes part of that responsibility away. Councilor Bohlmann felt the city council doesn't have to take all the heat for the decision with this task force involved and that it is not a cross-section of the typical taxpayers of the city of Duluth.

Councilor Wheeler stated that he supports the resolution, and that the process was fair and open and that the city council would receive good input from the individuals so named. Councilor Wheeler moved to call the question, which motion was seconded by Councilor Hardesty and unanimously carried.

Resolution 95-0156 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the following individuals are hereby appointed to the citizens' task force on the mayor's salary created by Resolution 95-0069:

Acting chairperson - Cindy Hayden
Member - Abbot G. Apter
Member - Rodger Palmer
Member - Bruce Stender
Member - George A. Sundstrom
Member - Robert L. Swanstrom, Sr.
Member - Robert Taival
Alternate - John F. Scott

Resolution 95-0156, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to Salme and Olavi Lehtonen, and their attorney, David Weidt, the sum of \$60,000 in settlement of all injury claims against the city arising from a collision with a city truck on October 21, 1994, at Highway 61 and East Superior Street; payment to be from self insurance fund.

Resolution 95-0139 was unanimously adopted.

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Eagle Point, Inc., be and hereby is awarded a contract for furnishing and delivering engineering software for the engineering division in accordance with specifications on its low specification bid of \$8,707.44, terms net 30, FOB destination, payable out of General

Fund 100, Dept./Agency 015, Organization 2100, Object B525.

Resolution 95-0151 was unanimously adopted.

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR TALARICO

95-009 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE EASTERLY 25 FEET OF LOT 41, EXCEPT THE NORTHERLY TEN FEET FOR ALLEY, BLOCK 92, DULUTH PROPER, THIRD DIVISION, TO DEAN S. KORACH AND ALAN P. BARTA FOR \$2,000.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR TALARICO

95-007 (9235) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS TWO (2) AND FOUR (4), EAST SECOND STREET, DULUTH PROPER, FIRST DIVISION, TO INDEPENDENT SCHOOL DISTRICT NO. 709 FOR \$1.

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

- - -

The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9235

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS TWO (2) AND FOUR (4), EAST SECOND STREET, DULUTH PROPER, FIRST DIVISION, TO INDEPENDENT SCHOOL DISTRICT NO. 709 FOR \$1.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Independent School District No. 709 for a consideration of \$1, to be deposited in the General Fund 100-700-1418-4640:

Lots Two (2) and Four (4), East Second Street, Duluth Proper, First Division, according to the plat thereof on file and of record in the office of the register of deeds, St. Louis County, Minnesota.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: March 26, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 13, 1995

Approved February 13, 1995

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 21, 1995, 8:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Bohlmann -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0221-01 Kolar Buick, by Blesener Dahlberg Architects, ARA, petitioning for concurrent use permit for improvements to Jefferson Street. -- Planning commission

95-0221-11 David A. and Joanne M. Wyrick petitioning for vacation of the perpendicular easement on Lots 2 and 3, Block 1, Lakeview Division, First Addition. -- Assessor

95-0221-02 Steven C. Overom submitting letter regarding the West End Ace Hardware Building bingo/pull-tab application (95-0069R(b)). -- Received

95-0221-03 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Joanne E. Olin on November 25, 1995. -- Received

95-0221-19 The following submitting letters regarding the BZA appeal to the old Washington Junior High School: (a) Central Hillside Community Club, by Patty Martin; (b) Ed Oja; (c) Ann Niedinghaus. -- Received

- - -

REPORTS OF OFFICERS

95-0221-04 Assessor submitting assessment rolls for confirmation levied to defray the assessable portions of 26th Avenue West & 16th Street (full development) and Jefferson Alley from 14th to 15th Avenues East. -- Clerk

95-0221-05 Community development and housing division submitting HRA housing rehabilitation report for December 1994. -- Received

95-0221-06 Job training programs division acting manager submitting first amendment to the memorandum of understanding with the Duluth police department. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0221-07 Duluth housing trust fund board minutes of January 18, 1995 meeting. -- Received

95-0221-08 Duluth public arts commission minutes of January 23, 1995 meeting. -- Received

95-0221-10 Duluth SRO housing commission minutes of January 11, 1995 meeting. -- Received

95-0221-09 Planning commission minutes of: (a) October 11, 1994; (b) October 25, 1994; (c) December 13, 1994; (d) January 10, 1995 meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Ken Hogg, I&I task force member, reminded councilors that the I&I task force has recommended seeking bids for roof drain inspection of flat roof buildings, the accelerated cleaning and sewer system analysis for the purpose of maximizing alternatives available to the city, to find out if the private sector can do the job at a lesser cost, to avoid hiring employees for short-term high intensity tasks and to reduce the capital expenditures by the city for specialized

equipment. He emphasized the importance of competitive bids.

In response to Councilor Atkins, Administrative Assistant Nollenberger said he believes the inspection of lines can be done by the city more cost effectively by better utilizing the existing TV camera and said conditions in the action plan do not make contracting out operationally viable. He said he cannot support a plan that will spend down the sewer fund beyond minimum levels.

Councilor Atkins encouraged competitive bidding for the project as the task force has recommended.

- - -

RESOLUTION TABLED

Councilor Downs moved to remove from the table Resolution 95-0150, confirming appointment of Janet Carter to the housing and redevelopment authority replacing Helen Horral, which motion was seconded and unanimously carried.

Resolution 95-0150 was adopted as follows:

BY COUNCILOR DOWNS (introduced by Councilor Bohlmann):

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

HOUSING AND REDEVELOPMENT AUTHORITY

Janet Carter for a term expiring January 3, 2000, replacing Helen Horral.

Resolution 95-0150 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

UNFINISHED BUSINESS

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an CHDO operating grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0221-12, with Center City Housing Corporation in the amount of not to exceed \$8,000, payable from Fund 260, Agency 020, Organization 2632, Object H009.

Resolution 95-0157 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to modify City Contract #17080 with Mrs. Allegra French Dengler by Bowman Corporation for office space in the Board of Trade Building modifying the lease term to June 30, 1995, and increasing the total amount payable to \$17,620; \$5,000 payable out of Fund #269, Budget Item 6269; \$4,000 from Fund #269, Budget Item 6270; \$745 from Fund #268, Budget Item 6227; \$4,865 from Fund #268, Budget Item 6228; and \$3,010 from Fund #269, Budget Item 6259. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0221-13.

Resolution 95-0100 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city

of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a National Council of Senior Citizens EXTRAide grant in the amount of \$5,440 for the period of October 1, 1994, through June 30, 1995. A copy of this agreement is on file in the city clerk's office as Public Document No. 95-0221-18.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund #271, Budget Item #6340.

Resolution 95-0147 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following be and the same is hereby confirmed:

Wooden Stairway on Fir Avenue (Contract No. 5246) (assessable \$8,107,81) as referred to in Public Document No. 95-0213-02.

Resolution 95-0161 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement between city of Duluth and International Association of Firefighters, Local 101; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0221-14, on file with the city clerk.

Resolution 95-0173 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that B & D Pump, Incorporated, be and hereby is awarded a contract for furnishing and delivering lubrication system equipment for the new fleet services center for the fleet services division in accordance with specifications on its low specification bid of \$7,695.16, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5580.

Resolution 95-0160 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, Minnesota Deer Hunters Association, Duluth Chapter, has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Minnesota Deer Hunters Association, Duluth Chapter, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 94-0169 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby confirmed:

COMMISSION ON DISABILITIES

Dorothy A. Turnbloom for a term expiring November 1, 1997.

Resolution 95-0162 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

DULUTH SRO HOUSING COMMISSION

Sean R. Beaudin (at large), Greg Hansen (HRA) and Daniel J. Moore (CHUM) for terms expiring March 1, 1998.

Resolution 95-0163 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

PARK AND RECREATION BOARD

Laurie B. Berner-Uggla for a term expiring February 13, 1996, replacing Jeanne Hoff who resigned.

Resolution 95-0165 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0170, affirming, and Resolution 95-0171, reversing, the decision of the board of zoning appeals to grant a request to relax the side yard setback from 30 feet to 15 feet on the Third Street side and 14.5 feet on the Fourth Street side, to relax the front yard setback from 30 feet to 10 feet on the First Avenue West side frontage to allow parking in the required front yard; to relax from 163 to 107 the required number of parking spaces (67 on site and 40 off site by agreement with ISD 709) for the retrofit of the existing school building for 39 apartments/artist studios and public community center use on property which is located at 1 West Third Street (former Washington School), by Councilor Prettnner, were introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Prettner moved to table the resolutions for further information, which motion was seconded and unanimously carried.

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BY PRESIDENT KEENAN:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering one Toro greens aerator for the parks and recreation department in accordance with specifications on its low specification bid of \$9,203.18, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E532.

Resolution 95-0166 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Holy Cross Lutheran Church of Duluth Heights be and hereby is awarded a contract for furnishing rental of kitchen and basement area for the city of Duluth Senior Dining Program for the senior nutrition division in accordance with specifications on its low specification bid of \$6,300, terms net 30, FOB job site, payable out of Senior Dining Fund 272, Dept./Agency 031, Organization 6305, Object 0093.

Resolution 95-0167 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that St. Louis County Social Services be and hereby is awarded a contract for furnishing approximately 60,000 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior nutrition division in accordance with specifications of its proposal of \$2.46 per meal for eligible senior citizens and \$4 per meal for guests or approximately \$149,140, payable out of Senior Nutrition Fund 272, Dept./Agency 031, Organization 6305, Object 0071.

Resolution 95-0168 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is file in the city clerk's office as Public Document No. 95-0221-15, with the Arrowhead Economic Opportunity Agency (A.E.O.A.) to operate the Hospitality Host Program from October 1, 1994, through December 31, 1995, at a cost not to exceed \$19,583, payable from Fund #268, Budget Items #6224 and #6233, and Fund #271, Budget Item #6340.

Resolution 95-0143 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the St. Louis County Board for the furnishing of meals for senior citizens for the period of January 1, 1995, through December 31, 1995, said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

agreement filed as Public Document No. 95-0221-16. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6305.

Resolution 95-0158 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, Mr. Charles Curtis was born in January 1860 on the Kansa Reservation located within the state of Kansas; and

WHEREAS, he graduated in 1879 as valedictorian of his high school class; and

WHEREAS, after two more years of study Mr. Curtis became an attorney at the age of 21; and

WHEREAS, in 1884 Mr. Curtis was elected county attorney of Shawnee County, Kansas, in which position he accomplished goals of merit and distinction; and

WHEREAS, in 1892 Mr. Curtis was elected to the U.S. House of Representatives, at which time he and his family moved to Washington, D.C.; and

WHEREAS, in 1907 he was appointed to represent the state of Kansas in the U.S. Senate and was subsequently elected to that post, serving as U.S. senator until 1928; and

WHEREAS, in 1928 Mr. Charles Curtis was elected the 31st Vice President of the United States, and served in that position with honor and distinction; and

WHEREAS, as our first Native American Vice President and as a person who served his state and country long and well and serves as an inspiration and an example to us all and is, therefore, a fitting and deserving candidate to be honored and memorialized on a U.S. postage stamp.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the U.S. Postal Commission to honor the 31st U.S. Vice President, Charles Curtis, by authorizing, issuing and circulating a stamp bearing his likeness along with such other words, symbols and depictions as are fitting for this extraordinary Native American and citizen of the United States.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the United States Postal Commissioner and to each member of the Minnesota congressional delegation.

Resolution 95-0164 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the Duluth City Council hereby requests the Minnesota legislature to approve legislation making certain laws relating to the establishment of utilities applicable to the city and authorizing the city to implement a demonstration project to develop methods to prevent the infiltration and inflow of storm water into the city's sanitary sewer system, which proposed legislation is on file in the office of the city clerk as Public Document No. 95-0221-17.

Resolution 95-0174 was unanimously adopted.

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-49 of the Duluth City

Code, 1959, as amended, that the following streets and highways be removed or added to the truck route system of the city of Duluth established by Resolution 78-0277, and amended by Resolution 92-0866 as amended:

- (a) Remove the following route: 59th Avenue West from Raleigh Street to Waseca Street;
- (b) Add the following route: Waseca Industrial Road from Central Avenue to 59th Avenue

West.

Resolution 95-0159 was unanimously adopted.
Approved February 21, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, that the following "handicapped parking" zones are hereby established:

- one stall in front of 2628 West Second Street;
- one stall in front of 522 North 11th Avenue East;
- one stall in front of 32 East First Street.

Resolution 95-0178 was unanimously adopted.
Approved February 21, 1995
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-011 - AN ORDINANCE GRANTING FITGER'S LIMITED PARTNERSHIP, OWNER OF LOT 1, FITGER'S ADDITION, PLUS LOTS 19 AND 20, BLOCK 3, PORTLAND DIVISION, PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A STAIR AND STOOP WITHIN THE SOUTHEASTERLY EIGHT FEET OF EAST SUPERIOR STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

- - -

The following entitled ordinance is to be read for the second time:

BY COUNCILOR TALARICO

95-009 (9236) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE EASTERLY 25 FEET OF LOT 41, EXCEPT THE NORTHERLY TEN FEET FOR ALLEY, BLOCK 92, DULUTH PROPER, THIRD DIVISION, TO DEAN S. KORACH AND ALAN P. BARTA FOR \$2,000.

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

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The meeting was adjourned at 9:20 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J . COX, City Clerk

- - -

ORDINANCE NO. 9236

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE EASTERLY 25

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

FEET OF LOT 41, EXCEPT THE NORTHERLY TEN FEET FOR ALLEY,
BLOCK 92, DULUTH PROPER, THIRD DIVISION, TO DEAN S. KORACH AND
ALAN P. BARTA FOR \$2,000.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Dean S. Korach and Alan D. Barta for a consideration of \$2,000, to be deposited in the General Fund 100-700-1418-4640:

The easterly 25 feet of Lot 41, except the northerly ten feet for alley, Block 92, Duluth Proper, Third Division.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: April 2, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Bohlmann -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 21, 1995

Approved February 21, 1995

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 27, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Bohlmann -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0227-01 David Humes, by Jerome P. Agnew, attorney, submitting petition to vacate a portion of 41st Avenue West and the alley extending southwesterly therefrom. -- Assessor

95-0227-02 Miller-Dwan Medical Center, by Lyle Peters, AIA, of Architectural Resources, Inc., submitting petition to request a concurrent use permit for a portion of land along East Second Street in front of Miller-Dwan Medical Center for the purpose of constructing a retaining wall . -- Planning commission

95-0227-08 C.L. Jonason submitting letter regarding parking spaces at the old Washington School site. -- Received

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REPORTS OF OFFICERS

95-0227-03 Councilor Prettner submitting correspondence from zoning coordinator regarding board of zoning appeals/city council planning committee answers to questions given. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0227-04 Alcoholic beverage board minutes of December 21, 1994 meeting. -- Received

95-0227-05 Board of directors of trust for Miller-Dwan Hospital and Medical Center minutes of January 19, 1995 meeting. -- Received

95-0227-07 Board of zoning appeals minutes for January 24, 1995 meeting. -- Received

95-0227-06 Lawful gambling commission minutes of: (a) December 13, 1994; (b) January 10, 1995 meetings. -- Received

- - -

REPORTS OF COUNCIL COMMITTEES

To Councilor Wheeler's concerns over the lack of information the council had received regarding the city involvement in the hiring of the executive director for the U.S. Des Moines project, Administrative Assistant Nollenberger responded that the city did hire the executive director in a temporary capacity to assist the city in compiling information and financial data to be analyzed and to review the feasibility of the Des Moines project for consideration by the mayor and possible action by the DEDA and/or city council. He said hiring temporary employees is an administrative function and does not need council approval.

Various councilors expressed their sentiment that there is a perception that the city is not, at this time, behind this project in any fashion and that funding for the executive director of the Des Moines project is not being funded by the city at all. Secondly, the council stated that they felt this should not have been done, or the city council should have been informed that the administration was going to do this especially when the city council is given a different perception about the city administration's involvement.

In conclusion, councilors stated that this is not an issue with the project or the individual, but that it is an issue of public trust between the administration and themselves.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Ken Hogg commented that in the matter of the city hiring the executive director of the U.S. Des Moines as a temporary employee without informing the council and the public, there was a breach of the public trust and that there is a need for openness.

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RESOLUTIONS TABLED

Councilor Downs moved to remove from the table Resolution 95-0073, confirming appointment of Robert Baeumler to the technical design advisory committee for the downtown waterfront mixed-use design review district replacing Cindy Martins, which motion was seconded and unanimously carried.

Resolution 95-0073 was adopted as follows:

BY COUNCILOR DOWNS (introduced by Councilor Bohlmann):

RESOLVED, that the following appointment by Mayor Doty be and same is hereby confirmed:

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

Robert Baeumler for a term expiring May 31, 1997, replacing Cindy Martins, who resigned.

Resolution 95-0073 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

- - -

Councilor Prettner moved to remove from the table Resolutions 95-0170 and 95-0171, affirming and reversing, respectively, the decision of the board of zoning appeals to grant a request to relax the side yard setback from 30 feet to 15 feet on the Third Street side and 14.5 feet on the Fourth Street side; to relax the front yard setback from 30 feet to ten feet on the First Avenue West side frontage to allow parking in the required front yard; to relax from 163 to 107 the required number of parking spaces for the retrofit of the existing school building for 39 apartments/artist studios and public community center use on property located at 1 West Third Street (former Washington School), which motion was seconded and unanimously carried.

Councilor Prettner moved to consider Resolution 95-0197, modifying the board of zoning appeals decision on this same issue, which motion was seconded and carried upon a unanimous vote.

Councilor Prettner reviewed the three resolutions and noted the parking in the neighborhood and in the project is the main aspect of these resolutions. She noted the planning committee of the council supports Resolution 95-0197 and that this resolution has the factors of the school district parking when not in use for 55 spaces, and that the project requires 115 spaces, which is 75 on site and 40 off site, and that another resolution will call for seven more parking spots at the community center.

Councilor Atkins stated that he would like other changes to allow parking on both sides of Second and Third Street from 6:00 p.m. to 2:00 a.m. to be considered in addition. He further stated that many of the downtown workers park in the residential area on Second and Third Streets, which takes away from residential parking and that there is possibly a need for residential permit parking in this area.

Resolution 95-0197 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Patty Martin, president of the Central Hillside Community Club, has appealed

to the city council the decision of the board of zoning appeals to grant a request to relax the side yard setback from 30 feet to 15 feet on the Third Street side and 14.5 feet on the Fourth Street side, to relax the front yard setback from 30 feet to ten feet on the First Avenue West side frontage to allow parking in the required front yard; to relax from 163 to 107 the required number of parking spaces (67 on site and 40 off-site by agreement with ISD 709) for the retrofit of the existing school building for 39 apartments/artist studios and public community center use on property which is located at 1 West Third Street (former Washington School); and

WHEREAS, the city council has considered this appeal and has determined that the required findings for granting of a variance to allow the retrofit of an existing, vacant school building to apartments/studios and community center use can be made in this case, based upon limits set forth in the zoning ordinance, if the required number of parking spaces is increased to 115 (75 on site and 40 off-site by agreement with ISD 709);

NOW, THEREFORE, BE IT RESOLVED, by the city council that the board of zoning appeals decision of January 24, 1995, is hereby modified to require 115 parking spaces (75 on site and 40 off-site by agreement with ISD 709), and is otherwise affirmed.

Resolution 95-0197 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following, on file in the city clerk's office as Public Document No. 95-0221-04, be and the same are hereby confirmed:

(a) 26th Avenue West and 16th Street - full development (Contract Nos. 5254, 1192161 and 119162) (assessable amount - \$327,211.37);

(b) Jefferson Alley from 14th to 15th Avenues East (Contract No. 5240) (assessable amount - \$19,785.69).

Resolution 95-0182 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Denny's Lawn and Garden be and hereby is awarded a contract for furnishing and delivering two 4-wheel drive, 20 h.p. tractors, one enclosed cab, one snowblower and one 48 inch mower deck for the fleet services division and street/park maintenance division in accordance with specifications on its low specification bid of \$24,120.23, terms net, FOB destination, \$10,945 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E522; \$10,890.05 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E512 and \$2,285.18 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5580.

Resolution 95-0176 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth issues the following temporary

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

on sale intoxicating liquor license, for June 13, 1995, subject to departmental approvals:

Arrowhead Zoological Society, 7210 Fremont Street, with Sam Maida, executive director, that the serving time be from 6:30 p.m. to 8:30 p.m., security be coordinated with the police department, a fee of \$200 be paid, and that liquor liability insurance be filed.

Resolution 95-0188 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0189, by Councilor Downs, approving the transfer of the off sale intoxicating license of the North American Investors, Inc. (Denfeld Bottle Shop), 4201 Grand Avenue, to North American Investors, Inc. (Denfeld Bottle Shop), 210 North Central Avenue, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Jan LeSarge of West Duluth Liquor, Inc. (Wild West Liquor), stated her opposition to the resolution. Ms. LeSarge stated that this area of town is being saturated with liquor stores already. Ms. LeSarge continued to explain that traffic now is bad, with approximately 6,600 vehicles daily, and with the new post office operation, this will increase the traffic problem. She noted that this location is behind a video store, which is a congregation for minors and this business could be a bad influence on them.

Charlie Stauduhar voiced his support for the resolution. Mr. Stauduhar stated that his wife is one of the owners of this liquor store, and that it would be adjacent to the Super One parking lot. He said that a liquor store in itself is not a draw but that the traffic from the Super One would be advantageous to their business. In conclusion Mr. Stauduhar stated that they take pride in this business and he would see that no violations of the law will be allowed to occur.

Resolution 95-0189 was adopted as follows:

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth approves the transfer of the following off sale intoxicating liquor license for the period beginning March 27, 1995, and ending August 31, 1995, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

North American Investors, Inc. (Denfeld Bottle Shop), 210 North Central Avenue, transferred from North American Investors, Inc. (Denfeld Bottle Shop), 4201 Grand Avenue.

Resolution 95-0189 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

ALCOHOLIC BEVERAGE BOARD

Ronald McKinnon for a term expiring October 31, 1997, replacing Douglas Merritt.

Resolution 95-0172 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

BE IT RESOLVED, that the proper city officers are hereby authorized to enter into an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

agreement with the Minnesota Historical Society (MHS) to accept a matching grant in the amount of \$1,000 on behalf of the St. Louis County Historical Society (SLCHS) in order for it to host a traveling exhibit, "Saving Places"; said agreement to be in the form of the certain document on file in the office of the city clerk as Public Document No. 95-0227-09; the \$1,000 from MHS shall be paid to the SLCHS upon submission of required documentation of \$1,000 matching funds by the SLCHS to the city planning division which shall act as administrating agency for this grant.

Resolution 95-0186 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city council is considering approval of a variance from the required parking requirements for the Artspace/Community Center project on the site of former Washington School; and

WHEREAS, the council recognizes the critical need for parking in the area of this project that cannot feasibly be provided on the project site; and

WHEREAS, additional parking on the city-owned Central Hillside Community Center property adjacent to the project site can be created at a reasonable cost; and

WHEREAS, the council's approval of the requested variance is being made with the understanding that seven additional parking spaces will be constructed by the city on the Central Hillside Community Center property;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city to proceed with construction of seven additional parking spaces on the Central Hillside Community Center property.

Resolution 95-0198 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement, on file with the office of the city clerk as Public Document No. 95-0227-10, authorizing Lower Chester, Inc., to manage and employ staff for the extended operation of the Lower Chester hockey and skating facility, in consideration for \$3,060 to be paid from city Fund No. 100-400-1812-5319.

Resolution 95-0185 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials be and hereby are authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$12,000 from the National Council of Senior Citizens to operate the Senior AIDES Program through June 30, 1995. A copy of this agreement shall be on file with the city clerk as Public Document No. 95-0227-11.

RESOLVED FURTHER, that monies received pursuant to this grant be deposited in Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

#271, Budget Item 6339.

Resolution 95-0175 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Como Philgas Company be and hereby is awarded a bid for furnishing and delivering distribution of approximately 180,000 gallons of L.P. gas to various city locations for the water and gas department in accordance with specifications on its low specification bid of approximately \$11,626, based on \$.08 and \$.04 per gallon, terms net 30, FOB job sites, \$3,200 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5390 and \$8,426 payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5333.

Resolution 95-0177 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Arrowhead Tree Service, Inc., be and hereby is awarded a contract for approximately 365 tree removals/trimmings for the park maintenance division in accordance with specifications on its low specification bid of \$35,029.60, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 95-0144 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Graybar Electric Company, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous telephone equipment for the property management division and fleet services division in accordance with specifications on its low specification bid of \$11,722.56, terms net 30, FOB shipping point, freight allowed, \$7,971.34 payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B534; \$2,344.51 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5321; and \$1,406.71 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5321.

Resolution 95-0179 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for engineering services in connection with environmental studies to be conducted near 13th Avenue West as a part of the reconstruction of Railroad Street; said agreement to be substantially in the form of Public Document No. 95-0227-12, on file with the city clerk; the \$12,932.31 payable thereunder to be paid from the PI fund, to be reimbursed in part by MSA funds.

Resolution 95-0183 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Baker Fire Equipment be and hereby is awarded a contract for furnishing and delivering 15 sets of firefighter turnout gear for the fire department in accordance with specifications on its low specification bid of \$6,855, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5210.

Resolution 95-0180 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Streicher's, Inc., be and hereby is awarded a contract for furnishing and delivering ten double action, .40 caliber handguns with holsters and extra magazines for the police department in accordance with specifications on its low specification bid of \$5,265.60, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 95-0184 was unanimously adopted.

Approved February 27, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR DOWNS

95-013 - AN ORDINANCE REPEALING SECTION 41-9 OF THE CITY CODE RELATING TO MEETINGS OF THE BOARD OF STANDARDIZATION AND SPECIFICATIONS.

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BY COUNCILOR PRETTNER

95-008 - AN ORDINANCE TO PROVIDE FOR SOLID WASTE DISPOSAL FACILITIES AS SPECIAL USES IN CERTAIN ZONING DISTRICTS; AMENDING SECTIONS 50-1, 50-32, 50-35 AND 50-107 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR TALARICO

95-010 - AN ORDINANCE AMENDING THE REGULATIONS APPLICABLE TO LIMITED YEARLY STREET OBSTRUCTION PERMITS; AMENDING SECTION 45-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR TALARICO

95-012 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1 AND 2, BLOCK 8, WEST END CENTRAL DIVISION TO JAMES M. WINKLER FOR \$4,500.

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The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-011 (9237) - AN ORDINANCE GRANTING FITGER'S LIMITED PARTNERSHIP, OWNER OF LOT 1, FITGER'S ADDITION, PLUS LOTS 19 AND 20, BLOCK 3, PORTLAND DIVISION, PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A STAIR AND STOOP WITHIN THE SOUTHEASTERLY EIGHT FEET OF EAST SUPERIOR STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH

CONCURRENT USE PERMIT.

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

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The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9237

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING FITGER'S LIMITED PARTNERSHIP, OWNER OF LOT 1, FITGER'S ADDITION, PLUS LOTS 19 AND 20, BLOCK 3, PORTLAND DIVISION, PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN A STAIR AND STOOP WITHIN THE SOUTHEASTERLY EIGHT FEET OF EAST SUPERIOR STREET, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Fitger's Limited Partnership, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a stoop and stair in that part of East Superior Street as the same was dedicated to the use of the public and the plat of Portland Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) That part of the southeasterly eight feet of Superior Street adjacent to Lot 1, Fitger's Addition, which lies between two lines perpendicular to the northwest line of said Lot 1, said lines at their intersections with said northwest line being 305.0 feet and 330.0 feet distant from the most northerly corner of Lot 1, Fitger's Addition.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said stoop and stair and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such stoop and stair shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said East Superior Street and agree that the city of Duluth shall not be liable for damage caused to such handicapped access ramp while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such stair and stoop in said East Superior Street.

Section 6. That the permittee shall further observe the following conditions:

- (a) That all applicable codes will be observed and construction of said stair and stoop;
- (b) The size and location of stair and stoop shall be limited to and maintained in accordance with plans by Thomas and Vecchi entitled "Fitger's Brewery Complex Plan and Proposed Safety Improvements to Hotel Entrance" dated November 23, 1994.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 9, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Bohlmann -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 27, 1995
Approved February 27, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 6, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Prettner -- 1

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The minutes of council meetings held on June 13, 20 and 27, 1994, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0306-04 Amy LeGore, Neighborhood Youth Services Advisory Council Chairperson, et al. (95 signatures) submitting communication regarding the Washington School project. -- Received

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REPORTS OF OFFICERS

95-0306-05 Administrative Assistant submitting old downtown strategic plan. -- Received

95-0306-01 Assessor submitting:

(a) Letters for confirmation of assessment rolls levied to defray the assessable portions of :

- (1) Appleridge development;
- (2) Parkwood Phase III and Northland Estates Phase II;

(b) Letter of sufficiency regarding petition to vacate the perpendicular easement on Lots 2 and 3, Block 1, Lakeview Division First Addition. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0306-02 Duluth airport authority minutes of January 17, 1995 meeting. -- Received

95-0306-03 Seaway Port authority of Duluth: (a) Minutes of November 30, 1994; (b) Minutes of December 15, 1994; (c) October 1994 financial statement; (d) November 1994 financial statement. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 95-0127, by Councilor Wheeler, requesting the Duluth economic development authority to issue approximately \$2,790,000 lease revenue bonds, Series 1995A, to finance the Washington School community center project and approving the financing plan for such project, was introduced for discussion.

Resolution 95-0215, authorizing lease with Artspace Projects, Inc., and Washington Studios Limited Partnership regarding the Washington School project; Resolution 95-0216, approving award of construction contract to Ray Riihuloma, Inc., regarding the Washington School project in the amount of \$4,879,090 and Resolution 95-0221, amending Contract No. 17244 with Artspace Projects, Inc., related to the Washington School project, by Councilor Atkins, were introduced for discussion at this time.

In response to Councilor Wheeler's concern about whether enough money has been budgeted to cover major building repairs or maintenance, Steve McNeil, architect, reviewed maintenance plans for the property.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Bohlmann said she will not support these resolutions because she feels too much money is being spent for this particular project.

Resolutions 95-0127, 95-0215, 95-0216 and 95-0221 were adopted as follows:

BY COUNCILOR WHEELER:

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

Section 1. Findings.

1.01 The city council has determined that it is necessary and expedient to make improvements to the former Washington Junior High School for a community/recreational center (the "project").

1.02 The city is authorized pursuant to Minnesota Statutes, Section 465.71, and the City Charter to lease real or personal property with an option to purchase under a lease purchase agreement. The city hereby finds that it is necessary and expedient and in the best interest of the citizens of the city, that the city enter into a lease purchase agreement, and related documents, to provide financing for the project.

1.03 The city council hereby requests the Duluth economic development authority ("DEDA") to participate in the financing for the project by serving as the lessor under such lease and by issuing approximately \$2,790,000 of lease revenue bonds, Series 1995A (the "bonds"), in order to finance the project. The principal of and interest on the bonds shall be payable from lease rentals from such lease sufficient to provide for the prompt and full payment of the bonds and interest accruing thereon.

Section 2. Authorization to proceed.

The city council hereby authorizes the city staff to work with the city's financial advisor, bond counsel and Dain Bosworth, Incorporated, as underwriter, and DEDA to arrange for such financing.

Section 3. Terms and conditions.

The terms and conditions of the lease purchase agreement and the bonds shall be approved by subsequent resolution of the city council.

Section 4. Funds and accounts.

4.01 The city hereby creates a separate construction account within the capital improvement fund to which there shall be credited the portions of the bonds used to pay costs of construction of the project, as provided by council resolution, together with any additional funds which may be available and are appropriated for the project or which may be advanced to such account on condition that such amounts be reimbursed from bond proceeds.

4.02 The city council shall by resolution or resolutions establish such further accounts and credit monies from the bonds through the lease herein authorized to such accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Resolution 95-0127 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to enter into a restated and amended easement agreement substantially in the form of that on file in the office of the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

clerk as Public Document No. 95-0306-11, with Artspace Projects, Inc., and the Washington Studios Limited Partnership regarding the Washington School project.

Resolution 95-0215 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city council of the city of Duluth does hereby approve the award of a construction contract for the redevelopment of the Washington Junior High School property in substantial conformance of that on file in the office of the city clerk as Public Document No. 95-0306-12 to Ray Riihuloma, Inc., said contract to be in the amount of \$4,879,090 and to be in substantial conformance with that financial plan on file in the office of the city clerk as Public Document No. 95-0306-13.

Resolution 95-0216 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 95-0306-14, to city Contract No. 17244 with Artspace Projects, Inc., related to the Washington Junior High School project, modifying parking provisions related thereto and increasing the amount payable thereunder by \$200,000.

Resolution 95-0221 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved March 6, 1995

GARY L. DOTY, Mayor

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At this time, 8:05 p.m., President Keenan called the public hearing regarding Miller-Dwan land transfer to order (Public Document No. 95-0306-19).

- - -

At this time, 8:25 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1995, to December 31,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1995, for Duluth Steam District No. 2 in the amount of \$6,033,474 is hereby approved.

Resolution 95-0190 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement between city of Duluth and city of Duluth Supervisory Association; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0306-08, on file with the city clerk.

Resolution 95-0193 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement between city of Duluth and the confidential bargaining unit of the city, acting through its bargaining agent; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0306-09, on file with the city clerk.

Resolution 95-0196 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Viking Electric Supply be and hereby is awarded a contract for furnishing and delivering approximately 9,000 fluorescent, incandescent and high intensity discharge lamps for the various departments/divisions in accordance with specifications on its low specification bid of \$14,450, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0201 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one 4-wheel drive tractor with 88 inch flail mower for the fleet division in accordance with specifications on its low specification bid of \$12,348.68, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E521.

Resolution 95-0208 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale nonintoxicating malt liquor license for the period ending April 30, 1995, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Little Store, Inc. (Little Stores), 231 North Central Avenue, transferred from Kayo Oil, Inc. (Central Avenue Conoco), same address, with Daryl McKinney, president, John McKinney, vice president, and Mike McKinney, secretary.

Resolution 95-0219 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of librarian III, which were approved by the civil service board on February 7, 1995, and which are filed with the city clerk as Public Document No. 95-0306-10, are approved.

Resolution 95-0194 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the Duluth City Council hereby approves of the abolishment of the word processing supervisor job classification, said action abolishing said classification having been approved by the civil service board on February 7, 1995.

Resolution 95-0195 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0199, affirming, and Resolution 95-0200, reversing, the decision of the board of zoning appeals 1) to deny a request to relax the side yard depth from five feet to two feet and 2) to deny a request to relax the aggregate side yard depth from 12 feet to five feet for the construction of a full second story addition on a 1.5 story dwelling on property located at 132 West Central Entrance (Joanna M. and Jeffrey L. Shady), by Councilor Atkins, were introduced for discussion.

Councilor Talarico said it appears that the overall condition of the premises will not be substantially improved with this addition. He related that Councilor Prettnner recommends affirming the decision of the board of zoning appeals.

Councilor Downs did not believe it would be wise to allow a second story added on to this structure, adding that he doesn't feel the location warrants such an improvement.

Resolution 95-0200 (Public Document No. 95-0306-07) failed upon the following vote (reconsidered on March 20, 1995):

Yeas: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Nays: Councilors Downs, Hardesty, Talarico and Wheeler -- 4

Absent: Councilor Prettnner -- 1

Resolution 95-0199 (Public Document No. 95-0306-06) failed upon the following vote (reconsidered March 20, 1995):

Yeas: Councilors Downs, Hardesty, Talarico and Wheeler -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Absent: Councilor Prettnner -- 1

- - -

BY COUNCILOR ATKINS:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

against the following parcel of property, grounds of condemnation being the building is structurally unsound, open to trespass, and a menace to the downtown business district; and

WHEREAS, notices of condemnation were served as follows:

325-335 West Superior Street, also known as: WEST 26 FEET OF LOT 59 AND ALL OF LOTS 61 AND 63 DULUTH PROPER 1ST DIVISION WEST SUPERIOR STREET by personal service, January 27, 1995, of Jerry E. Thompson, building official, in the offices of Frank Holappa and Scott Horngren, Suite 312, 202 West Superior Street, Duluth, MN 55802 to Frank Holappa; and by personal service, January 27, 1995, of Jerry E. Thompson, building official, in the law offices of Charles H. Andresen, 1000 Alworth Building, P.O. Box 745, Duluth, MN 55801 to Jill Thorkildson; and by personal service, January 27, 1995, of Jerry E. Thompson, building official, in the offices of City Clerk, City of Duluth, 411 West First Street, Duluth, MN 55802 to Mary Chapman; and by certified mail on William R. Stephenson, Jr., 3301 East Superior Street, Duluth, MN 55804 signed by Julia Stephenson on January 28, 1995;

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above-named property, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisance, together with cost if any thereof to the city of Duluth.

Resolution 95-0209 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

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:

<u>File No.</u>	<u>Applicant</u>	<u>Legal description</u>	<u>Location</u>
95001	Dean Menardi	Lots 1, 8, Block 19 Kimberly & Strykers	north side of Nashua between 65th and 66th Avenue West (West Duluth)

Resolution 95-0211 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Arrowhead Chemicals, Incorporated, be and hereby is awarded a contract for furnishing and delivering approximately 7,500 gallons of various chemicals for water control for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$6,927.83, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 95-0191 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY PRESIDENT KEENAN:

RESOLVED, that the Duluth City Council hereby approves the plat of survey of closed sanitary landfill submitted on behalf of the Western Lake Superior Sanitary District by RREM, Inc., engineering and environmental consultants, on file in the office of the city clerk as Public Document No. 95-0306-15.

RESOLVED FURTHER, that the proper city officers are hereby authorized to certify such approval on the face of said plat.

Resolution 95-0205 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city is hereby authorized to enter into a sponsor agreement with the Arrowhead Regional Commission for Options North 1995, at a cost to the city of \$5,000, which shall be paid from the General Fund 015-2070.

Resolution 95-0202 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to amend city Contract #17030 with Valley Youth Center by extending the contract date to April 30, 1995, to allow for the purchase of a computer. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0306-16.

FURTHER RESOLVED, that costs incurred under this modification shall be payable out of Fund #275, Budget Item 6003.

Resolution 95-0210 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the Duluth City Council hereby requests the city's state legislative delegation to propose and support adoption of legislation which would allow the city to appeal state imposed mandatory property valuation increases to the commissioner of revenue.

Resolution 95-0212 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0213, by Councilor Atkins, allowing parking on certain portions of Second and Third Streets during certain hours effective May 15, 1995, was introduced for discussion.

Councilor Talarico felt the resolution is premature, noting that December is the earliest occupancy date for the Washington School project. He said the city and DEDA is in the process of conducting a traffic and parking study and advocated waiting for those results before making this decision. He also noted that a bike route study is being conducted which could be affected by this change in parking.

Councilor Hardesty said she cannot support the resolution at this time, citing public safety and possible congestion problems.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Dahlberg supported the resolution, noting there is a parking problem in the central hillside neighborhood even without the Washington School project.

Councilor Atkins noted that parking has been a problem in the downtown area for more than ten years but has not been dealt with. He moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architects IV, for the sum of not to exceed \$3,500, from water and gas funds as follows: 50% Water Fund 510, 50% Gas Fund 520 (Ag. 900, Org. 050, Obj. 5533), for providing certain architectural services to the city of Duluth in connection with water and gas (Garfield) re-roofing, Phase 5, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0306-17.

Resolution 95-0192 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering various valve box repair parts for the water and gas department in accordance with specifications on its low specification bid of \$7,117.60, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0204 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Northern Tier General Constructors be and hereby is awarded a contract for remodeling the third floor at the water and gas main office building for the water and gas department in accordance with specifications on its low specification bid of \$31,925, terms net, FOB job site, \$15,962.50 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$15,962.50 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0206 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officials are authorized to pay to Arlene Osterman the sum of \$9,000 and to Byron Osterman the sum of \$6,000 in full and final settlement of the claim which arose out of a pedestrian accident occurring on December 14, 1992, at 21st Avenue West and Third Street; payment to be made from the self-insurance fund.

Resolution 95-0203 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0214, by Councilor Talarico, authorizing the execution of a traffic operations

and parking study with Strgar-Roscoe-Fausch, Inc. in the amount of \$30,000, was introduced for discussion.

Councilor Wheeler moved to amend the resolution to include a statement requiring that within two years of completion of the study there be a report given both to the administration and the city council of the results of the study and what has been accomplished, which motion was not seconded.

In response to Councilor Atkins, Ken Larson, city engineer, said the contract could begin mid-March with gathering the data, and the analysis of the data could take several months, so that he would expect a final product to come back to the council no sooner than July.

Councilor Wheeler expressed his concern about the impact of tourist traffic on this study and urged that that information be included in this study.

Resolution 95-0214 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for professional services with Strgar-Roscoe-Fausch, Inc., covering traffic operations and parking studies in the central part of the city of Duluth; said agreement to be in the form of Public Document No. 95-0306-18 on file with the city clerk; the \$30,000 consideration therefore to be paid from the P.I. fund, to be reimbursed for 50% of the cost up to a total of \$15,000 by the Duluth economic development authority from Fund 860.

Resolution 95-0214 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the Duluth City Council hereby recommends to Independent School District No. 709, that the city and ISD No. 709 establish and participate in a joint powers committee of staff and programmers of city and district resources and facilities, to study the need for joint and community use of these resources and facilities and to collaborate on the formulation of plans and joint use agreements to maximize the community utilization of available plant, facilities, capital and other resources.

RESOLVED FURTHER, that the city council pledges its cooperation in this joint powers planning effort, and recommends the formation of a committee comprised of four or five staff members from each participant to define terms of a joint powers agreement between the city and ISD No. 709 and to oversee the agreement for at least two years after it is negotiated and approved.

Resolution 95-0224 was unanimously adopted.

Approved March 6, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER

95-014 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF BLOCK 3, ONEOTA, FIRST DIVISION, FROM "INDUSTRIAL PARK" TO M-1, MANUFACTURING.

- - -

BY COUNCILOR HARDESTY

95-015 - AN ORDINANCE APPROVING CONVEYANCE OF CERTAIN REAL ESTATE BY THE DIRECTORS OF TRUST OF MILLER-DWAN HOSPITAL TO THE DULUTH CLINIC, LTD. AND ST. MARY'S/POLINSKY PHYSICAL MEDICINE AND REHABILITATION SERVICES.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR DOWNS

95-013 (9238) - AN ORDINANCE REPEALING SECTION 41-9 OF THE CITY CODE RELATING TO MEETINGS OF THE BOARD OF STANDARDIZATION AND SPECIFICATIONS.

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

- - -

BY COUNCILOR PRETTNER

95-008 (9239) - AN ORDINANCE TO PROVIDE FOR SOLID WASTE DISPOSAL FACILITIES AS SPECIAL USES IN CERTAIN ZONING DISTRICTS; AMENDING SECTION 50-1, 50-32, 50-35 AND 50-107 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR TALARICO

95-010 (9240) - AN ORDINANCE AMENDING THE REGULATIONS APPLICABLE TO LIMITED YEARLY STREET OBSTRUCTION PERMITS; AMENDING SECTION 45-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR TALARICO

95-012 (9241) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1 AND 2, BLOCK 8, WEST END CENTRAL DIVISION TO JAMES M. WINKLER FOR \$4,500.

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

- - -

The meeting was adjourned at 9:25 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9238

BY COUNCILOR DOWNS:

AN ORDINANCE REPEALING SECTION 41-9 OF THE CITY CODE RELATING TO MEETINGS OF THE BOARD OF STANDARDIZATION AND SPECIFICATIONS.

The city of Duluth does ordain:

Section 1. That Section 41-9 of the Duluth City Code, 1959, as amended, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Prettner -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 6, 1995
Approved March 6, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9239

BY COUNCILOR ATKINS (introduced by Councilor Prettner):

AN ORDINANCE TO PROVIDE FOR SOLID WASTE DISPOSAL FACILITIES AS SPECIAL USES IN CERTAIN ZONING DISTRICTS; AMENDING SECTIONS 50-1, 50-32, 50-35 AND 50-107 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 50-1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 50-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

50-1.1. Accessory building or use. A building or use subordinate in use, area or purpose to the principal building or use on the same lot and serving a purpose naturally and normally incidental to such principal building or use. Where an accessory building is attached to the principal building in a substantial manner by a wall or roof, it shall be considered part of the principal building.

50-1.2. Alley. A public thoroughfare less than 30 feet in width.

50-1.3. Alley line. The established side line of an alley easement.

50-1.4. Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family.

50-1.5. Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and news stands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

50-1.6. Apartment house. See dwelling, multiple.

50-1.7. Basement. A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than five feet of its height below the ceiling is above the grade of the adjoining ground.

50-1.8. Boardinghouse. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for five or more persons, but not exceeding 15 persons.

50-1.9. Building. Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated

by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

50-1.10. Building, height of. The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

50-1.11. Clinic. An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or physicians and dentists in practice together.

50-1.12. Club. A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

50-1.13. District. Any section of the city within which the zoning regulations are uniform.

50-1.14. Dwelling. Any building or portion thereof which is designed for or used for residential purposes.

50-1.15. Dwelling, one-family. A building designed for exclusive occupancy by one family and occupied exclusively by one family and not more than four roomers, having a minimum outside width of 20 feet measured at its narrowest point, and placed on a permanent foundation which complies with the Uniform Building Code as adopted in Minnesota.

50-1.16. Dwelling, two-family. A building designed for exclusive occupancy by two families and occupied exclusively by two families and not more than four roomers.

50-1.17. Dwelling, group. One or more buildings containing dwelling units and arranged around two or three sides of a court which opens onto a street or place.

50-1.18. Dwelling, townhouse. A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

50-1.19. Dwelling, multiple. A building designed for or occupied exclusively by three or more families.

50-1.20. Efficiency dwelling unit. A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

50-1.21. Family. One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boardinghouse, lodging house, motel or hotel as herein defined.

50-1.22. Filling station. Any building, structure, or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting.

50-1.23. Frontage. All the property on one side of a street between two streets which intersect such street (crossing or terminating), measured along the line of the street, or if the street is deadened, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

50-1.24. Garage, private. An accessory building designed or used for the storage only of not more than four motor-driven vehicles. Not more than one of the vehicles may be a commercial vehicle, which vehicle shall not exceed a two-ton capacity.

50-1.25. Garage, public. A building or portion thereof, other than a private storage or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

50-1.26. Garage, storage or parking. A building or portion thereof designed or used exclusively for storage of motor-driven vehicles, and within which motor fuels and oils may be sold, but no vehicles are equipped, repaired, hired or sold.

50-1.27. Grade;

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(b) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

(c) For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

50-1.28. Home occupation. Any uses customarily incidental and subordinate to the principal residential use conducted within a dwelling and not in any accessory building, provided that no retail business of any sort is involved; no stock in trade is kept or commodities sold, except such as are made on the premises; no person not a member of the family residing on the premises is employed therein; no mechanical equipment is used except such as is permissible for purely domestic or household purposes; and not more than 1/4 of the floor area of one story of the dwelling is devoted to such home occupation. Provided, however, that such home occupation shall not require internal or external alterations, or involve special construction or features; that the occupation shall be conducted entirely within the dwelling; that the entrance to the space devoted to such occupation be from within the building with no separate exterior entrance; and that no display pertaining to such occupation be visible from the street; and provided further, that only one sign or device not exceeding one square foot in area which may contain the name and title only shall be permitted in connection with each such home occupation and shall be attached to the dwelling and not illuminated. No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television. In particular, a home occupation includes the following: artist's studio; dressmaking; office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with musical instruction limited to not more than two pupils at the same time. However, a home occupation shall not be interpreted to include barbershops, beauty parlors, tourist homes, restaurants or tea rooms.

50-1.29. Hotel. A building in which lodging or boarding and lodging are provided for more than 15 persons and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. A hotel is open to the transient public in contradistinction to a boardinghouse, a rooming house or an apartment which are herein

separately defined.

50-1.30. Laundromat. An establishment providing hometype washing, drying or ironing machines for use on the premises.

50-1.31. Loading space. A space within the main building or on the same lot therewith, providing for the off-street standing, loading or unloading of trucks and trailers.

50-1.32. Lodging house. See rooming house.

50-1.33. Lot. Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required herein, and having its principal frontage upon a street or upon an officially approved place.

50-1.33.1. Lot frontage. Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

50-1.34. Lot, corner. A lot abutting upon two or more streets at their intersection.

50-1.35. Lot, double frontage. A lot having a frontage on two streets as distinguished from a corner lot.

50-1.36. Lot of record. A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of St. Louis County or a parcel of land described by metes and bounds the description of which has been recorded in the office of the register of deeds of St. Louis County or of the county auditor.

50-1.37. Motor court or motel. A building or group of buildings used primarily for the temporary residence of motorists or travelers.

50-1.38. Nonconforming use. Any building or land lawfully occupied by a use at the time of passage of this Chapter or amendment thereto which does not conform after the passage of this Chapter or amendment thereto with the use regulations of the district in which it is situated.

50-1.39. Nursing, rest or convalescent home. A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

50-1.40. Parking area. An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

50-1.41. Parking lot. An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented or sold.

50-1.42. Parking space. A surfaced area, enclosed or unenclosed, having a width of not less than seven feet and an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

50-1.43. Place. An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

50-1.43.1. Power transmission line. A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46

kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

50-1.44. Premises. A lot, together with all buildings and structures existing thereon.

50-1.45. Rooming house. A building other than a hotel where lodging for five but not more than 15 persons is provided for definite periods for compensation pursuant to previous arrangement.

50-1.46. Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

50-1.47. Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

50-1.48. Street. A thoroughfare 30 or more feet in width, dedicated to the public or privately owned and approved by the city council.

50-1.49. Street line. The established side line of a street easement or right-of-way.

50-1.50. Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground, including but without limiting the generality of the foregoing, backstops for tennis courts, fences or pergolas, but excluding signs as defined in Chapter 44 of this Code.

50-1.51. Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

50-1.52. Tourist home. A dwelling in which accommodations are provided or offered for one or more, but not exceeding ten, transient guests for compensation.

50-1.53. Trailer camp. Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer camp and its facilities or not. "Trailer camp" shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

50-1.54. Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

50-1.55. Yard, front. A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in Subsection (c) of Section 50-22. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where lines are equal,

the front yard shall be the line which is the front by reason of the established pattern of the platting or development along the street(s) and/or avenue.

50-1.56. Yard, rear. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches and the rear lot line. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

50-1.57. Yard, side. A yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

50-1.58. Trailer. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels and/or axles have been removed.

50-1.59. Truck. Every motor vehicle designed, used or maintained primarily for the transportation of property.

50-1.60. thru 50-1.63. Repealed by Ord. No. 8685, 12-19-83, § 13.

50-1.64. Site plan. An accurate scale drawing which indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development. The site plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location, size and floor elevation of all existing and proposed buildings and other structures; walls and fences; outdoor storage, yards and space between buildings; vehicular, pedestrian and service access, including curb cuts; stormwater drainage directions; off-street parking and loading areas, including the location and type of curbs, number of parking spaces and dimensions; signs and lighting, including location, size, height and method of illumination; relationship to buildings on adjacent properties; street names, including adjacent streets; street dedications and improvements; utility and other easements; waste disposal facilities; the existing and intended use of each building or part of a building; total acreage of the site; north arrow; scale; title; and date.

50-1.65. Landscape plan. An accurate scale drawing which indicates the major natural features of a site and all proposed buildings, structures, and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development. The landscape plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location and size of all existing and proposed buildings and other structures; walls and fences; existing coniferous trees having a height of eight feet or greater and existing deciduous trees having a trunk diameter of more than four inches, provided that boundaries for areas containing groups of such trees may be delineated as "prime tree stands" without identifying individual trees if the species and average tree size within such areas is indicated, and if there will be no construction of buildings or roadways within such areas; marshes, swamps and other wetlands; rock outcrops and severe slopes of 25 percent or greater; floodplains; the location, size and specific type of all proposed landscaping material; existing and proposed drainageways; existing and proposed contours at an interval of not less than two feet; vehicular, pedestrian and service access, including parking areas; areas to be conveyed, dedicated or reserved as common open areas, including public parks and recreational areas; drainage improvements such as culverts, retention/ detention basins,

major drainage swales, and stormwater pipes in excess of six inches; north arrow; scale; title; and date.

50-1.66. Useable open space. Open space, other than required building setback areas, which is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails which have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if such buildings or other facilities are used for noncommercial, recreational or cultural purposes which are compatible with useable open space objectives and have been specifically approved as part of the development plan.

50-1.67. Wind energy conversion systems (WECS). An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill or wind turbine.

50-1.68. Petroleum soil treatment. The storage and placement of petroleum contaminated soil on or into the soil surface, by methods such as land treatment (soil farming), composting or aerobic treatment cells for the purpose of biodegradation treatment of organic waste components. Terms herein shall have the meanings as defined in state of Minnesota rules on petroleum contaminated soil.

50-1.69. Composting. The controlled microbial degradation of organic waste to yield a humus like product.

50-1.70. Yard waste compost facility. A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product, and residual resulting from the composting process.

50-1.71. Construction debris. Waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.

50-1.72. Demolition debris. Solid waste resulting from the demolition of buildings, roads, and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

50-1.73. Hazardous waste. Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid, or contained gaseous form which because of its quality, concentration, or chemical, physical, or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include: source, special nuclear, or by-product material as defined by the

Atomic Energy Act of 1954, as amended.

50-1.74. Solid waste facility. A waste facility permitted by the city of Duluth, the Western Lake Superior Sanitary District and the state of Minnesota that is designed or operated for the purpose of disposing of solid waste on or in the land, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility.

50-1.75. Solid waste disposal facility. Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

50-1.76. Solid waste. Has the meaning given it in Minnesota Statutes, Section 116.06, Subdivision 22.

50-1.77. Yard waste. The garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential or commercial properties.

Section 2. That Section 50-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 50-32. Permit from city council.

Subject to the provisions of this Article, the city council may, by resolution, grant a special permit for the special uses set out in this Article in any district, as herein qualified, which uses are otherwise prohibited by this chapter, and may impose appropriate conditions and safeguards, including performance bonds and a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood. In the event of approval by the city council of the special use, the site plan, landscape plans and building elevation drawings for the development as approved, and other commitments and contractual agreements, shall be recorded as a city council public document prior to the issuance of any building permit. All future use of the land and structures erected thereon pursuant to the special use permit shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying a permit, the city council may deny a permit should it find that the proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts upon the community.

Section 3. That Section 50-35 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

- (a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;
- (b) Amusement park, but not within 300 feet of any "R" district;
- (c) Cemetery, crematorium or mausoleum;
- (d) Circus or carnival grounds, but not within 300 feet of any "R" district;
- (e) Commercial, recreational or amusement development for temporary or seasonal periods;
- (f) Clinic of less than 10,000 square feet in floor area or institutions. Provided that any institution permitted in any "R" district shall be located on a site of not less than five

acres within said "R" district, shall not occupy more than ten percent of the total lot area within said "R" district and shall be set back from all yard lines at least two feet for each foot of building height.

(g) Marina;

(h) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the "R-4" district;

(i) Privately operated community building or recreation field;

(j) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(k) Riding stable;

(l) Radio or television broadcasting tower or station;

(m) Drive-in theater in the "S" suburban district;

(n) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(o) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a "R" or "S" district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in "S" districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres. Provided further that a substation which serves more than the immediate neighborhood may also be granted a special use permit in an "R" district if the proposer demonstrates that the substation meets or exceeds the following conditions and standards:

(1) The substation's specific function requires that it be so located and that need for the substation is demonstrated;

(2) The substation will be located on a parcel of land large enough for the facility and related appurtenances, including adequate vegetative screening and setbacks from adjacent properties;

(3) The substation shall be located within a structure which has the scale and visual character of the type allowed in "R" districts;

(4) The substation shall be visually screened and have residential yard and landscaping characteristics which are compatible with adjacent properties. The screening shall consist of natural or planted vegetation of sufficient spacial density and height to effectively blend the substation into its surroundings;

(5) The sound levels at the substation property line shall comply with the Minnesota pollution control agency noise pollution control regulations;

(6) The substation shall be constructed, operated and maintained in conformance with the safety and health specifications listed in the National Electric Code and the National Electrical Safety Code in effect at the time of construction. (Refer to part I, rules for the installation and maintenance of electric supply stations and equipment);

(7) The council may impose such additional reasonable requirements as it deems necessary to insure that the safety and health of the general public and

neighboring property owners will be protected.

The applicant shall furnish scaled drawings of the substation facility, the landscaping and screening, and such additional information as is necessary to demonstrate that the substation will meet the above standards.

The portion of this Section 50-35(o) allowing substation as a special use in "R" districts shall be in full force and effect until June 1, 1984, at which time it shall terminate;

(p) Commercial services and recreational uses in the "IP" industrial park district, as further defined in Section 50-123 of this Chapter;

(q) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(q)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(q)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the

special use permit process:

For general corridor special use permits:

(A) The public need for the route and facility as specifically proposed shall be demonstrated;

(B) Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

(C) The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

For final design special use permits:

(D) Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

(E) All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

(F) Lines shall meet or exceed the National Electric Safety Code;

(G) Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;

(H) The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

For both general corridor and final design special use permits:

The following standards shall apply in addition to those required above under general corridor and final design special use permits:

(I) When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

(J) Routes shall utilize or parallel existing rail roads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more

than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(r) Beauty salon in an "R" district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off-street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph (r), include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph (r) if a beauty salon already exists within 1,000 feet of the premises;

(s) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood;

(t) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(u) Bed and breakfast inns;

(1) This special use permit shall be granted only to those historically or architecturally unique residential properties, as so certified by the city's heritage preservation commission, which meet or exceed the criteria outlined herein, and only

after it is determined that the single-family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with houseguests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn;

(2) An application for this special use permit shall include the following:

(A) Documentation of historical or architectural uniqueness, certified by the city's heritage preservation commission;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65;

(D) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;

(E) Sign drawings showing location, dimensions and detail;

(F) Inspection reports from the city building official, city fire marshal and St. Louis County health department;

(3) Bed and breakfast inns may be granted permits in "S," "R-1" and "R-2" zones subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) The proprietor shall be the owner and occupant of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted;

(D) Two off-street parking spaces plus one for each guest room shall be provided;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) from surrounding properties and rights-of-way. Scattered parking shall not be allowed;

(F) No permit shall be issued for a bed and breakfast located closer than 350 feet to an existing bed and breakfast inn;

(G) Only breakfast shall be provided to guests;

(H) There shall be no structural alterations to the interior or exterior of the buildings, except to provide handicapped accessibility (if such changes do not adversely affect the character and quality of the structure), and except those required by fire, health, building, or other codes. Such exceptions shall be permitted only after written approval is obtained from the city planning commission, such approval to be obtained prior to the time any permit is issued or any construction or demolition is initiated;

(I) Any construction to restore buildings to historic condition, any construction of new buildings and any alterations to the grounds must be authorized by the city council through this special use permit process;

(J) There shall be a limitation on the number of guest rooms permitted based on the character and size of the building, and guest rooms shall have traditionally been bedrooms;

(K) One sign may be erected on the property, not to exceed two square feet in size. Such signage shall not be illuminated and shall complement the architecture of the structure;

(L) Guests' stays shall be limited to ten consecutive days;

(M) The bed and breakfast shall be a subordinate use to the primary single-family use of the structure;

(N) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(v) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the "tower farm" within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(w) Mini storage facilities; subject to compliance with the following criteria:

(1) Located in a "S" zone;

(2) On a parcel not less than 7-½ acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;

(3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);

(4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

(5) There shall be maintained, a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

(6) There shall be a minimum structure setback of 100 feet from any property line;

(7) Storage area "unit" shall not exceed a 12 foot wall height and a floor area of 300 square feet;

(8) Lighting shall be limited so as not to illuminate beyond property lines;

(9) Must comply with other applicable codes and ordinances (i.e., WRMO);

(x) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

(y) Petroleum soil treatment;

(1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:

(A) That the pollution control agency (PCA) shall have reported to the

planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;

(B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:

1. No vegetation shall be cut or removed from within state required set backs except as required for installation of temporary roads;

2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;

(C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above.

(z) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify, (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions: Solid waste disposal facilities and yard waste

composting facilities may be granted special use permits in "S," "M-1" and "M-2" zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit, for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit, or other security (including an account to accept deposits of tipping fees) acceptable to the city.

prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure.

Section 4. That Section 50-107 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 50-107. Permitted uses.

A building or premises in the "M-2" manufacturing district shall be used only for the following purposes:

(a) Any use permitted in the "M-1" manufacturing district. No dwelling, other than that for a resident watchman or caretaker employed on the premises, shall be permitted;

(b) Any other use, other than those enumerated in paragraph (k) of this Section and other than solid waste disposal sites and yard waste compost facility sites not in conflict with any state statute or provision of this Code regulating nuisances, including the manufacture, compounding, processing, packaging or treatment of the following or similar products together with any similar new or improved uses, as determined by the board of zoning appeals, which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted;

(c) Chemicals, petroleum, coal and allied products:

- (1) Adhesives;
- (2) Alcohol, industrial;
- (3) Bleaching;
- (4) Bluing;
- (5) Calcimine;
- (6) Candles;
- (7) Cleaning and polishing preparation (nonsoap) dressing and blackings;
- (8) Dye-stuff;
- (9) Essential oils;
- (10) Exterminating agents and poisons;
- (11) Fertilizer (nonorganic);
- (12) Fuel briquettes;
- (13) Glue and size (vegetable);
- (14) Ink manufacture from primary raw materials including colors and pigments);
- (15) Soap and soap products;

(d) Clay, stone and glass products:

- (1) Abrasive wheels, stones, paper, cloth and related products;
- (2) Asbestos products;
- (3) Brick, fire brick and clay products;
- (4) Glass and glass products;
- (5) Graphite and graphite products;
- (6) Monument and architectural stone;
- (7) Pottery and porcelain products (coal fired);
- (8) Refractories (other than coal fired);
- (9) Sand-lime products (other than a central concrete mixing or concrete proportioning plant);

- (10) Stone products;
- (11) Wallboard and plaster, building insulation and composition flooring;
- (e) Food and beverage:
 - (1) Casein;
 - (2) Chocolate and cocoa;
 - (3) Cider and vinegar;
 - (4) Distilleries (alcoholic), breweries and alcoholic spirits;
 - (5) Flour, feed and grain milling or storage;
 - (6) Gelatin;
 - (7) Glucose or dextrine;
 - (8) Malt extracts;
 - (9) Meat packing;
 - (10) Molasses;
 - (11) Oils, shortenings and fats (including oleomargarine);
 - (12) Pickles, vegetable relish and sauces;
 - (13) Poultry (including slaughter);
 - (14) Rice cleaning and polishing;
 - (15) Sauerkraut;
 - (16) Sugar refining;
- (f) Metal and metal products:
 - (1) Boat manufacture;
 - (2) Boiler manufacture (other than welded);
 - (3) Brass and bronze foundries;
 - (4) Forge plant, pneumatic, drop and forging hammering;
 - (5) Foundries;
 - (6) Galvanizing or plating (hot dip);
 - (7) Lead oxide;
 - (8) Locomotive and railroad car building and repair;
 - (9) Motor testing (internal combustion motors);
 - (10) Ore dumps and elevators;
 - (11) Shipyard;
 - (12) Stoves and ranges;
 - (13) Structural iron and steel fabrication and manufacture;
 - (14) Wire rope and cable;
- (g) Textiles, fibers and bedding:
 - (1) Bedding (mattress, pillow and quilt);
 - (2) Bleachery;
 - (3) Carpets, rugs and mats;
 - (4) Cordage and rope;
 - (5) Cotton ginning;
 - (6) Cotton wadding and linter;
 - (7) Hats;
 - (8) Hair and felt products washing, curing, dyeing;
 - (9) Knitted and woven goods;
 - (10) Jute, hemp and sisal products;
 - (11) Linoleum and other hard surfaced floor covering;
 - (12) Nylon;

- (13) Oilcloth, oil treated products and artificial leather;
- (14) Rayon;
- (15) Shoddy;
- (16) Wool pulling or scouring;
- (h) Wood and paper products:
 - (1) Barrels;
 - (2) Carriages and wagons;
 - (3) Charcoal and pulverizing;
 - (4) Excelsior;
 - (5) Furniture;
 - (6) Paper and paperboard products;
 - (7) Planing and millwork;
 - (8) Sawmill (including cooperage stock mill);
 - (9) Wallboard;
 - (10) Wood preserving treatment;
- (i) Miscellaneous industries:
 - (1) Carbon papers and ribbons;
 - (2) Chewing tobacco manufacture;
 - (3) Leather tanning and curing;
 - (4) Rubber (natural and synthetic), gutta percha, chicle and balata processing;
 - (5) Rubber tire and tube;
 - (6) Shell grinding;
 - (7) Storage battery (wet cell);
- (j) Miscellaneous uses:
 - (1) Automobile wrecking, cars and parts, storage and sale;
 - (2) Bag cleaning;
 - (3) Boats and shipyards, docks, repair, service, sales or storage of boats. Dock wharves, transit sheds and other facilities used in connection with water transportation or navigation purposes;
 - (4) Coal pocket;
 - (5) Junk and salvage (metal, paper, rags, waste or glass), storage, treatment, baling;
 - (6) Railroad yard, roundhouse, repair and overhaul shops;
 - (7) Oils, vegetable and animal (nonedible) and storage;
 - (8) Paint, lacquer, shellac and varnish (including colors and pigments, thinners and removers);
 - (9) Roofing materials, building paper and felt (including asphalt and composition);
 - (10) Salt tanning materials and allied products;
 - (11) Tar products (except distillation);
- (k) Uses approved by city council. Any of the following uses, when the location of such use has been approved by the city council after public hearing and investigation and report by the city planning commission:
 - (1) Acid manufacture; acid bulk storage;
 - (2) Cement, lime, gypsum or plaster of Paris manufacture;
 - (3) Central concrete mixing or concrete proportioning plant;
 - (4) Distillation, manufacture or refining of bones, coal or tar asphalt;

- (5) Explosives, manufacture or storage;
- (6) Fat, grease, lard or tallow rendering or refining;
- (7) Fertilizer manufacture (from organic matter);
- (8) Glue or size manufacture;
- (9) Paper manufacture;
- (10) Petroleum or asphalt refining or storage;
- (11) Smelting of tin, copper, zinc or iron ores;
- (12) Storage or processing raw hides or fur;
- (13) Stockyards or slaughter of animals (except poultry).

In permitting any such uses, the city council may impose appropriate conditions and safeguards, including performance bonds, to protect the health, safety and welfare of the residents of the community and the environment. The site plan, landscape plans and building drawings for the use as approved, and other commitments and contractual agreements, shall be recorded as city council public documents prior to the issuance of any building permit. All future use of the land and structures erected there on shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying approval for such a use, the city council may deny approval for such a use if it should find that such a use would have negative environmental, health or safety impacts on the community or have little or no contiguity with existing or programmed development in the affected area.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Prettner -- 1

Passed March 6, 1995
Approved March 6, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9240

BY COUNCILOR TALARICO:

AN ORDINANCE AMENDING THE REGULATIONS APPLICABLE TO LIMITED YEARLY STREET OBSTRUCTION PERMITS; AMENDING SECTION 45-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 45-18.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 45-18.1. Limited yearly permit for certain types of obstructions.

(a) Notwithstanding any provision in this Article to the contrary, the city engineer may issue limited yearly permits subject to the restrictions set forth herein. The fee for such permit shall be \$200. No limited yearly permit shall be issued unless the applicant has first filed a bond and insurance required by Section 45-19 in this Article. A limited

yearly permit shall authorize the permit holder to make an unlimited number of obstructions which meet the following criteria:

- (1) No obstruction shall last longer than 24 hours, and the permittee shall not obstruct that area or the surrounding 100 feet for at least five days thereafter;
- (2) No part of any street or alley shall be obstructed unless one unobstructed lane for traffic at least 12 feet wide is maintained in each direction, and, in the case of sidewalks, at least five foot width of sidewalk or boulevard shall remain unobstructed for pedestrian passage;
- (3) No excavations shall be involved;
- (4) The area obstructed shall not exceed 350 square feet, at any location;
- (5) No mobile machinery shall be moved onto an obstructed sidewalk;
- (6) Only equipment and mobile machinery needed for maintenance purposes may be placed in a street or alley;
- (7) All street and alley obstructions must be signed and/or protected by traffic control devices as set forth in the Minnesota manual on uniform traffic control devices and its appendices;
- (8) The city engineer may impose any other conditions on the permit deemed necessary to protect public safety, including a requirement that the city be notified of street obstructions;

(b) The holder of a limited yearly permit shall be required to take out individual permits pursuant to this Article for any obstruction or excavation not meeting the criteria set forth in Subdivision (1) of this Section;

(c) The holder of a limited yearly permit shall post such permit or a copy thereof on each job site where work is being done pursuant to such permit.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Prettner -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 6, 1995
Approved March 6, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9241

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1 AND 2, BLOCK 8, WEST END CENTRAL DIVISION TO JAMES M. WINKLER FOR \$4,500.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to James M. Winkler for a consideration of \$4,500, to be deposited in the General Fund 100-700-1418-4640:

Lots 1 and 2, Block 8, West End Central Division.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: April 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Prettner -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 6, 1995
Approved March 6, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 20, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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The minutes of council meetings held on July 11, 12, 18 and 25, 1994; and August 8 and 22, 1994, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0320-01 Daniel O. Ahonen, et al. (14 signatures) petitioning for the reclassification from R-1-b to R-3 and C-5 the southeast corner of Maple Grove and Haines Roads. -- Assessor

95-0320-02 Donald Olson, et al. (12 signatures) petitioning for the sanitary sewers in Willow Street/Blackman Avenue. -- Assessor

95-0320-03 Minnesota state auditor submitting audit of the Spirit Mountain recreation area authority for the year ended September 30, 1994. -- Received

95-0320-04 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Thousand Lakes Region, Inc., of NMRA on May 19, 1995; (b) Sarah Zambroski on July 15, 1995. -- Received

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REPORTS OF OFFICERS

95-0320-05 Assessor submitting letter of sufficiency to vacate the following thoroughfares: that portion of the unnamed thoroughfare lying southwesterly of 41st Avenue West, bounded on the northwest by Block 11, Hazelwood Addition to Oneota, and bounded on the southeast by the former right-of-way of the Northern Pacific Railway (now Burlington Northern); and that portion of 41st Avenue West lying southeasterly of the extended northwesterly line of Block 12, Hazelwood Addition to Oneota, and lying northwesterly of a line drawn 25 feet northwesterly and parallel with the main line of the Burlington Northern track as same is now constructed and existing. -- Received

95-0320-06 City treasurer submitting acceptance of gambling funds from Congdon Park Recreation Association, Inc. for arena utility. -- Received

95-0320-07 Parks and recreation department director submitting minutes of the board of directors for the Lake Superior zoological society for January 18, 1995. -- Received

95-0320-08 Purchasing agent submitting emergency purchase order for asbestos removal, awarded to C.A. Anderson for an increase of \$6,500. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0320-09 Citywide citizens advisory committee minutes of February 21, 1995 meeting. -- Received

95-0320-10 Civil service board minutes of (a) January 3, 1995; (b) January 10, 1995 meeting. -- Received

95-0320-11 Duluth housing trust fund board minutes of February 9, 1995 meeting. -- Received

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RESOLUTIONS RECONSIDERED

Councilor Talarico moved to reconsider at this time Resolution 95-0199, affirming, and Resolution 95-0200, reversing, the board of zoning appeals 1) to deny a request to relax the side yard depth from 55 feet to two feet and 2) to deny a request to relax the aggregate side yard depth from 12 feet to five feet for the construction of a full second story addition on a 1.5 story dwelling on property located at 132 West Central Entrance (Joanna M. and Jeffrey L. Shady), which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions.

Joanna Shady reviewed their proposed addition and urged councilors to support Resolution 95-0200.

Claudia Laurin, neighbor, spoke in support of the Shady's project, stating she feels it will complement the neighborhood.

Councilor Prettnner recommended Resolution 95-0199, denying the Shady's request, because it is contrary to zoning laws and she felt the proposed improvements will not appreciate the property's value and will overcrowd the area.

President Keenan voiced support for allowing the Shadys to improve their property.

Councilor Atkins noted the abundance of older homes in Duluth and supported allowing the Shadys and others the opportunity to improve their older homes. He suggested that it may be time to review the housing code to consider that issue.

Resolution 95-0199 failed upon the following vote (Public Document No. 95-0320-12):

Yeas: Councilors Downs, Prettnner, Talarico and Wheeler -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg, Hardesty and President

Keenan -- 5

Resolution 95-0200 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Joanna M. and Jeffrey L. Shady have appealed to the city council the decision of the board of zoning appeals:

(a) To deny a request to relax the side yard depth from five feet to two feet; and

(b) To deny a request to relax the aggregate side yard depth from 12 feet to five feet for the construction of a full second story addition on a 1.5 story dwelling on property located at 132 West Central Entrance; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a full second story addition on a 1.5 story dwelling can be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of January 24, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0200 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Talarico, Wheeler and President

Keenan -- 7

Nays: Councilors Downs and Prettnner -- 2

Approved March 20, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Resolution 95-0254, by Councilor Wheeler, confirming assessment roll levied to defray the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

assessable portions of improvements of Appleridge Development; Parkwood, Phase III; and Northland Estates, Phase II, was introduced for discussion.

Pete Seeling, president of Northland Investment Enterprises, said that individuals who purchased the lots in Parkwood, Phase III were given assessment estimates that were considerably lower than the assessments in this resolution. He noted that people who purchased the property had a title opinion done and the lower assessments were given to them by the city. He said his company may not have proceeded with the project if they had known that the assessments would be this high.

Councilor Prettner did not support subsidizing developers of high income homes for the costs of assessments, but felt there should be better communication about the costs involved. She suggested tabling the resolution for further review by the special assessment board.

In response to Councilor Downs, City Attorney Dinan said if the property were to be tax forfeited, the city would get its investment back if the property were sold and there was enough money generated to pay taxes and assessments. Councilor Downs cautioned against assessment rates so high that no one can purchase the property.

Councilor Wheeler moved to divide the question to separate out the Parkwood, Phase III assessments, which motion was seconded.

Councilor Downs moved to table the entire resolution in case the other developments are in the same situation, which motion was seconded.

Councilor Wheeler withdrew his motion to divide the question.

Councilor Downs' tabling motion passed upon a unanimous vote.

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BY COUNCILOR WHEELER:

RESOLVED, that the transfer of a \$62,166.25 reserve in the general fund (excess tourism taxes collected prior to 1994) to Fund 258 tourism tax fund undesignated balance is hereby approved.

Resolution 95-0255 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that St. Germain's Company be and hereby is awarded a contract for furnishing and delivering various glass, acrylic, laminate and adhesive for the various departments/divisions in accordance with specifications on its low specification bid of \$13,000, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0232 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Sherwin-Williams Company be and hereby is awarded a contract for furnishing and delivering approximately 680 gallons of paint and related items for the various departments/divisions in accordance with specifications on its low specification bid of \$6,492.56,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0233 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Xerox Corporation be and hereby is awarded a contract for furnishing full service maintenance on the five Xerox copy machine for the various city departments/divisions in accordance with specifications on its low specification bid of \$27,874.32 per year, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0235 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Performance Computer Forms, Inc., be and hereby is awarded a bid for furnishing and delivering approximately 850 cartons of computer printer paper for the data processing division in accordance with specifications on its low specification bid of approximately \$21,000, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5203.

Resolution 95-0243 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Hermantown Volunteer Fire Department, Inc., 4015 Airpark Boulevard, for March 25, 1995, with Dale Reno, manager.

Resolution 95-0257 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0240, by Councilor Bohlmann, requesting the charter commission to recommend adoption of an ordinance amending Section 36(a) of the city charter, was introduced for discussion.

Councilors Bohlmann, Atkins, Wheeler and Dahlberg spoke against the resolution, stating they did not feel a labor relations specialist position is needed.

Councilor Downs moved to withdraw the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Earl Hipp to provide training and development services to the city at a cost of \$1,750 plus expenses, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0256 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the easterly 55 feet of Leighton Avenue adjacent to Block 3, Bristol Beach First Division and Block 9, Bristol Beach Second Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, such petition was duly referred to city planning commission and such commission gave due notice of public hearing and did consider same at public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 14, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easterly 55 feet of Leighton Avenue, adjacent to Block 3, Bristol Beach First Division, and Block 9, Bristol Beach Second Division except that part lying west of a line drawn between the following two points:

(a) A point on the south right-of-way line of Seafield Street located 30 feet southwesterly of the west corner of Lot 1, Block 3, Bristol Beach, First Division;

(b) A point on the northeast line of Lot 10, Block 9, Bristol Beach Second Division, located 36 feet southeasterly of the north corner of said Lot 10, Block 9, Bristol Beach, Second Division.

BE IT FURTHER RESOLVED, that prior to this vacation resolution being in force in effect the petitioners shall deed to the city of Duluth, Lots 10 and 11 of Block 9, Bristol Beach Second Division as replacement roadway.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the street to be vacated.

Resolution 95-0222 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0268, by Councilor Prettner, requesting the charter commission to consider proposing a charter amendment that would authorize the city council to hire employees to assist in performance of its duties, was introduced for discussion.

Councilor Prettner said the current charter does not provide staff for councilors, which she feels is needed because the responsibilities of councilors have become so much more complex.

Councilors Atkins and Dahlberg questioned the need for these additional employees. They felt the administration provides the council with adequate staff and noted the council has the ability to hire specialized services. They questioned how many employees would be hired and who would supervise the employees and prioritize their work.

Councilor Bohlmann supported the resolution but also questioned supervision and prioritization.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Talarico moved to call the question, which motion was seconded and unanimously carried.

Resolution 95-0268 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the city council hereby requests the city charter commission to consider proposing a charter amendment that would authorize the city council to hire employees to assist the council in the performance of its duties.

Resolution 95-0268 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$26,304, from Capital Fund 450, Object C414, for providing certain engineering services to the city of Duluth in connection with the Keene Creek nature trail (Phase I & Phase II), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0320-13.

Resolution 95-0217 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Design Alternative, for the sum of not to exceed \$5,000, from Capital Fund 450, Object 403, for providing certain architectural services to the city of Duluth in connection with the Peterson Arena horseshoe pitching pavilion (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0320-14.

Resolution 95-0218 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, in 1994 the city of Duluth refranchised the Bresnan Communications Company's cable communication franchise for a ten year period; and

WHEREAS, as a part of this refranchising process, the public access television operations for Channels 7, 50 and 19, were moved to a facility at City Hall; and

WHEREAS, as a part of this refranchising process, Bresnan Communications Company has given the city video equipment worth over \$200,000 to equip the City Hall public access facility; and

WHEREAS, it is necessary to provide maintenance and replacement funds for this equipment over the ten year life of the franchise agreement; and

WHEREAS, in the franchise negotiation process the city and Bresnan Communications Company had agreed that it was fair and equitable for the city and Bresnan Communications Company to split the maintenance cost of the equipment over the duration of the franchise; and

WHEREAS, Section 27(b)(7) of the cable communications franchise establishes a public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

access equipment maintenance fund administered by the city treasurer and sets forth a payment schedule for Bresnan Communications Company which is anticipated to be 1/2 of the money needed to maintain the video equipment over the life of the franchise; and

WHEREAS, the scheduled amount to be put in the maintenance fund by the Bresnan Communications Company and the city is \$7,250 for the year 1995;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes that a 1995 payment of \$7,250 be deposited in the public access equipment maintenance fund as the city's share for 1995; said monies to come from Fund 100, Agency 015, Organization 2050, Object 5441.

Resolution 95-0239 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architects IV, for the sum of not to exceed \$5,000, from Capital Fund 450, Ag. 015, Org. 1994, Obj. C421, for providing certain architectural services to the city of Duluth in connection with West End Business District revitalization (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0320-15.

Resolution 95-0248 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Lance Siddens, Architect, for the sum of not to exceed \$15,500, from Capital Fund 450, Ag. 015, Org. 1994, Obj. C428, for providing certain architectural services to the city of Duluth in connection with London Road Armory code compliance modifications and remodeling, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0320-16.

Resolution 95-0249 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering one 5-gang fairway reel mower for the parks and recreation department in accordance with specifications on its low specification bid of \$32,534.69, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E533.

Resolution 95-0250 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to amend City Contract #17027 with Copeland Community Center extending the contract end date to February 28, 1995. This

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

will allow the center to utilize unspent monies on the purchase of educational and athletic equipment and supplies. A copy of this modification will be on file in the city clerk's office as Public Document No. 95-0320-17.

FURTHER RESOLVED, that costs incurred under this modification shall be charged to Fund #275, Budget Item 6003.

Resolution 95-0220 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Westburne Supply Company be and hereby is awarded a contract for furnishing and delivering miscellaneous copper pipe fittings for the water and gas department in accordance with specifications on its low specification bid of \$9,503.90, terms 1% 10, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0225 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering miscellaneous copper pipe and copper pipe fittings for the water and gas department in accordance with specifications on its low specification bid of \$12,292.25, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0226 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 600 gas regulators for the water and gas department (meter shop) in accordance with specifications on its low specification bid of \$9,361.35, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0227 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Dresser Measurement, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 53 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$65,379.82, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0230 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering 500 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$30,858.38, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0231 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Arrowhead Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering approximately ten 55-drum of cyclohexylamine for the Duluth Steam Cooperative Association in accordance with specifications on its low specification bid of \$5,851.50, terms net 30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5216.

Resolution 95-0236 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering 61 mechanical joint valves for the water and gas department in accordance with specifications on its low specification bid of \$11,200.98, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0237 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Northern Water Works Supply be and hereby is awarded a contract for furnishing and delivering approximately 300 miscellaneous mechanical joint pipe fittings for the water and gas department in accordance with specifications on its low specification bid of \$7,513.42, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0238 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Fisher Controls, Inc., be and hereby is awarded a contract for furnishing and delivering three gas regulators to the water and gas meter shop in accordance with specifications on its low specification bid of \$8,204.12, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0242 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering approximately 615 gas valves to the water and gas meter shop in accordance with specifications on its low specification bid of \$6,337.82, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0245 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering cold water meters and single register compound meters for the water and gas meter shop in accordance with specifications on its low specification bid of \$18,211.26, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0246 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,000 cold water meters for the water and gas meter shop in accordance with specifications on its low specification bid of \$43,814.10, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0247 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement to petition for the permanent improvement of Wren Drive between Terrace Street and Swan Lake Road with David E. Sundquist and Alice Sundquist; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-0320-18.

Resolution 95-0223 was unanimously adopted.

Approved March 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northwest Asphalt Maintenance, Inc., be and hereby is awarded a contract for furnishing crack sealing of selected bituminous streets for the street maintenance division in accordance with specifications on its low specification bid of \$.91 per pound applied, not to exceed \$65,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0228 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Inacomp Computer Centers, Inc., be and hereby is awarded a contract for furnishing and delivering a Hewlett-Packard color plotter for the engineering division in accordance with specifications on its low specification bid of \$8,321.91, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B443.

Resolution 95-0229 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth be and hereby is awarded a contract for furnishing and delivering the improvement of 26th Avenue East from Jefferson Street to Superior Street for the engineering division in accordance with specifications on its low specification bid of \$393,930.20, terms net, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5262, Object 5530.

Resolution 95-0241 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Flex-O-Lite Corporation be and hereby is awarded a contract for furnishing and delivering 32,000 pounds of moisture treated reflective glass beads for the traffic operations division in accordance with specifications on its low specification bid of \$6,226.41, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1930, Object 5226.

Resolution 95-0252 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0018, by Councilor Hardesty, authorizing agreement with Walker Parking Consultants/Engineers, Inc. for design of the bingo ramp cashiers booth/office facility in the amount of \$6,000, was introduced for discussion.

Councilor Atkins moved to table the resolution in order to look into the feasibility of installing machines as an alternative to a staffed cashiers booth, which motion was seconded and unanimously carried.

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BY COUNCILOR HARDESTY:

RESOLVED, that United Development Achievement Center (UDAC) be and hereby is awarded a contract for approximately 416 hours to wash vehicles for the police department in accordance with specifications on its low specification bid of \$6,448, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5409.

Resolution 95-0253 was unanimously adopted.
Approved March 20, 1995
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER

95-017 - AN ORDINANCE PERTAINING TO THE ADOPTION OF THE STATE BUILDING CODE, AMENDING SECTIONS 10-1 AND 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR TALARICO

95-016 - AN ORDINANCE AMENDING SECTIONS 1 AND 2 OF ORDINANCE 9224 AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 10 AND ALL OF LOTS 11, 12 AND 13, AND THE SALE OF AN OPTION TO PURCHASE THE BALANCE OF LOT 10 AND ALL OF LOT 9, BLOCK 5, CENTRAL ACRES, SECOND DIVISION, TO MARK AND TERRY JOHNSON.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER

95-014 (9242) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF BLOCK 3, ONEOTA, FIRST DIVISION, FROM "INDUSTRIAL PARK" TO M-1, MANUFACTURING.

Councilor Downs said he will oppose this ordinance because he does not feel the city effectively communicated with affected property owners.

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

- - -

BY COUNCILOR HARDESTY

95-015 (9243) - AN ORDINANCE APPROVING CONVEYANCE OF CERTAIN REAL ESTATE BY THE DIRECTORS OF TRUSTS OF MILLER-DWAN HOSPITAL TO THE DULUTH CLINIC, LTD. AND ST. MARY'S/POLINSKY PHYSICAL MEDICINE AND REHABILITATION SERVICES.

The rules were suspended upon a unanimous vote to hear speakers on this ordinance.

Peter Nickitas opposed the ordinance, stating he feels it sets a bad precedent, results in a breach between church and state and takes away from the public the decision about the type of health care the city will afford to its citizens.

Ken Hogg felt this is a good opportunity for the council to take the appropriate steps to ensure that the city of Duluth's name gets back on the titles for the real estate owned by Miller-Dwan Hospital.

In response to Councilor Atkins, Mr. Dinan didn't feel the certificate of title can be changed at this time because there are bonds outstanding. He said the name on the certificate of title is not important because under legislation just approved by the council, any transfer of real estate by the directors of trust has to either come back to the council or DEDA.

In response to Councilor Bohlmann, Richard Burns, attorney for Miller-Dwan, said the

hospital is not organized as a private 501(c)(3). He said the organization is controlled by Minnesota Statute Chapter 224, and answered that the city's name was not removed for the purpose of allowing the hospital to issue tax-exempt bonds as a private charitable organization with no connection to a municipal organization. He further responded that the city council does not control the board of trusts for the hospital.

Councilor Bohlmann moved to table the ordinance in order to request an IRS opinion regarding the ownership of the hospital, specifically whether it is a privately owned charitable hospital or whether it is owned and operated by the city, which motion was not seconded.

Councilor Hardesty felt Chapter 224 does give the city input into the Miller-Dwan board of trusts, and noted that the board was not set up to be controlled or owned by the city, but was set up to be a fund for a trust that would operate the hospital and provide health care.

In response to Councilor Dahlberg, Mr. Burns said the council has no power to initiate the sale of Miller-Dwan property.

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

- - -

The meeting was adjourned at 9:45 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9242

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 18 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF BLOCK 3, ONEOTA, FIRST DIVISION, FROM INDUSTRIAL PARK TO M-1, MANUFACTURING.

The city of Duluth does ordain:

Section 1. That Plate No. 18 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)
(refer to page 160)

Section 2. That this rezoning action shall be subject to the controls as contained in the "Land Use Controls, Oneota Industrial Park," approved by the Duluth City Council on July 26, 1978, and Duluth city planning commission on July 11, 1978, excepting the following:

- (a) Item 1. Land use limitations (allowing office buildings); and
- (b) Item 4. Off street parking (to allow employee parking in the area between the front yard setback and the building line).

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

passage and publication. (Effective date: May 14, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 20, 1995
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9243

BY COUNCILOR HARDESTY:

AN ORDINANCE APPROVING CONVEYANCE OF CERTAIN REAL ESTATE BY THE DIRECTORS OF TRUSTS OF MILLER-DWAN HOSPITAL TO THE DULUTH CLINIC, LTD., AND ST. MARY'S/POLINSKY PHYSICAL MEDICINE AND REHABILITATION SERVICES.

The city of Duluth does ordain:

Section 1. That pursuant to Laws of Minnesota 1994, Chapter 471, Section 1, the Duluth City Council hereby approves the conveyance by the directors of trusts of Miller-Dwan Hospital of certain real estate owned by the city of Duluth in the name of "Miller Memorial Hospital, doing business as Miller-Dwan Medical Center by and through its directors of trusts pursuant to Laws 1969, Chapter 224" to the Duluth Clinic, Ltd., a Minnesota nonprofit professional corporation, and to St. Mary's/Polinsky Physical Medicine and Rehabilitation Services, a Minnesota nonprofit corporation, as such real estate is described in Sections 2 and 3 of this ordinance.

Section 2. That the real estate to be conveyed to Duluth Clinic, Ltd., shall be as described in exhibits A and B, which exhibits are on file in the office of the city clerk as Public Document Nos. 95-0320-19 and 95-0320-20.

Section 3. That the real estate to be conveyed to St. Mary's/Polinsky Physical Medicine and Rehabilitation Services shall be as described in Exhibit C, which exhibit is on file in the office of the city clerk as Public Document No. 95-0320-21.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 30, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 20, 1995
Approved March 20, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 27, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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The minutes of council meetings held on September 12, 15, 19 and 26, 1994, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0327-01 Bernick's Pepsi-Cola Bottling Company of Duluth, Inc., submitting:

(a) Petition to relocate a storm sewer around Lots 7 and 8, Block 2, Oneota Industrial Park (44th Avenue West and Superior Street to 43rd Avenue West and Michigan Street). -- Assessor

(b) Waiver agreement to relocate a storm sewer around Lots 7 and 8, Block 2, Oneota Industrial Park (44th Avenue West and Superior Street to 43rd Avenue West and Michigan Street). -- Engineering

95-0327-02 Fitger's On-the-Lake petitioning for concurrent use permit to erect a parking sign. -- Planning commission

95-0327-03 James M. Winkler petitioning for the construction of a six inch ductile iron watermain and a two inch P.E.H.P. gas main in Hoover Street, from existing mains 400 feet east of 23rd Avenue West to 110 feet easterly. -- Assessor

95-0327-24 Debbie Ortman submitting letter opposing the proposed special use permit for Kaake Dental Clinic (95-0272R). -- Received

95-0327-11 The following submitting letters regarding change of engineering services for study of the sanitary sewer collection system (95-0251R): (a) RREM, by Glenn L. Evavold; (b) Seaway Engineering Company, by John J. Hinzmann, Jr. -- Received

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REPORTS OF OFFICERS

95-0327-04 Mayor Doty submitting copy of letter sent to U.S. Senator Rod Grams regarding potential cuts/recisions in HUD programs. -- Received

95-0327-05 Assessor submitting letter of sufficiency to reclassify from R-1-B to R-3 and C-5 the southeast corner of Maple Grove Road and Haines Road. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0327-06 Alcoholic beverage board minutes of: (a) December 21, 1994; (b) February 15, 1995; (c) March 2, 1995 meetings. -- Received

95-0327-07 Duluth SRO housing commission minutes of February 8, 1995 meeting. -- Received

95-0327-08 Duluth transit authority: (a) March 1, 1995 meeting; (b) February 22, 1995 finance meeting; (c) January 1995 financial statement summary. -- Received

95-0327-09 Lawful gambling commission minutes of February 14, 1995 meeting. -- Received

95-0327-10 Special assessment board minutes of February 27, 1995 meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Ken Hogg, representing the I&I task force, reviewed that regarding the inspections for the sanitary system and that he was very encouraged by the staff activity and how well the city is progressing in certain areas, but needs improvements in the others as far as the sanitary inspections. He noted, on a more personal basis, that he is tired of the Western Lake Superior Sanitary District (WLSSD) complaining that the city of Duluth is not committed to solving the I&I problem. Mr. Hogg noted the citizens and the council are committed to solving the problem in the most sensible and economical way.

Councilor Talarico felt that the WLSSD is also working in the best interests of the citizens and that its board will be meeting regarding the acceptance, or degree of acceptance, of the city of Duluth plan.

Councilors Atkins and Bohlmann reviewed that the city of Duluth has taken the course of investigation of all the alternatives and to come up with the best solution and not necessarily take the solution of the WLSSD.

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RESOLUTION TABLED

Councilor Wheeler moved to remove from the table Resolution 94-0254, confirming assessment rolls levied to defray the assessable portions of improvements of Appleridge Development; Parkwood, Phase III; and Northland Estates, Phase II, which motion was seconded and unanimously carried.

Councilor Wheeler moved to divide the resolution to separate out the section regarding Appleridge Development and Northland Estates, Phase II from that of Parkwood, Phase III, which motion was seconded and unanimously carried.

Councilor Wheeler moved to refer to the administration the Parkwood, Phase III, section to determine an equitable solution for all parties, which motion was seconded and unanimously carried.

Resolution 95-0254(b) regarding Appleridge Development and Northland Estates, Phase II, was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following, on file in the city clerk's office as Public Document No. 95-0306-01(a)(1) and (2), be and the same are hereby confirmed:

(a) Appleridge Development (Contract Nos. 5185, 1191201 and 1191202) (assessable amount: \$314,029.83);

(b) Northland Estates, Phase II (Contract Nos. 5258, 1192101 and 1192102) (assessable amount: \$597,485.28).

Resolution 95-0254(b) was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to March 27, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR PRETTNER

95-0262R - RESOLUTION AUTHORIZING AGREEMENT WITH LEONARD, STREET AND DEINARD FOR PROFESSIONAL SERVICES RELATED TO THE ALLOCATION OF LOW-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

INCOME HOUSING TAX CREDITS IN THE AMOUNT OF \$10,000.00, PAYABLE FROM FEES OR IN 1995 CBDG FUND 263, PROGRAM ADMINISTRATION.

- - -

BY COUNCILOR PRETTNER

95-0264R - RESOLUTION AUTHORIZING AGREEMENT WITH GREATER DULUTH GRAND PORTAGE ENROLLEES RELATED TO THE ACQUISITION AND REHABILITATION OF PROPERTY FOR LOW-INCOME HOUSING IN THE AMOUNT OF \$15,000, PAYABLE FROM 1993 HOME CHDO FUNDS.

- - -

Resolution 95-0276, by Councilor Wheeler, relieving the Duluth Sister Cities Commission, Inc., of any responsibility to fund a portion of the cost of constructing the bell tower at Enger Tower, was introduced for discussion.

Councilor Wheeler moved to table the resolution for further information, which motion was seconded and unanimously carried.

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BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
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Owls Club 1200	118 East Second Street	March 2, 1995
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Resolution 95-0258 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period beginning May 1, 1995, and ending April 30, 1996, subject to departmental approvals and the payment of sales and property taxes:

James E. Hill (Dave's Pizza Kenwood), 1420 Kenwood Avenue.

Resolution 95-0259 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Grandma's Marathon - Duluth, Inc., Canal Park, for June 16-18, 1995, with Donald Fennessy, manager, with the serving and music ceasing at 12:30 a.m.

Resolution 95-0260 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and Wheeler -- 8

Nays: None -- 0

Abstention: President Keenan -- 1

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the areas bounded by Commerce Street, the Lakeshore, Canal Park Drive and Lake Avenue during the marathon on June 17, 1995, and confined to the fenced in parking lot at night on June 16-18, 1995, in conjunction with Grandma's Marathon, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

Resolution 95-0261 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and Wheeler -- 8

Nays: None -- 0

Abstention: President Keenan -- 1

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Vermeer Sales and Service be and hereby is awarded a contract for furnishing and delivering one 67 h.p. diesel stump cutter for the fleet services division in accordance with specifications on its low specification bid of \$21,140.25, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E523.

Resolution 95-0286 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments and reappointment by Mayor Doty be and the same are hereby confirmed:

SISTER CITY COMMISSION

JoAnne Axtell for a term expiring March 30, 1998, replacing Donald Tubesing.

Paul J. Lampi for a term expiring March 30, 1998, replacing Barbara Ziemski.

Isobel C. Rapaich for a term expiring March 30, 1998.

Resolution 95-0266 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of South 22nd Avenue East between Water Street and Lake Superior legally described as:

that portion of 22nd Avenue East adjacent to Lot 8, Block B, and Lot 1, Block C, Endion Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its October 10, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth vacates that portion of South 22nd Avenue East described above.

BE IT FURTHER RESOLVED, that the entire 66 foot width of the street easement be retained as utility easement, and that a 20 foot wide pedestrian easement, ten feet either side of the centerline be retained.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the to be vacated and the easements to be retained.

Resolution 95-0181 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the city council of the city of Duluth hereby finds that:

(a) The city of Duluth is the owner of certain properties located within the property hereinafter described, in St. Louis County, Minnesota, used and necessary to the city of Duluth for the operation of the Duluth International Airport:

Section 31, Township 51 North, Range 15 West;

Sections 34, 35 & 36, Township 51 North, Range 15 West;

Section 6, Township 50 North, Range 14 West;

Sections 1, 2, 3 & 12, Township 50 North, Range 15 West;

(b) Clear title, subject to no encumbrances, to portions of the above property is being required by the economic development administration of the department of commerce of the government of the United States as a prerequisite to providing funding for the construction of certain "off-site" improvements related to the Northwest Airlines Heavy Aircraft Maintenance Base Project;

(c) EDA funding is a vital portion of the funding package for the above project;

(d) The above project is of vital importance to the economic growth and development of the city of Duluth; and

(e) The use of the power of eminent domain may be necessary in order to clear various exceptions to the city's title to the aforesaid property.

FURTHER RESOLVED, that the proper city officials are hereby authorized and directed to take such action as is necessary to remove any exceptions to the city's title to the city's property lying within the hereinbefore described property including, but not limited to, the exercise of the power of eminent domain on behalf of the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0265 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with KPMG Peat Marwick LLP, a copy of which is on file with the city clerk's office as Public Document No. 95-0327-12, for professional services related to the Fond-du-Luth Gaming Casino in an amount not to exceed \$75,000, payable from General Fund 100, Agency 030, Organization 1324.

Resolution 95-0267 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0269, granting a wastewater discharge permit for a concrete proportioning plant in an "M-2," manufacturing district (Northland Ready Mix); and Resolution 95-0270, certifying that a central concrete mixing or concrete proportioning plant is an appropriate use in an "M-2," manufacturing district (Northland Ready Mix), by Councilor Prettner, were introduced for discussion.

Councilor Prettner moved to table the resolutions for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 20 foot wide utility easement, ten feet either side of the common lot line of Lots 2 and 3, Block 1, Lakeview Division First Addition; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its March 14, 1995, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the 20 foot wide utility easement, ten feet either side of the common lot line of Lots 2 and 3, Block 1, Lakeview Division First Addition, described on Public Document No. 95-0327-13.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easement to be vacated.

Resolution 95-0271 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, Dr. Greg Kaake has submitted to the city council a request for a special use permit for a dental clinic on property described as: that part of the Southeast Quarter of the Southwest Quarter of Section 18, T 50 N, R 14 W, lying westerly of Sundby Road, easterly of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Miller Creek, northeasterly of U.S. Highway No. 53 and northerly of the property described in Certificate No. 252425 and located between Miller Trunk Highway and Sundby Road, just east of Page Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council;

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Dr. Greg Kaake, D.D.S., subject to the following terms and conditions:

(a) The project being limited to, constructed and maintained in accordance with plans submitted by Architects IV, entitled "Kaake Dental Clinic, Sundby Road Duluth," sheets A-1, A-2 and A-3, dated February 1995, as identified as Public Document Nos. 95-0327-14, 95-0327-15 and 95-0327-16; and

(b) That best management practices that minimize erosion and sedimentation during construction be utilized. Such practices to include the use of silt fence, seeding and mulching, check dams, horizontal slope grading, construction phasing, rocked site entrances and exits and other such measures, and that the stormwater detention ponds be regularly monitored and maintained as needed.

Resolution 95-0272 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, St. Louis County has submitted to the city council a request for renewal and amendment to a special use permit for the Northeast Minnesota Regional Juvenile Detention Center on property described as: lying in SW Quarter of SW Quarter of NW Quarter of Section 16, Township 50 North, Range 14 except .58 acres of SW part thereof, and that part of NW Quarter of SW Quarter of NW Quarter of Section 16, Township 50 North, Range 14 West, which lies to the south and west of the service road crossing that land, and located at Cook Home property east of Arlington Avenue, south of Arrowhead Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to St. Louis County to allow for the operation of the Northeast Minnesota Regional Juvenile Detention Center on the hereinbefore-described property, on the condition that the project be limited to, constructed and maintained in accordance with now-existing conditions as modified by plans submitted by Jon Helstrom, entitled "Detention Center" dated 20 FEB 1995, as identified as Public Document No. 95-0327-23, and that the permit be issued for the term of the public ownership and specific use of the site as the juvenile detention center.

Resolution 95-0273 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

tax-forfeited parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal description</u>	<u>Location</u>
94215	Donn L. Hanson	Bryant Add., 3rd Div., Lot 15 (Pt. of 10-350-270)	upper side of Vernon Street ½ block west of Anson Avenue (West End)
94217	Tim Zwickey	Duluth Proper 2nd Div., Block 165 w'ly 40' Lot 317 (10-1220-4740)	upper side of Seventh Street between 19th & 20th Avenues West (West End)

Resolution 95-0277 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to free-convey to the city of Duluth the following tax forfeited parcels under MS.282.01 (Subd. 1) for public park and recreation purposes in conjunction with the project being requested by the Arrowhead Youth Soccer Association:

<u>File No.</u>	<u>Applicant</u>	<u>Legal description</u>
95008	City of Duluth	<u>Maple Grove Division</u> "A" Street Lots 11-23 (odd) (except Hwy. ROW); "B" Street Lots 9-24 (except Hwy. ROW); "C" Street Lots 6-24 (even) (except Hwy. ROW).

Resolution 95-0278 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into second amendment to development agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0327-17 with Artspace Project, Inc., and Washington Studios Limited Partnership pertaining to the Washington Junior High School project.

Resolution 95-0294 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0274, by President Keenan, authorizing the city to amend the contract with Mary Thorene for the operation of the concession and pro shop at the Lester Park Golf Course, was introduced for discussion.

Councilor Wheeler expressed his concern over how the golf "starters" handle the public relations and that the "rangers" were nonexistent on the fairways. Councilor Wheeler continued to state that the city isn't supervising the "starters" and the "rangers" and loses the necessary control over guarding the effective performance of those duties.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

City Attorney Dinan reviewed the contract and how the party responsible is required to perform as stated in the contract.

Administrative Assistant Nollenberger stated that if concerns and questions arise this summer, to let him know as the councilors become aware of it.

Councilor Wheeler suggested a survey of golfers would be an excellent idea and requested the administration to do that.

Resolution 95-0274 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 95-0327-18, amending the contract with Mary Thorene for the operation of the golf course, food concession and pro shop at the Lester Park Golf Course, to provide for the operation of the driving range at the Lester Park Golf Course in addition to existing contract duties for a total sum of \$32,973, to be paid from Golf Fund 503-400-5310.

Resolution 95-0274 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 95-0327-19, amending the contract with Backman's Distributing, Inc., for the operation of the golf course, food concession and pro shop at the Enger Park Golf Course, to provide for the operation of the driving range at the Enger Park Golf Course in addition to existing contract duties for a total sum of \$35,251, to be paid from Golf Fund 503-400-5310.

Resolution 95-0275 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0279, by President Keenan, authorizing the submission of an energy investment loan application to the state of Minnesota under M.S. 216c.37, was introduced for discussion.

President Keenan reviewed the need to get this to the state now because of the length of time that it needs to be filed, and that in the future there will be another resolution outlining the criteria and the full application details in a few weeks. He noted the city council is guaranteeing the annual levy, or making the funds available for the loan payments, but that Johnson Controls wouldn't make a recommendation of this action unless there was sufficient savings to be realized.

Resolution 95-0279 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to submit an application for energy investment loan funds as authorized by Minnesota Statute, Section 216c.37, and Laws of Minnesota, 1988, Chapter 688, Article 1, Section 38, and approved by the commissioner of the Minnesota department of public service.

BE IT FURTHER RESOLVED, that the city of Duluth city council guarantees it will annually levy or otherwise collect an amount sufficient to make annual loan repayments of the interest and principal due on the loan amount approved, which is not to exceed the \$1,500,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

requested in the loan application on file in the office of the city clerk as Public Document No. 95-0327-20.

Resolution 95-0279 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, the U.S. department of transportation has made additional grant funds available to the Duluth transit authority (DTA) for planning and for continuation of the DTA operating center roofing project from Section 9 and the Surface Transportation Program (STP) of ISTEA; and

WHEREAS, the DTA has requested the city council to approve the amended grant submitted for such funds; and

WHEREAS, the local share of \$31,910 for these projects will come from the DTA's CY 1995 operating budget and from the Arrowhead regional development commission;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the DTA grant request described above and commits the required local share of funding for these projects.

Resolution 95-0291 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, the U.S. department of transportation has made capital funds available to the Duluth transit authority (DTA) from Section 9 and the Surface Transportation Program (STP) of ISTEA; and

WHEREAS, the DTA has requested the city council approve the submittal of a grant request for such funds to finance various capital projects; and

WHEREAS, the local share of \$47,980 for such projects will be funded from the DTA's CY 1994 and CY 1995 operating budgets;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the DTA grant request described above and commits the required local share of funding for these projects.

Resolution 95-0292 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, hundreds of American servicemen and servicewomen are still unaccounted for following various conflicts on foreign soil; and

WHEREAS, our citizens should never forget the sacrifices our young men and women made to protect our freedom; and

WHEREAS, we must remind our leaders in government that there are still missing soldiers who are either unidentified, no longer alive, or somewhere on foreign soil, perhaps held against their will;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth does hereby endorse the concept of a perpetual stamp for all POW/MIA's for ALL wars and urges the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

federal government and the citizens stamp advisory committee to create and print a perpetual stamp in honor of the POW/MIA's of ALL wars, to be sold at first class rates for one ounce, at whatever current rates apply.

Resolution 95-0296 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Consolidated Pipe Company be and hereby is awarded a contract for furnishing and delivering 5,240 feet of various sizes of iron pipe for the water and gas department in accordance with specifications on its low specification bid of \$12,030.40, terms 2% 10, FOB destination, \$6,015.20 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227 and \$6,015.20 payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5227.

Resolution 95-0282 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0251, by Councilor Talarico, authorizing the proper city officials to enter into an agreement with Short, Elliot, Hendrickson, Inc., to provide professional engineering services for study of the sanitary sewer collection system, was introduced for discussion.

Councilor Talarico moved to amend the resolution by substituting the name "RREM, Inc." for the name "Short, Elliot, Hendrickson, Inc." in the title and the body of the resolution and by changing the estimated cost of services in the last paragraph of the resolution from "\$91,672" to "\$53,900," which motion was seconded.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Glen Evavold, representing RREM, Inc., voiced support for the amendment. Mr. Evavold reviewed at great length the history of his firm, the intensity of their data base of the city of Duluth sewer system, his work with the I&I issue in the city of Duluth and said that the firm has all of the city of Duluth water system on their equipment and that waterflow meters included on another resolution are ones that RREM, Inc., recommends. Mr. Evavold reviewed that RREM, Inc., has the most experience and knowledge of the Duluth sanitary system and has worked extensively with staff during the training and establishment of the present data base. To further questioning, Mr. Evavold noted that RREM, Inc., has compiled the data for the I&I task force.

Councilor Bohmann voiced her concern of how much influence the city staff would have on the conclusion of this project. She felt that if the city hires a company that does a lot of business with the city, she is concerned how well that company will perform its professional task without the influence of city staff.

Mr. Evavold reviewed that their opinion on the study will be strictly professional based on what the data says.

Mike Kraemer, representing Short, Elliot, Hendrickson, Inc., reviewed the very open detailed process used to make the selection of his firm. Mr. Kraemer also presented the facts and hours necessary to do the work properly and stated the firm's experience in projects similar to this. Mr. Kraemer stated they will be utilizing the services of Seaway Engineering in conjunction with them and that Short, Elliot, Hendrickson, Inc., has a proven track record and an open mind as to possible solutions.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Mr. Nollenberger noted that the outcome of this study and the demonstration project will have a major long term effect on the credibility of the results. He said the administration, in essence, in accepting the amendment, is allowing the council to become involved in the selection process. Mr. Nollenberger stated that the city would support either firm and that the major significance in terms of which way the city proceeds on a long term basis is important in this selection.

Richard Larson, public works director, reviewed the makeup of the committee making the recommendation and the time frame of the selection process. Mr. Larson voiced his concern on the credibility of this very important high profile project. He noted that the bringing of Mr. Evavold's request is in the form of an amendment, was intended to be done as professionally as possible, even though it's not the recommendation of his staff. Mr. Larson stated that it is a matter of two qualified firms and that the administration is recommending that they feel the better qualified firm is the Short, Elliot, Hendrickson, Inc., firm.

Mr. Nollenberger stated that the city supports local firms as much as is possible if the expertise is adequate for the needed purpose.

Councilor Prettner reviewed that this project could not be done internally.

Councilor Talarico's amendment carried upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico and President Talarico -- 6

Nays: Councilors Bohlmann, Prettner and Wheeler -- 3

Resolution 95-0251, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to perform a study to identify segments of the sanitary sewer collection system in water shed basins six and 20 susceptible to inflow and infiltration, quantify I/I and prioritize segments for rehabilitation; and

WHEREAS, the city desires to hire a consulting engineer to provide the necessary services required to complete the study; and

WHEREAS, RREM, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with RREM, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the estimated cost of said engineering services, estimated at \$53,900, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0580, Object 5319.

Resolution 95-0251, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved March 27, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Earl F. Andersen and Associates be and hereby is awarded a contract for furnishing and delivering 330 new traffic signs and refurbishing 540 used city traffic signs for the traffic operations division in accordance with specifications on its low specification bid of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$14,183.20, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1930, Object 5226.

Resolution 95-0280 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Tech Sales Company be and hereby is awarded a contract for furnishing and delivering one multi-site flow monitoring system, including ten flow loggers and required accessories for the sewer division in accordance with specifications on its low specification bid of \$65,252.55, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0281 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Application No. 154, the city engineer granted Utility Systems of America, Inc., a permit to construct a sanitary sewer and gravel roadway to serve property in Spirit Cove Addition (City Job No. 8739RS92); and

WHEREAS, the city has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 95-0289 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city is hereby authorized to pay \$5,000 to the Duluth-Superior metropolitan interstate committee as the city's share of a traffic study of the Miller Trunk Highway corridor through Duluth, which payment shall be made from the permanent improvement fund.

Resolution 95-0290 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following street is hereby designated and established as a one-way roadway upon which vehicular traffic shall move in the designated direction only:

19th Avenue East from Superior Street to London Road (one-way southbound).

RESOLVED FURTHER, that the resolution shall be effective upon completion of the reconstruction of this portion of 19th Avenue East in 1995 and with proper signs indicating the same to be a one-way roadway.

Resolution 95-0283 was unanimously adopted.
Approved March 27, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following "no parking" zone is hereby established:

both sides of Pulaski Street from 72nd Avenue West to the city campground at Indian Point.

RESOLVED FURTHER, that the resolution shall be effective upon completion of the reconstruction of this portion of Pulaski Street in 1995.

Resolution 95-0284 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following "no parking" zone is hereby established:

both sides of 26th Avenue East from Superior Street to Eighth Street.

RESOLVED FURTHER, that the resolution shall be effective upon completion of the reconstruction of this portion of 26th Avenue East in 1995.

Resolution 95-0285 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Stratus Company, Inc., be and hereby is awarded a contract for furnishing and delivering Stratus computer hardware for the police department in accordance with specifications on its low specification bid of \$135,191.11, terms net 30, FOB shipping point, \$50,599 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5580 and \$84,592.11 payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B516.

Resolution 95-0287 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following alley is hereby designated and established as a one-way alley upon which vehicular traffic shall move in the designated direction only:

Third Street Alley from Fourth Avenue West to Second Street, one-way westbound.

FURTHER RESOLVED, that this resolution become effective only after said street has been posted with proper signs indicating the same to be a one-way alley in the designated direction only.

Resolution 95-0288 was unanimously adopted.

Approved March 27, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-018 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER-DWAN MEDICAL CENTER FOR A RETAINING WALL ENCROACHMENT INTO THE SOUTHERLY TWO FEET OF EAST SECOND STREET AT 520 EAST SECOND STREET.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER

95-017 (9244) - AN ORDINANCE PERTAINING TO THE ADOPTION OF THE STATE BUILDING CODE, AMENDING SECTIONS 10-1 AND 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR TALARICO

95-016 (9245) - AN ORDINANCE AMENDING SECTIONS 1 AND 2 OF ORDINANCE 9224 AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 10 AND ALL OF LOTS 11, 12 AND 13, AND THE SALE OF AN OPTION TO PURCHASE THE BALANCE OF LOT 10 AND ALL OF LOT 9, BLOCK 5, CENTRAL ACRES, SECOND DIVISION, TO MARK AND TERRY JOHNSON.

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

- - -

The meeting was adjourned at 10:10 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9244

BY COUNCILOR PRETTNER:

AN ORDINANCE PERTAINING TO THE ADOPTION OF THE STATE BUILDING CODE, AMENDING SECTIONS 10-1 AND 10-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 10-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-1. State building code adopted.

The city of Duluth hereby adopts the Minnesota State Building Code, as it may be amended from time to time, including all of its appendices that are made either mandatory or optional under applicable provisions of Minnesota Rules.

Section 2. That Section 10-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 10-2. Building permit fee schedule.

(a) Building permit fees. Fees for building permits and building inspections shall be set forth in Table 1A and Section 107 of the Uniform Building Code, 1994 edition, provided that a \$5 surcharge shall be imposed on any permit taken out on work done by a residential building contractor, remodeler or specialty contractor as defined by Minnesota Statutes Section 326.83;

(b) Special permits and fees. Special permits shall be obtained and special fees

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

paid in all cases for items included in the following schedule whether said items are installed in new buildings or in existing buildings, unless otherwise herein provided, but the value of such items need not be included in the valuation upon which the main building permit is estimated as before provided in Subdivision (a) herein.

All of the provisions of the State Building Code pertaining to permits shall apply to such special permits as well as to the main building permit, excepting only the schedule for original fees.

For moving over public property any building which has an area of 1,000 square feet or less on the first floor -- \$30.

For moving over public property any building which has an area of over 1,000 square feet on the first floor -- \$60.

For moving any building or structure not on public property -- \$5.

Sidewalk vaults for each lineal foot or fractional part thereof -- \$4.

For razing or demolishing any building or structure 25¢ for every 100 cubic feet of volume of such building -- minimum fee -- \$15.

For the installation of a mobile home -- \$50;

(c) Special permits shall also be taken out and fees paid for the installation or alteration of electrical wiring, plumbing, heating plants, fireplaces or any other construction or accessory to a building or structure, the use of which is regulated by the provisions of the State Building Code and which for any reason is not included in the permit for general construction; and the fees for same shall be ascertained in the same manner as for the construction of new buildings;

(d) The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance, for the temporary occupation of public property, for inspections, certificates, sewer connections, water connections, gas connections or other privileges or requirements;

(e) When work for which a permit is required by this Code is started or proceeded with before said permit is obtained, the fee specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the State Building Code in the execution of the work, nor from any other standards or penalties prescribed by law;

(f) No permit to erect, repair or alter any building or structure shall authorize the use of any part of any public thoroughfare, or other public ground or easement.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 7, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 27, 1995
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9245

BY COUNCILOR TALARICO:

AN ORDINANCE AMENDING SECTIONS 1 AND 2 OF ORDINANCE 9224 AUTHORIZING THE CONVEYANCE OF A PORTION OF LOT 10 AND ALL OF LOTS 11, 12 AND 13, AND THE SALE OF AN OPTION TO PURCHASE THE BALANCE OF LOT 10 AND ALL OF LOT 9, BLOCK 5, CENTRAL ACRES, SECOND DIVISION, TO MARK AND TERRY JOHNSON.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Mark and Terry Johnson, upon the terms and conditions contained in Public Document No. 95-0327-21 on file in the office of the city clerk, for a consideration of \$410,000, which shall be deposited in the Fleet Fund 660:

the west 70.38 feet of Lot 10, except the south ten feet for Highway AND Lots 11, 12 and 13, except the south ten feet for highway (all descriptions expressly assuming that Central Entrance runs due east and west), all in Block 5, CENTRAL ACRES, SECOND DIVISION.

Section 2. That the city of Duluth hereby sells an option to purchase for a consideration of \$5,000, to be deposited in the Fleet Fund 660, all of its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Mark and Terry Johnson, upon the terms and conditions contained in Public Document No. 95-0327-22 on file in the office of the city clerk for a consideration of \$170,000:

Lot 10, except the west 70.38 feet thereof and except the south ten feet thereof AND Lot 9 except the south ten feet thereof (all descriptions expressly assuming that Central Entrance runs due east and west), all in Block 5, CENTRAL ACRES, SECOND DIVISION.

Section 3. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: May 7, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 27, 1995
Approved March 27, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 3, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0403-01 Dennis O'Hara petitioning for concurrent use permit for a garage encroachment at 2001 Tyrol Street. -- Planning commission

95-0403-16 Bresnan Communications Company submitting 1994 statement of gross receipts. -- Received

- - -

REPORTS OF OFFICERS

95-0403-02 Assessor submitting letter of sufficiency regarding petition for construction of sanitary sewers in Willow Street/Blackman Avenue. -- Received

95-0403-03 Treasurer submitting acceptance of gambling funds from Northland Vietnam Veterans Association for Hall of Fame portrait (\$125). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0403-04 Board of zoning appeals minutes of: (a) February 22; (b) February 28, 1995 meetings. -- Received

95-0403-05 Duluth airport authority: (a) Minutes of February 21, 1995 meeting; (b) Un-audited balance sheet of December 31, 1994. -- Received

95-0403-06 Planning commission minutes of February 14, 1995 meeting. -- Received

- - -

REPORTS OF COUNCILORS

95-0403-07 Councilor Prettner submitting copies of communications sent to state and federal legislators pertaining to telecommunication legislation (94-0515R). -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price spoke regarding the Lake Superior barrel search and retrieval effort. He requested that the council have a member of the Cousteau diving team and a representative appointed by the council to be a part of any further barrel search and retrieval effort. Mr. Price stated that the information given to this council has not been totally honest, and that any information that the Cousteau diving team produced would be credible and the council would finally know the truth about the barrels. He also suggested that the Cousteau society could make a documentary on the source of the St. Louis River, the head waters of the Great Lakes, and the north and south shores of Lake Superior ending at Isle Royale. President Keenan responded that he is trying to set up a committee of the whole meeting with the Corps of Engineers to discuss this issue.

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UNFINISHED BUSINESS

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0403-08, with

the firm of Leonard, Street and Deinard for professional services related to the allocation of low-income housing tax credits in the amount of not to exceed \$10,000, payable from fees generated by applications and carry-overs or, to the extent not available therefrom, from 1995 CDBG Fund 263, program administration.

Resolution 95-0262 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0403-09, with the Greater Duluth Grand Portage Enrollees related to the acquisition and rehabilitation of property for low-income housing in the amount of not to exceed \$15,000, payable from HOME CHDO funds.

Resolution 95-0264 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

BE IT RESOLVED, by the city council of the city of Duluth, St. Louis County, Minnesota, as follows:

(a) The city has issued and sold its general obligation parking revenue bonds series 1986, dated July 1, 1986 ("bonds"), in the total principal amount of \$3,000,000. Bonds maturing after February 1, 1995, are subject to redemption and prepayment on that date and on any interest payment date thereafter at a price of par plus accrued interest;

(b) It is determined that it is in the best interests of the sound financial management of the city that bonds maturing on February 1 in the years 1996 and 1997, comprising all of the bonds subject to redemption, be prepaid and redeemed on August 1, 1995, and those bonds are hereby called for redemption on that date;

(c) The city clerk is authorized and directed to publish, in accordance with law, a notice of call for redemption of the bonds in the form attached hereto as Exhibit A and to mail a copy of the notice to Norwest Bank Minnesota, National Association, successor to First Bank (National Association) - Duluth, registrar for the bonds and to Northern Trust Company of Chicago, Illinois, the original purchaser of the bonds.

Resolution 95-0295 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that all accounts and balances in the Wade Stadium Renovation Fund 425 be transferred to Economic Development Fund 255.

RESOLVED FURTHER, that the December 31, 1994, balance of \$45,333 of Duluth Public Facility and Program Fund 760 be transferred to Economic Development Fund 255 to reduce

the Wade Stadium deficit.

RESOLVED FURTHER, that all future five percent lawful gambling tax proceeds be transferred annually from Fund 760 to Fund 255 until such time as the Wade Stadium deficit is retired.

RESOLVED FURTHER, that the proper city officers are hereby authorized to accept any donations tendered to be used on or for Wade Stadium improvements and to deposit any such donations in Fund 255 to help retire the Wade Stadium deficit.

BE IT FINALLY RESOLVED, that a portion of the fund balance in Economic Development Fund 255 equal to the Wade Stadium deficit be designated; the deficit balance after the \$45,333 December 31, 1994, balance transfer from Fund 760, will be \$328,369.

Resolution 95-0302 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with Local 66 of A.F.S.C.M.E. representing the basic unit of city employees, amending the 1994 agreement with such employees to add provisions relating to a career development program for engineering technicians, which agreement is on file in the office of the city clerk as Public Document No. 95-0403-10.

Resolution 95-0317 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0321, by Councilor Wheeler, declaring intent to issue general obligation bonds in an approximate amount of \$2,000,000 to finance improvements and equipment for the Duluth Entertainment Convention Center, was introduced for discussion.

Councilor Bohlmann stated her concern about proposed state legislation freezing property taxes and any city issuance of bonds. She suggested tabling the resolution until the legislature takes action on the bill.

Administrative Assistant Nollenberger stated that this bond issue does not have any impact on property taxes and will not result in any increase in property taxes in 1996.

Resolution 95-0321 was adopted as follows:

BY COUNCILOR WHEELER:

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

Section 1. Pursuant to Resolution No. 94-0098 adopted by the city council on January 31, 1994, representatives of the city and the Duluth state convention center administrative board determined a need to improve the Duluth Entertainment Convention Center (the "DECC") over a two-year period. The first phase of the improvements were constructed or acquired in 1994, and the city and the DECC board now desire to proceed with the second phase of the improvements at an estimated cost of approximately \$2,000,000.

Section 2. The city council hereby determines that it is necessary and expedient to issue general obligation bonds in an amount of approximately \$2,000,000 to provide funds to improve the DECC, including a portion of the improvements required by the Americans with Disabilities Act, roof replacement, ice plant upgrades, building electrical and mechanical upgrades, exterior improvements, improvements to the auditorium, improvements to the ice rinks, convention center carpet replacement, concession stand remodeling, building-wide computer network,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

purchase of ice resurfacers and convention center security enhancement and other related equipment and improvements, to pay certain expenses incurred in the issuance of the bonds and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

Section 3. The city council hereby authorizes and directs city staff to work with the city's financial advisor and bond counsel to arrange for the sale of such bonds.

Section 4. The terms, conditions, form, specifications and provisions for issuance and repayment of such bonds shall be set forth in subsequent resolutions of the city council.

Resolution 95-0321 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0322, by Councilor Wheeler, confirming assessment roll levied to defray the assessable portions of improvements of Parkwood, Phase III, was introduced for discussion.

Councilor Wheeler moved to table the resolution for further information, which motion was seconded and unanimously carried.

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BY COUNCILOR DOWNS:

RESOLVED, that Howard Waste Paper Company (\$76,367) and Zenith/Kremer Disposal, Inc., (\$6,000) be and hereby is awarded a contract for garbage/refuse collection from city locations for the various departments and divisions in accordance with specifications on its low specification bid of \$82,367, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0297 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the Western Lake Superior Sanitary District be and hereby is awarded a contract for furnishing ash and refuse disposal as required during 1995 for the various departments and divisions in accordance with current approved W.L.S.S.D.'s disposal rates, annual expenditures to total approximately \$98,000, terms net 30, FOB disposal sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0298 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the revised specifications for the civil service classification listed below, which were approved by the civil service board on March 7, 1995, and which are filed with the city clerk as Public Document No. 95-0403-11, are approved; that said classifications shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay ranges and rates shall remain unchanged.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Classification</u>	<u>Pay range</u>	<u>1994 pay rates</u>
Utility radio dispatcher	26	\$2,098 - 2,478
Programmer analyst	133-136	\$2,599 - 3,520
Senior programmer analyst	137	\$3,089 - 3,682

Resolution 95-0304 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the city of Duluth accepts the dedication of the following lakewalk and pedestrian walkway easement from Edmunds Company:

Those parts of Lots 1 and 2, Block C, the easterly 25 feet of Lot 8, Block B, and adjacent 22nd Avenue East, Endion Division of Duluth, Minnesota, lying southerly of the following described line:

Commencing at the northerly corner of Lot 8, Block B; thence southeasterly along the northeast line of said Lot 8 a distance of 134.55 feet; thence deflecting to the right 90°-00'-00", 25.00 feet to the beginning of the line to be described; thence deflecting to the right 180°-00'00", 25.00 feet; thence deflecting to the left 30°-59'-49", 26.22 feet; thence deflecting to the right 27°-37'46", 20.00 feet; thence deflecting to the right 35°-42'-32", 44.30 feet; thence deflecting to the left 20°-32'-49", 75.31 feet; thence deflecting to the left 16°-47'23", 74.69 feet; thence deflecting to the left 2°-35'-07", 70.36 feet; thence deflecting to the right 11°-51'-06", 18.57 feet to a point on the northeast line of Lot 5, Block C, Endion Division and there terminating.

Said easement being conditioned as follows:

(a) No structures or objects which will obstruct the lakeview will be placed within said easement upon its improvement;

(b) No motorized vehicles, except for maintenance vehicles, will be allowed to operate within said easement;

(c) The flat rocks on the lakefront side of the easement will be preserved and not covered or disturbed in any improvement of the easement.

Resolution 95-0293 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

WHEREAS, the city council recommended the formation of a boulevard tree task force, which was formed and deliberated and studied problems and issues relating to boulevard tree placement, replacement, management, maintenance and removal, reforestation, urban forest management, tree preservation and volunteerism; and

WHEREAS, the task force has submitted its report to the council dated February 21, 1995, on file with the city clerk as Public Document No. 95-0403-12 in which it made the recommendation that a permanent Duluth tree commission be established pursuant to Section 27 of the Duluth City Charter, to deal with ongoing issues, to advocate for the Duluth forestry and boulevard tree programs, and to act as sounding board and to provide citizen input to these programs;

NOW, THEREFORE, BE IT RESOLVED, that the council expresses its gratitude to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

members of the boulevard tree task force, and requests that the administration prepare and present to the council necessary legislation by which a permanent Duluth tree commission will be established.

Resolution 95-0305 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority which allows the authority to participate during 1995 in the city's self insurance fund for purposes of workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 95-0403-13, on file in the office of the city clerk.

Resolution 95-0318 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Spirit Mountain recreation area authority which allows the authority to participate during 1995 in the city's self insurance fund for purposes of general liability, workers' compensation and employee honesty bond coverage, which agreement shall be substantially in the form of Public Document No. 95-0403-14, on file in the office of the city clerk.

Resolution 95-0319 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute a lease rescission and lease agreement with the Duluth housing and redevelopment authority relating to the lease of space for operation of the Drug Elimination Program at the Copeland Community Center, which agreement is on file in the office of the city clerk as Public Document No. 95-0403-15.

Resolution 95-0301 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Resolution 95-0050 to Levine and Son, Inc., for construction of a six inch watermain in Yosemite Avenue between Walnut Street and North Street, be amended to increase the amount by \$11,417.50 for a new total of \$33,807.50, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0299 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Campbell-Sevey, Inc., be and hereby is awarded a contract for furnishing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

and delivering 1995 annual requirements for Spence valves and replacement parts for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of approximately \$20,779.80, terms net 30, FOB shipping point, payable out of Steam Fund 540, Dept./Agency 920, Organization 1460, Object 5220.

Resolution 95-0303 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering approximately 325 service tees for the water and gas department in accordance with specifications on its low specification bid of \$7,186.35, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0307 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct sanitary sewers in Willow Street/Blackman Avenue (City Job No. 8906SA95).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0306 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth be and hereby is awarded a contract for the relocation (reconstruction) of Fifth Avenue West for the engineering division in accordance with specifications on its low specification bid of \$541,355.70, terms net, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2146, Object 5530, to be reimbursed from MSA, \$516,355.70 and water fund estimated at \$25,000.

Resolution 95-0308 was unanimously adopted.

Approved April 3, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that St. Cloud Restaurant Supply be and hereby is awarded a contract for furnishing and installing kitchen equipment for the Lake Superior Zoological Gardens concession area for the public works department in accordance with specifications on its low specification bid of \$15,055, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C417.

Resolution 95-0310 was unanimously adopted.

Approved April 3, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Clarey's Safety Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 21 Scott cylinders for SCBA's (self contained breathing apparatus) for the fire department in accordance with specifications on its low specification bid of \$7,875, terms net 20, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B512.

Resolution 95-0300 was unanimously adopted.

Approved April 3, 1995
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-020 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Wheeler moved to amend the ordinance to change "\$2,000,000" to "\$1,000,000," which motion was seconded and unanimously carried.

- - -

BY COUNCILOR WHEELER

95-021 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Wheeler moved to amend the ordinance to change "\$1,000,000" to "\$2,000,000," which motion was seconded and unanimously carried.

- - -

BY COUNCILOR WHEELER

95-022 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,200,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR TALARICO

95-019 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY OVER THE WESTERLY 14 FEET OF LOT 222, UPPER DULUTH, LAKE AVENUE, TO ELIZABETH M. GEORGE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-018 (9246) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER-

DWAN MEDICAL CENTER FOR A RETAINING WALL ENCROACHMENT INTO THE SOUTHERLY TWO FEET OF EAST SECOND STREET AT 520 EAST SECOND STREET.

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

- - -

The meeting was adjourned at 8:15 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9246

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO MILLER-DWAN MEDICAL CENTER FOR A RETAINING WALL ENCROACHMENT INTO THE SOUTHERLY TWO FEET OF EAST SECOND STREET AT 520 EAST SECOND STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Miller-Dwan Medical Center, and their successors in interests, referred to herein as the permittees, to occupy, erect and maintain a retaining wall in that part of East Second Street as the same was dedicated to the use of the public and the plat of Portland Division, on file and on record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) The southeasterly two feet of East Second Street adjacent to Lots 1-4, inclusive, Block 46, Portland Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said retaining wall and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or

omission of the permittees, and agree that such retaining wall shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said East Second Street and agree that the city of Duluth shall not be liable for damage caused to such retaining wall while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such retaining wall in said East Second Street.

Section 6. That the permittee shall further observe the following conditions:

- (a) That all applicable codes will be observed in construction of said retaining wall;
- (b) The size and location of retaining wall shall be limited to and maintained in accordance with plans by Architectural Resources dated 20 Feb. 95, entitled "Miller-Dwan Medical Center, ICU/Burn Center & N Street Entrance," sheets SW & SW;
- (c) That the concurrent use permit be issued for the life of the structure;
- (d) That the necessary "limited use permit" and "access permit" be obtained from Minnesota department of transportation.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 14, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 3, 1995
Approved April 3, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 10, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Absent: Councilors Bohlmann and Hardesty -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0410-01 David A. Koski, et al. (58 signatures) submitting communication requesting the width of Jefferson street from 19th Avenue East to 15th Avenue East remain at 30 feet. -- Engineering

Hank Amundson, co-chair of the East Hillside Endion Coalition, and Keith Haugen voiced their support for the communication noting that 58 of the 59 residents support the keeping of Jefferson Street at 30 feet wide.

- - -

REPORTS OF OFFICERS

95-0410-02 Assessor submitting letter of sufficiency to relocate a storm sewer around Lots 7 and 8, Block 2, Oneota Industrial Park. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0410-03 Board of directors of trust for Miller-Dwan Hospital and Medical Center minutes of February 16, 1995 meeting. -- Received

95-0410-04 Civil service board minutes of: (a) February 7, 1995; (b) February 21, 1995 meetings. -- Received

95-0410-05 Duluth heritage preservation commission annual report for October 1, 1993 through September 30, 1994. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price complimented the councilors on their intentions regarding the Lake Superior barrels. He expressed further concern over the aspects represented in the letter from Mike Stich, Aquatic Division of Hazard Control, Inc., to John Pegors.

President Keenan reported that a committee meeting has been set for April 13, 1995 on this topic.

- - -

RESOLUTIONS TABLED

Councilor Prettner moved to remove from the table Resolutions 95-0269, granting a wastewater discharge permit for a concrete proportioning plant in an "M-2" manufacturing district, and Resolution 95-0270, certifying that a central concrete mixing or concrete proportioning plant is an appropriate use in an "M-2" manufacturing district (Northland Ready Mix), which motion was seconded and unanimously carried.

Councilor Prettner moved to refer Resolutions 95-0269 and 95-0270 to the administration because the business has decided to locate outside of the city limits, which motion was seconded and unanimously carried.

- - -

Councilor Downs moved to remove from the table Resolution 95-0018, authorizing agreement with Walker Parking Consultants/Engineers, Inc., for design of the bingo ramp

cashiers booth/office facility in the amount of \$6,000, which motion was seconded and unanimously carried.

Councilor Downs moved to refer Resolution 95-0018 to the administration because of their request that they would like to reapproach the Band regarding the options on this issue in light of the possibility of adding another level to the parking ramp, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was filed prior to April 10, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR PRETTNER

95-0338R - RESOLUTION AUTHORIZING ACCEPTANCE OF \$131,600 IN ESGP FUNDS FROM HUD AND AUTHORIZING AGREEMENTS IN THAT AMOUNT WITH VARIOUS SERVICE PROVIDERS.

- - -

BY COUNCILOR WHEELER:

WHEREAS, the McQuade protected access committee formed under the direction of the township of Duluth continues to make positive progress; and

WHEREAS, the direct role of the city is now largely limited to serving as the fiscal agent; and

WHEREAS, the state of Minnesota has agreed to provide the city Duluth with administrative support funding in an amount of an additional \$20,000 to the McQuade protected access project.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials amend an agreement with the Minnesota department of natural resources to administer funds to assist with the administrative responsibilities to the committee under the direction of the township of Duluth, such services not to exceed \$37,000, payable from General Fund 100, Administrative Services 015, miscellaneous, Organization 2020; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-0410-06.

Resolution 95-0323 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Duluth Plumbing Supplies Company be and hereby is awarded a contract for furnishing and delivering miscellaneous plumbing supplies during 1995 for the various departments/divisions in accordance with specifications on its low specification bid of approximately \$24,300, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0326 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Old Dominion Brush Company be and hereby is awarded a contract for furnishing and delivering approximately 20 sweeper brooms and 100 sets of gutter brooms for the fleet services division in accordance with specifications on its low specification bid of \$9,265.50, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0332 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that B & S Research, Inc., be and hereby is awarded a contract for furnishing and delivering a floor cleaner system with microbes and emulsifiers for the fleet services division in accordance with specifications on its low specification bid of \$7,348.50, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5580.

Resolution 95-0334 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

DULUTH ECONOMIC DEVELOPMENT AUTHORITY
Jack H. LaVoy and Dale S. Lewis for a terms expiring April 27, 2001.
Resolution 95-0330 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the proposed specifications for the new civil service classification of senior engineering technician (#), which were approved by the civil service board on March 7, 1995, and which are filed with the city clerk as Public Document No. 95-0410-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be pay range 31 (\$2,588-\$3,078).

Resolution 95-0336 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Neighborhood Youth Services Program project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Woodland Hills, Inc., of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0410-08, shall not exceed \$124,000, payable out of the 1995 Federal Program Fund 263 - Community Development - Account No. 6367.

Resolution 95-0312 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Duluth Hunger project;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with the Churches United in Ministry (CHUM), agent for the Duluth Hunger Project. Payment for the agreement, on file in the office of the city clerk as Public Document No. 95-0410-09, shall not exceed \$90,000, payable out of the 1995 Federal Program Fund 263 - Community Development - Duluth Hunger Project Account No. 6368.

Resolution 95-0313 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the YWCA Kid's Corner - East Hillside project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Young Women's Christian Association (YWCA), Inc., of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0410-10, shall not exceed \$57,000, payable out of the 1995 Federal Program Fund 263 - Community Development - Account No. 6369.

Resolution 95-0314 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Duluth Life House Youth Center project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Life House Incorporated of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0410-11, shall not exceed \$50,000, payable out of the 1995 Federal Program Fund 263 - Community Development - Life House Project Account No. 6370.

Resolution 95-0315 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Duluth Community Health Center Youth and Senior Citizen Health Assessment project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Duluth Community Health Center of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0410-12, shall not exceed \$60,000, payable out of the 1995 Federal Program Fund 263 - Community Development - Duluth Community Health Center Account No. 6371.

Resolution 95-0316 was unanimously adopted.
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR PRETTNER:

WHEREAS, by Resolution 94-0976, adopted November 11, 1994, the city council approved the program guidelines for the city's neighborhood matching grants fund; and

WHEREAS, the city council desires to amend the approval process in such guidelines for grants between \$3,001 and \$20,000;

NOW, THEREFORE, BE IT RESOLVED, that Part V of such guidelines is hereby amended by revising the paragraph entitled "Tier Two: Grants between \$3,001 and \$20,000" to read as follows:

"Applications for grants between \$3,001 and \$20,000 will be reviewed ~~and approved~~ twice per year by a Citywide Review Team made up of citizens ~~appointed by the Mayor~~. The Citywide Review Team shall consist of three (3) neighborhood representatives (e.g., neighborhood association and/or business association representatives), two (2) non-profit sector representatives, one (1) school system employee (recommended by the Superintendent of the Duluth School System), and one (1) City staff representative. Positions on the Citywide Review Team shall be advertised and nominations drawn from applications received by the City's Clerk's Office by the prescribed deadline. Two neighborhood members and one non-profit member shall initially serve three year terms. Other members' and subsequent terms shall be for two years. Initial appointments of members shall be made by the Mayor; all subsequent appointments of members shall be made by the Mayor with the approval of the City Council. Prior to April 10, 1995, the Citywide Review Team shall have authority to approve grants under this Program; subsequent to such date the Citywide Review Team shall recommend grants to the City Council for approval. With respect to conflict of interest, no member of the Citywide Review Team may vote on a project where he or she was directly involved in the preparation of the application or has a financial interest in the project."

Resolution 95-0335, as amended, was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the second amendment to City Contract #16207, a copy of which is on file in the office of the city clerk as Public Document No. 95-0410-13, with the Duluth Housing Trust Fund, Inc., extending the term of said agreement through December 31, 1995.

Resolution 95-0337 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a subordination agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0410-14, subordinating the city's mortgage, registered in the office of the St. Louis County Registrar of Titles as Document No. 588212 to two mortgages to be held by Republic Bank, Inc., which mortgages secure loans to the Duluth Lighthouse for the Blind.

Resolution 95-0339 was unanimously adopted.

Approved April 10, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, National Community Development Week is to be observed the week of April 10 through 16, 1995; and

WHEREAS, the theme for this years observance of National Community Development Week is "21 Years CDBG, It Works!" in recognition of the many activities, programs, facilities and projects which have been fostered, developed, constructed and advanced in part and in whole as a result of an on-going effort between citizens and local governments; and

WHEREAS, a special celebration has been planned by the city of Duluth and the county of St. Louis at 2:00 p.m., April 12, 1995, at the Biwabik Mixed Use Complex to observe National Community Development Week;

NOW, THEREFORE, the Duluth City Council urges its citizens to come together and generate public support emphasizing the success of the Community Development Block Grant Program, and urges them to take part in the planned celebration in Biwabik this Wednesday, April 12, 1995.

Resolution 95-0348 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Ametek P.M.T. Division be and hereby is awarded a contract for furnishing and delivering one portable instrumentation calibration system for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$9,463.59, terms net 30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1480, Object 5530.

Resolution 95-0327 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering P.E. pipe and fittings for the water and gas department in accordance with specifications on its low specification bid of \$7,303.50, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0329 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a sanitary sewer lift station evaluation; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to complete a comprehensive evaluation and prioritization of needed improvements/maintenance; and

WHEREAS, Bonestroo, Rosene, Anderlik and Associates has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

to enter into an agreement with Bonestroo, Rosene, Anderlik and Associates to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$44,691, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5532.

Resolution 95-0207 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 1,980 gallons of yellow traffic marking paint and 2,255 gallons of white traffic marking paint for the traffic operations division in accordance with specifications on its low specification bid of \$24,400.07, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1930, Object 5226.

Resolution 95-0324 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that North Country Equipment Company be and hereby is awarded a contract for furnishing and delivering one 18,000 lb. capacity tilt bed trailer for the street/park maintenance division in accordance with specifications on its low specification bid of \$7,058.82, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5580.

Resolution 95-0325 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that H & H Lumber Company be and hereby is awarded a contract for furnishing and delivering annual carpentry supplies for the property management division in accordance with specifications on its low specification bid of \$5,272.96, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5223.

Resolution 95-0328 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for the relocating and reconstruction of Lift Station #13 for the sewer division in accordance with specifications on its low specification bid of \$149,920, terms net 30, FOB job site, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5532.

Resolution 95-0333 was unanimously adopted.

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0347, by Councilor Talarico, committing the city to an acceptable long term plan for inflow and infiltration reduction for the city's sanitary sewer system, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Ken Hogg voiced his support for the resolution and stated that it is long overdue, but stated concern over the language in the last two paragraphs. Mr. Hogg stated those references would force the city into situations where the WLSSD is telling the city how much to spend on this and how we have to do it. He felt that this is a form of a "blank check" to the WLSSD. Mr. Hogg, in conclusion, noted that the bottom line is how much wastewater the city takes out of the sanitary sewer and how fast the city gets it out. He noted he would like to see wording to the effect of that intent.

Councilor Atkins moved to amend Resolution 95-0347 in the last paragraph to read as follows: "NOW, THEREFORE, BE IT RESOLVED, that the city council hereby commits to the development and approval by the WLSSD by the end of 1995 of a long term plan acceptable to reduce the inflow and infiltration in the city sanitary sewer system at a rate acceptable to the WLSSD" and further deleting the last paragraph of the resolution, which motion was seconded by Councilor Dahlberg.

Councilor Prettner voiced disagreement to the amendment, noting that the initial second paragraph of the resolution relates to finding an effective solution and not necessarily detailing financial resources. She further noted that Councilor Talarico negotiated with the WLSSD to give the most latitude to the city without overcommitting the city.

Councilor Talarico stated that the language of the resolution came directly from the task force recommendation and that this resolution is the result of lengthy discussion and agreement as to what the city can honestly do and that this was agreed to by the WLSSD.

Councilor Atkins' amendment failed upon the following vote:

Yeas: Councilors Atkins and Dahlberg -- 2

Nays: Councilors Downs, Prettner, Talarico, Wheeler and President Keenan -- 5

Absent: Councilors Bohlmann and Hardesty -- 2

Resolution 95-0347 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the Western Lake Superior Sanitary District (WLSSD) and the Minnesota Pollution Control Agency have informed the city that they will not approve any future sanitary sewer system connections until the city has committed to an acceptable long term plan for inflow and infiltration reduction for the city's sanitary sewer system; and

WHEREAS, the city has received a recommendation from its I and I citizens' task force to base its long term inflow and infiltration plan on flow data and engineering analysis that will ensure cost effective solutions and will result in significant inflow and infiltration reductions; and

WHEREAS, the city is presently engaged in collecting the necessary flow data and is planning on conducting a demonstration project to determine sources of inflow and infiltration into the city's sanitary sewer system; and

WHEREAS, based on the data received from these studies and projects, the city will be in a position to develop a definitive long term inflow and infiltration plan by the end of 1995; and

WHEREAS, the city council is committed to taking effective action to reduce inflow and infiltration into the city's sanitary sewer system;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby commits to development and approval of a long term plan acceptable to the WLSSD for inflow and infiltration

reduction for the city's sanitary sewer system by the end of 1995.

RESOLVED FURTHER, that the city council hereby commits to provide or secure financial resources sufficient to implement such long term inflow and infiltration plan.

Resolution 95-0347 was unanimously adopted.

Approved April 10, 1995

YVONNE M. PRETTNER, Acting Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

95-020 (9247) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES F O R T H E P A Y M E N T T H E R E O F .

Councilor Wheeler moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR WHEELER

95-021 (9248) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Councilor Wheeler moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR WHEELER

95-022 (9249) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,200,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR TALARICO

95-019 (9250) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT OVER THE WESTERLY 14 FEET OF LOT 222, UPPER DULUTH, LAKE AVENUE, TO ELIZABETH M. GEORGE.

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

- - -

The meeting was adjourned at 8:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9247

BY COUNCILOR WHEELER:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment.

1.02 The City Council hereby determines that it is in the best interest of the City and it is necessary to improve the municipal water utility, and determines that it is necessary to issue General Obligation Water Utility Revenue Bonds in the amount of \$1,000,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The City has heretofore issued and sold General Obligation Water Utility Revenue Bonds dated December 1, 1976, now outstanding in the amount of \$225,000, dated June 1, 1980, now outstanding in the amount of \$275,000, dated October 1, 1991, now outstanding in the amount of \$2,795,000, General Obligation Refunding Bonds of 1992, Series E, dated March 1, 1992, now outstanding in the amount of \$620,000, and General Obligation Water Utility Revenue Bonds, dated November 1, 1992, now outstanding in the amount of \$3,275,000. Under the provisions of the ordinances authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated December 1, 1976, June 1, 1980, October 1, 1991, March 1, 1992, and November 1, 1992.

1.04 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Water Utility Revenue Bonds of the City of Duluth in the amount of \$1,000,000, plus such additional amounts of bonds, if any, as the City Council shall, by resolution, determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility and to maintain such reasonable reserves for such expenses as the Director of Water and Gas shall determine to be necessary from time to time in accordance with the policies established by the City Council.

1.05 The City reserves the right and privilege of issuing additional bonds and of pledging

and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Terms of Bonds.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. Revenues and Accounts.

3.01 The City Council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The City Council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certificate of Proceedings.

4.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to obtain from the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective Date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 14, 1995)

Councilor Wheeler moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: None -- 0

Absent: Councilors Bohlmann and Hardesty -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 10, 1995

Approved April 10, 1995

GARY L. DOTY, Mayor

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ORDINANCE NO. 9248

BY COUNCILOR WHEELER:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$2,000,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Sections 115.46 and 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment.

1.02 The City Council hereby determines that it is in the best interest of the City and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue General Obligation Sewer Utility Revenue Bonds in the amount of \$2,000,000 for the purpose of paying costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The City has heretofore issued and sold General Obligation Sewer Utility Revenue Bonds dated June 1, 1979, now outstanding in the amount of \$225,000, dated June 1, 1980, now outstanding in the amount of \$200,000, two separate issues of General Obligation Sewer Utility Revenue Bonds, each dated December 1, 1985, now outstanding in the amounts of \$680,000 and \$2,025,000, dated August 1, 1988, now outstanding in the amount of \$975,000, dated October 1, 1991, now outstanding in the amount of \$740,000, and General Obligation Sewer Utility Revenue Bonds, dated November 1, 1992, now outstanding in the amount of \$195,000. Under the provisions of the ordinances authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated June 1, 1979, June 1, 1980, December 1, 1985, August 1, 1988, October 1, 1991, and November 1, 1992.

1.04 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Sewer Utility Revenue Bonds of the City of Duluth in the amount of \$2,000,000 plus such additional amounts of bonds, if any, as the City Council shall by resolution determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and

all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with the policies established by the City Council.

1.05 The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Terms of Bonds.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds at public sale, in such manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. Revenues and Accounts.

3.01 The City Council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The City Council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certification of Proceedings.

4.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to obtain from the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear from the official books and records in the officers' custody and are otherwise known to them. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. Effective Date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 19, 1995)

Councilor Wheeler moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: None -- 0

Absent: Councilors Bohlmann and Hardesty -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 10, 1995

Approved April 10, 1995

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9249

BY COUNCILOR WHEELER:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,200,000 GENERAL OBLIGATION TRANSIT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 The City Council has determined it to be necessary and expedient and in the public interest that the Duluth Transit Authority purchase new transit coaches, buses and vans, reroof the transit operating facility and make other capital expenditures.

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 30% where it is used to match private grants alone. The project is of the nature contemplated by said law. The Duluth Transit Authority has been awarded grants of federal funds in aid of the project, and it is estimated that such funds, together with any state or private funds which may be received, and the proceeds of bonds issued by the City in an amount not to exceed \$1,200,000, will be sufficient to pay the total project costs, and that the amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Transit Bonds of the City of Duluth in an amount not to exceed \$1,200,000 (plus such additional amounts of bonds, if any, as the City Council shall by resolution determine to issue as additional obligations, representing part of the

interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. Terms of Bonds.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. Revenues and Accounts.

3.01 The City hereby creates the Duluth Transit Support Capital Improvement Fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Tax Levy.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate transit bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Transit Bond Debt Service Account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrepealable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. Certificate of Proceedings.

5.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to obtain from

the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 6. Effective Date.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 19, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: None -- 0

Absent: Councilors Bohlmann and Hardesty -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 10, 1995
Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9250

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT OVER THE WESTERLY 14 FEET OF LOT 222, UPPER DULUTH, LAKE AVENUE, TO ELIZABETH M. GEORGE.

The city of Duluth does ordain:

Section 1. The city of Duluth hereby sells an easement for driveway purposes to Elizabeth M. George for a consideration of \$1,400, to be deposited in the General Fund 100-700-1418-4640, in, over and under the following described property:

The westerly fourteen feet (W'ly 14') of Lot 222, Upper Duluth, Lake Avenue, according to the recorded plat thereof in the office of the St. Louis County Recorder.

Section 2. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 21, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: None -- 0

Absent: Councilors Bohlmann and Hardesty -- 2

Passed April 10, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

ATTEST:
JEFFREY J. COX, City Clerk

Approved April 10, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 17, 1995, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on October 3, 11, 17, 24, 27 and 31, 1994, were approved unanimously.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0417-01 Head of the Lakes Association submitting letter regarding solid waste (Ordinance No. 9233). -- Received

95-0417-02 Seaway Engineering Company submitting letter regarding flow monitoring project (95-0251R). -- Received

- - -

REPORTS OF OFFICERS

95-0417-03 Assessor submitting:

(a) Assessment rolls for confirmation levied to defray the assessable portion of demolitions of 3204 Vernon Street, 406 East Sixth Street, 912-½ East Sixth Street, 121 North 11th Avenue West, 825 North 58th Avenue East, 1128 West Second Street, 325 East Fifth Street, 2625 West Sixth Street, 5303 East Superior Street;

(b) Affidavit of mailing of special assessment board public hearing on Tuesday, April 25, 1995, at 4:30 p.m. regarding proposed improvement of a sanitary sewer in Willow Street and Blackman Avenue (City Job No. 8906SA95). -- Clerk

95-0417-04 Building inspection submitting appeals from:

(a) Darrell Lewis, physical planning division manager, appealing BZA decision to relax the 60 feet front yard setback requirement; relax the side yard setback from three feet to zero feet and to allow parking in a required front yard for the construction of a curbcut, retaining wall and fill area for an off-street parking pad and unloading zone in the front yard with the stipulation that the parking pad must extend 20 feet beyond the front property line into the applicant's yard (Grandaw);

(b) James Jarocki, by Builders Commonwealth, Inc., appealing BZA decision to deny a request to relax the 2-½ story height limitation to allow construction of a three story dwelling on property located at 2628 Branch Street. -- Committee 2 (planning)

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Sandi Hendrickson, on behalf of the zoo docents association, thanked the parks and recreation department director and staff for their help with the spring carnival at the zoo.

- - -

Greg Price discussed the Lake Superior barrels issue. He felt because the Corps of Engineers is a federal agency and responsible party, federal dollars should pay for an independent search for the seven sites that the barrels are located and that radioactive testing of the barrels should be conducted on site.

- - -

Peter Nickitas, attorney, said he is representing an individual who is filing a lawsuit against the city regarding its hiring practices for firefighters.

- - -

UNFINISHED BUSINESS

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to accept \$131,600 in Emergency Shelter Grant Program funds from the U.S. department of housing and urban development and execute all necessary documents in connection therewith.

FURTHER RESOLVED, that said officials are authorized to enter into Emergency Shelter Grant Program agreements with the service providers listed below in the amounts set forth with regard thereto, payable from 1995 Federal Program Fund 263-ESGP account, copies of said agreements being on file in the office of the city clerk with the public document number related thereto:

<u>Service provider</u>	<u>Amount</u>	<u>Public Document No.</u>
Central Hillside United Ministry, Inc. (CHUM) - Emergency Shelter Program	\$21,033	95-0417-05(a);
Women's Coalition, Inc.	\$13,807	95-0417-05(b);
Human Development Center, Inc. (HDC)	\$15,607	95-0417-05(c);
The Salvation Army, Inc.	\$23,806	95-0417-05(d);
Women's Transitional Housing Coalition, Inc.	\$23,806	95-0417-05(e);
Life House, Inc.	\$16,307	95-0417-05(f);
Central Hillside United Ministry, Inc. (CHUM) - Drop-In Center	\$17,234	95-0417-05(g).

Resolution 95-0338 was unanimously adopted.
Approved April 17, 1995
GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premise permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organizations.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
(a) Lake Superior Steelhead	Club Saratoga	March 17, 1995
(b) Lake Superior Steelhead	Mr. D's Spirit Valley Bar	March 17, 1995
(c) Esko Area Hockey and Skating Association	Alpine Bar & Lounge	April 4, 1995

Resolution 95-0351 was unanimously adopted.
Approved April 17, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Biffs, Inc., be and hereby is awarded a contract for furnishing and delivering portable toilets as needed at various locations to various departments in accordance with specifications on its low specification bid of \$12,500, terms net 30, FOB job site, payable out of various funds, dept./agency various, organization various, object various.

Resolution 95-0353 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of zookeeper I, which were approved by the civil service board on January 3, 1995, and which are filed with the city clerk as Public Document No. 95-0417-06, are approved.

Resolution 95-0346 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Women's Transitional Housing Coalition - Operational Project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Women's Transitional Housing Coalition of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0417-07, shall not exceed \$40,000, payable out of the 1995 Federal Program Fund 263 - community development - Women's Transitional Housing - Operational Account No. 6372.

Resolution 95-0340 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Boys & Girls Club Teen Computer Program project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Boy's Club of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0417-08, shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

not exceed \$35,000, payable out of the 1995 Federal Program Fund 263 - community development - Boys & Girls Club Teen Computer Program Account No. 6373.

Resolution 95-0341 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Project SOAR Project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Project SOAR of NE Minnesota of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0417-09, shall not exceed \$35,000, payable out of the 1995 Federal Program Fund 263 - community development - Project SOAR Account No. 6374.

Resolution 95-0342 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October 1994, established the Salvation Army Transitional Housing Project.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with the Salvation Army, Incorporated. Payment for the agreement, on file with the city clerk as Public Document No. 95-0417-10, shall not exceed \$32,000, payable out of the 1995 Federal Program Fund 263 - community development - Salvation Army Transitional Housing Account No. 6376.

Resolution 95-0343 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the CHUM Telecare/Friends project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with the Churches United in Ministry (CHUM), of Duluth, Minnesota. Payment for the agreement, on file in the office of the city clerk as Public Document No. 95-0417-11, shall not exceed \$10,000, payable out of the 1995 Federal Program Fund 263 - community development - CHUM Telecare/Friends Project Account No. 6378.

Resolution 95-0344 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements, copies of which are filed with the city clerk as Public Document No. 95-0417-12, with the state of Minnesota, department of natural resources, authorizing the city to perform certain

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

maintenance at the Clyde Avenue (Munger access) and Rice's Point boat launch sites, in consideration of \$1,500 to be paid by the department of natural resources to the city.

Resolution 95-0355 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a limited use permit with Mn/DOT covering automobile parking under Bridge No. 69879 (elevated I-35 south of Roosevelt Street between Central and 58th Avenue West); said agreement to be in the form of that certain document on file with the city clerk as Public Document No. 95-0417-13.

Resolution 95-0345 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with RREM, Inc., for the sum of not to exceed \$10,000, from Capital Fund 450, AG. 015, Org. 1994, Obj. C435, for providing certain engineering services to the city of Duluth in connection with the public works salt and sand storage facility (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0417-14.

Resolution 95-0350 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to inspect the construction of the city of Duluth Lift Station No. 13; and

WHEREAS, the city desires to hire a consulting engineer to provide the construction inspection services required; and

WHEREAS, RREM, Inc., has submitted a proposal in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with RREM, Inc., to provide the city with such construction engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$9,804, will be payable from Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5532.

Resolution 95-0354 was unanimously adopted.

Approved April 17, 1995

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 8:20 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 24, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Prettner -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0424-01 Borghild D. Sathers, by Michael W. Lien, attorney, petitioning for vacation of utility easement adjacent to a portion of vacated Morris Avenue. -- Assessor

- - -

REPORTS OF OFFICERS

95-0424-02 Building official submitting appeal of BZA denial of request to relax side yard and front yard setbacks for construction of a detached garage at 218 Maple Grove Road (Beaupre). -- Committee 2 (planning)

95-0424-03 Engineering division submitting April 1, 1995, monthly project status report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0424-04 Board of zoning appeals minutes of March 28, 1995 meeting. -- Received

95-0424-05 Charter commission minutes of: (a) October 12, 1994; (b) October 26, 1994 meetings. -- Received

95-0424-06 Duluth housing trust fund board minutes of March 9, 1995 meeting. -- Received

95-0424-07 Duluth transit authority: (a) Minutes of March 1995 meeting; (b) Income statement for February 1995. -- Received

95-0424-08 Sanitary sewer board of WLSSD submitting copy of Resolution 95-05 regarding Duluth inflow and infiltration plans (95-0347R). -- Received

95-0424-09 Special assessment board minutes of: (a) March 21, 1995; (b) March 28, 1995 meetings. -- Received

- - -

RESOLUTION TABLED

Councilor Wheeler moved to remove from the table Resolution 95-0276, relieving the Duluth Sister Cities Commission, Inc., from any responsibility to fund a portion of the cost of constructing the bell tower at Enger Tower, which motion was seconded and unanimously carried.

Councilor Wheeler noted that there has been a committee meeting with the sister cities commission that has reviewed the need for this and that there is good cause for supporting the resolution.

Resolution 95-0276 was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, by Resolution 93-0674, adopted by the council on August 23, 1993, the city council approved a contribution of \$8,520 towards the construction cost of a bell tower at Enger Park, with the understanding that the Duluth Sister Cities Commission, Inc., would raise \$8,520 in private donations to help finance this project; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, in order to ensure completion of this project on a timely basis, the city council further approved of the city advancing the portion of the construction cost that was to be financed from private donations; and

WHEREAS, it now appears that the Duluth Sister Cities Commission, Inc., will not be able to reimburse the city from private donation monies for the construction costs that it advanced; and

WHEREAS, in the spirit of cooperation and in recognition of the fine work that has been done by the Sister Cities Commission, Inc., the city has recommended forgiving any debt the Sister Cities Commission, Inc., may have to the city regarding this project;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves of relieving the Sister Cities Commission, Inc., of responsibility for reimbursing the city for any portion of the construction cost of the bell tower at Enger Park.

Resolution 95-0276 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was filed prior to April 24, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR WHEELER

95-0379R - RESOLUTION AUTHORIZING THE CITY TO BE A MAJOR SPONSOR OF THE 1995 GRANDMA'S MARATHON, AT A COST TO THE CITY OF \$15,000.

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following Demolition Assessments Contract No. 5278 be and the same is hereby confirmed:

<u>ADDRESS</u>	<u>ASSESSABLE AMOUNT</u>
3204 Vernor Street	\$ 3,599
406 East Sixth Street	3,999
912½ East Sixth Street	4,299
121 North 11th Avenue West	3,299
825 North 58th Avenue East	2,749
1128 West Second Street	4,299
325 East Fifth Street	3,049
2625 West Sixth Street	4,099
5303 East Superior Street	<u>649</u>
TOTAL	<u>\$30,041</u>

Resolution 95-0359 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0376, by Councilor Wheeler, and Resolution 95-0380, by President Keenan, establishing the salary and fringe benefits for the mayor, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolutions.

Vi Griffiths voiced her concern regarding increased spending associated with higher salaries,

and that will raise her taxes like increased market value of her house raised her taxes.

Councilor Wheeler reviewed the process and his reasoning in that the task force supplied a lot of documentation and information concerning the comparison of salaries to support their recommendation. He noted that his recommendation is within the task force recommendation guidelines, but that he feels that the mayor's salary should reflect how costs have increased and how it's more difficult to raise revenues. Councilor Wheeler voiced his support for Resolution 95-0376.

Councilor Dahlberg stated his support generally for a highly paid mayor, but disagreed that there should also be a highly paid administrative assistant.

Councilor Atkins voiced his concern about the two percent increase each year because of the aspect of negotiating with bargaining units and that this salary is three to four times greater than the average salary of individuals in the city. He also noted that the mayor is chosen by the people, who want that person not because of their masters or doctorate degrees, and that the salary should be immaterial. He moved to amend Resolution 95-0376 by deleting the following paragraph, "RESOLVED FURTHER, that the annual salary of the mayor should be increased by two percent on January 1, 1997, January 1, 1998, and January 1, 1999," which motion was seconded by Councilor Dahlberg and discussed.

Councilor Wheeler voiced his disagreement over the amendment, noting that he agrees with the task force, but on a smaller basis, that there should be a little increase over the period of four years and that the total compensation be only about \$74,000 after four years.

Councilor Bohlmann stated that she was against the task force to begin with and that elected officials should not have a cost of living increase. She said any increase in salary sends a message that the city is not holding down costs and that the city should set an example towards lowering the salary to approximately \$65,000 and that the administrative assistant's salary shouldn't be as high as it is.

Councilor Talarico voiced his concern that the issues relative to the administrative assistant's salary and other areas are appearing to be in the area of showmanship and are not relative to the issue here. He noted that these concerns should have been raised earlier in the process.

Councilor Hardesty voiced her concern that this amendment, in essence, relates that there would be no change over four years and that the mayor is full time and cannot work elsewhere. She noted that there will be no increase and that the council will be debating this issue annually. She also felt that a big increase after four years is not in the best interests of the city and that the city supports increases annually for its employees.

Councilor Atkins felt that all other benefits are added to the total and that this is still a very respectable compensation and therefore, the cost of living is not needed for a four year term.

Councilor Bohlmann further stated that elected officials aren't employees, therefore, it is a different situation and they should not be compared.

Councilor Downs voiced his concern that the city operation is a large corporation with a little under 1,000 employees and that it handles requests of 80,000 to 90,000 people and that with situations like large street problems and other issues, the salary is appropriate and suggested raising the salary to \$72,000 and forget the cost of living increase.

Councilor Atkins' amendment to Resolution 95-0376 failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Talarico, Wheeler and President Keenan -- 5

Absent: Councilor Prettner -- 1

President Keenan reviewed that Resolution 95-0038 passed six to three giving the mayor a three percent salary increase for 1995. President Keenan further noted that he voted against

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

creation of the task force, but the resolution passed and they came back with seven solid recommendations and therefore, voiced support for his Resolution 95-0380.

Councilor Wheeler stated that he supports the task force recommendations generally, but felt that with their information and how he reviewed and studied it, the increase did not have to be as large as recommended.

Councilor Bohlmann stated that corporate executives are hired for their credentials and that the mayor's salary should not necessarily compare to the private sector upper management.

Councilor Downs moved to table Resolutions 95-0376 and 95-0380 for further discussion, which motion failed upon the following vote:

Yeas: Councilors Downs, Hardesty Talarico and President Keenan -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg and Wheeler -- 4

Absent: Councilor Prettner -- 1

Resolution 95-0376 (Public Document No. 95-0424-10) failed upon the following vote:

Yeas: Councilors Hardesty and Wheeler -- 2

Nays: Councilors Atkins, Bohlmann, Dahlberg, Downs, Talarico and President Keenan -- 6

Absent: Councilor Prettner -- 1

Councilor Downs felt that in setting the salary there needs to be a cost of living factor involved if the cost of living goes up or down. Councilor Downs moved to amend Resolution 95-0380 by adding the following: "If the cost of living goes down, then the mayor's cost of living factor will go down the same percentage number of points the following year," which motion was seconded by Councilor Talarico and passed upon the following vote:

Yeas: Atkins, Downs, Hardesty, Talarico and President Keenan -- 5

Nays: Councilors Bohlmann, Dahlberg and Wheeler -- 3

Absent: Councilor Prettner -- 1

Resolution 95-0380, as amended, (Public Document No. 95-0424-11) failed upon the following vote:

Yeas: Councilor Downs -- 1

Nays: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Talarico, Wheeler and President Keenan -- 7

Absent: Councilor Prettner -- 1

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Stout Mechanical, Inc., be and hereby is authorized to proceed with the sprinkler system at the city fleet services center (Change Order M-2 to Contract #17252), in an amount of \$23,630, payable out of Fund 660, AG. 015, Org. 1560, Obj. 5520.

Resolution 95-0360 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering one three-wheel ballfield groomer to the fleet division in accordance with specifications on its low specification bid of \$5,508.18, terms net 30, FOB Duluth, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E511.

Resolution 95-0365 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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Resolution 95-0368, by Councilor Downs, awarding contract to Goodwill Industries Vocational Enterprises for grass cutting services in accordance with specifications on its low specification bid of \$86,384.02, was introduced for discussion.

Councilor Downs stated that because he is on the board of directors of Goodwill Industries, he will abstain from voting.

Resolution 95-0368 was adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Goodwill Industries Vocational Enterprises be and hereby is awarded a contract for furnishing grass cutting services for the various departments/divisions in accordance with specifications on its low specification bid of \$86,384.02, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0368 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: None -- 0

Abstention: Councilor Downs -- 1

Absent: Councilor Prettner -- 1

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0371, by Councilor Downs, awarding contract to Cherrington Corporation for one self-propelled beach cleaning unit in accordance with specifications on its low specification bid of \$27,800, was introduced for discussion.

Councilor Dahlberg stated that there are questions he would like to have answered regarding this purchase and moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor renewal licenses for the period beginning May 1, 1995, and ending April 30, 1996, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 95-0424-12.

Resolution 95-0389 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor renewal licenses for the period beginning May 1, 1995, and ending April 30, 1996, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 95-0424-13.

Resolution 95-0390 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license for April 29, 1995, subject to departmental approvals, and payment of the \$200 application fee:

Muscular Dystrophy Association (Racing for Tomorrow), 4415 Venture Avenue, with Sherri Udovich, manager.

Resolution 95-0391 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire captain, which were approved by the civil service board on April 4, 1995, and which are filed with the city clerk as Public Document No. 95-0424-14, are approved.

Resolution 95-0349 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

LAWFUL GAMBLING COMMISSION

David L. Weidt for a term expiring April 27, 1998, replacing Donald Long.

Resolution 95-0375 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the unnamed (alley) thoroughfare lying southwesterly of 41st Avenue West and a portion of 41st Avenue West legally described as:

That portion of the unnamed thoroughfare lying southwesterly of 41st Avenue West, bounded on the northwest by Block Eleven (11), Hazelwood Addition to Oneota, and bounded on the southeast by the former right-of-way of the Northern Pacific Railway (now Burlington Northern); and that portion of 41st Avenue West lying southeasterly of the extended northwesterly line of Block Twelve (12), Hazelwood Addition to Oneota, and lying northwesterly of a line drawn 25 feet northwesterly and parallel with the main line of the Burlington Northern track as same is now constructed and existing; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its April 11, 1995, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the rights-of-way as described above, subject to the retention of a 40 foot wide utility easement, ten feet on the westerly side of the centerline and 30 feet on the easterly side of the centerline of 41st Avenue West and the full alley right-of-way adjacent to Block 11,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Hazelwood Division, and extended easterly to the southeast corner of Block 12 described above, and as more particularly described on Public Document No. 95-0424-15.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portions of the right-of-way to be vacated and the easements being retained.

Resolution 95-0357 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0369, by Councilor Atkins, reallocating HOME funds and authorizing agreement with HRA for single family home rehabilitation program in the amount of \$35,000, was introduced for discussion.

Councilor Bohlmann questioned if this is going into housing rehabilitation or administrative purposes and felt this needs to be clarified.

Councilor Talarico reviewed that the original \$35,000 was allocated to Northland Communities Land Trust and that difficulties arose and therefore this dollar amount is being reallocated to the HRA for single family housing.

Councilor Bohlmann moved to table the resolution, which motion was seconded.

Councilor Bohlmann's motion failed upon the following vote:

Yeas: Councilors Atkins and Bohlmann -- 2

Nays: Councilors Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 6

Absent: Councilor Prettner -- 1

Resolution 95-0369 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that \$35,000 is hereby transferred from the 1993 HOME CHDO subaccount to the 1993 HOME general account.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth housing and redevelopment authority for a Single Family Home Rehabilitation Program in the amount of \$35,000, payable from Federal HOME Program Fund 260, HRA Single Family Housing Rehabilitation Project 1993, Agency 020, Organization 2621, Object H003.

Resolution 95-0369 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Bryan Rock Products, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 355 tons of red limestone aggregate for the street/park maintenance division and parks and recreation department in accordance with specifications on its low specification bid of \$6,521.28, terms net 30, FOB destination, \$1,908.48 payable out of Special League Fund 790, Dept./Agency 400, Object 5229; \$2,958.14 payable out of General Fund 100, Dept./Agency 400, Organization 1812, Object 5229 and \$1,654.66 payable out of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 95-0366 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0377, by President Keenan, appointing members to the human rights task force, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Jeff Monaghan voiced his interest to be considered as a member of the task force or as an alternate. Mr. Monaghan reviewed that he believes in the concept of the task force, that he has a degree in theology, and also that he is vice chairman of the Northland Gay Rights Community and he has the experience of living in alternative life styles.

Councilor Atkins hoped that others not involved in this task force will become involved later with other committees that are established.

Resolution 95-0377 was adopted as follows:

BY PRESIDENT KEENAN:

WHEREAS, by Resolution 95-0110, adopted January 23, 1995, the city council and the mayor created a 15 member representative task force to determine the extent of benefit to the citizens of the city of Duluth of establishment of a human rights commission; and

WHEREAS, the council and mayor have received the recommendation of a citizen steering committee with respect to appointments to such task force;

NOW, THEREFORE, BE IT RESOLVED, that the city council and mayor hereby appoint the following persons to such task force:

Mitchell Berg	Cynthia Klassen Leppink
Charlotte Caldwell	Barb Main
John Day	Roberta Pascuzzi
Karen Diver	Dorothy Stoskopf
Evelyn Swader	Dale Swapinski
Marlys Wisch	Bob Grytdahl
John Hamilton, Jr.	Mary Isuara Hernandez
Robert Jansen	

Resolution 95-0377 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Prettner -- 1

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0378, by Councilor Atkins, requesting Representatives Oberstar and Obey to sponsor legislation appropriating monies to the Corps of Engineers to continue the study of the barrels in Lake Superior, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Alden Lind reviewed that this resolution needs to have changes but supported the concept of it. Mr. Lind reviewed that the Army Corps of Engineers and Honeywell Corporation should both be held responsible. He noted that other risks beyond the immediate health risks, such as

the environment, need to be looked at. It was also felt by Mr. Lind that questions of who should be given the responsibility for the barrel removal might better be given to the Coast Guard instead of the Corps of Engineers and that others would have oversight capabilities. In conclusion, Mr. Lind felt that the costs originally estimated were excessively high and that estimates closer to \$1 million with a 15 percent sampling would probably be appropriate.

Greg Price voiced his support for the good intentions of the resolution but that changes need to be incorporated and that his concerns relate to independent contractors to be used and that the international joint commission of U.S. and Canada should be involved in the process.

Ken Hogg voiced his concern that there is not a clear belief that there is no harm from materials in these barrels and that an outside firm should be used for objectivity and probable lower costs.

Councilor Downs suggested that the use of electromagnets be looked at for raising the barrels.

Councilor Atkins voiced his concern of what to do with the materials brought up in the barrels.

Vi Griffiths voiced her concerns about the barrels that have been put into Lake Superior, questioned why the barrels were allowed to be put in Lake Superior in the first place and said that they should all come up and that Honeywell should pay for the total bill.

Councilor Bohlmann voiced her concern over possible corrosion of the barrels and that the issue is that we can't afford not to bring up all the barrels for the safety of the citizenry.

Councilor Atkins moved to table the resolution for further review, input and possible amendments, which motion was seconded and unanimously carried.

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BY COUNCILOR ATKINS:

WHEREAS, the Benevolent and Protective Order of Elks has designated the week beginning May 1st as Youth Week to honor America's junior citizens for their accomplishments, and to give fitting recognition of their services to community, state and nation; and

WHEREAS, Duluth Elks Lodge will continue to support youth programs throughout the year that contribute to the junior citizens of this community; and

WHEREAS, these citizens are deserving of our support and participation in programs dedicated for youth, as they represent the nation's greatest resource, and who in the years ahead will assume the responsibility for the advancement of our free society; and

WHEREAS, our youth need the guidance, inspiration and encouragement which we alone can give in order to develop those qualities of character essential for future leadership, and go forth to serve America; and

WHEREAS, to achieve this worthy objective we should demonstrate our partnership with youth, our understanding of their hopes and aspirations and a sincere willingness to help prepare them in every way for the responsibilities of citizenship;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby proclaims the week beginning May 1, 1995, as Youth Week in the city of Duluth, and urge all departments of government, civic, fraternal and patriotic groups, and our citizens generally to participate wholeheartedly in its observation.

Resolution 95-0394 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, by Application No. 161, the city engineer granted Duluth Superior Erection a permit to construct a sanitary sewer to serve the property on the upper side of London Road from 36th Avenue East to 283 feet easterly (City Job No. 8884SA94), and

WHEREAS, the city has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 95-0358 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Amendola Construction, Inc., be and hereby is awarded a contract for construction of shoring and enclosure for the Phoenix Skywalk to the engineering division in accordance with specifications on its low specification bid of \$10,845, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I50.

Resolution 95-0363 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing approximately 3,500 tons of Class 5 and screened limestone for the street maintenance division in accordance with specifications on their low specification bid estimated to total \$19,000 (based on unit prices bid), terms net 30, FOB pickup, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 95-0364 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering two Holden Model HUT-1216 tilt bed trailers for the street maintenance division in accordance with specifications on its low specification bid of \$7,879, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5580.

Resolution 95-0367 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for construction of the Lake Superior Zoo cafeteria for the city architect division in accordance with specifications on its low specification bid of \$87,300, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C417.

Resolution 95-0372 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering six months rental of ten new all-wheel drive graders for the street maintenance division in accordance with specifications on its low specification bid of \$125,975, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew the agreement for two additional years subject to the agreement of both parties and subject to sufficient budget appropriations.

Resolution 95-0373 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for construction of resurfacing of Woodland Recreation Center parking lot for the city architect division in accordance with specifications on its low specification bid of \$30,530, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C430.

Resolution 95-0374 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Sections 33-84, 33-95, and 33-97 of the Duluth City Code, 1959, as amended, the following parking lots are designated "Three Hour Parking" and "No Parking 2:00 a.m. to 6:00 a.m.":

The Irving parking lot located south of Railroad Street in the Old Commerce Street right-of-way;

The city steam plant parking lot located north of Railroad Street and west of the Duluth Steam Plant.

Resolution 95-0361 was unanimously adopted.

Approved April 24, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-023 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MAPLE GROVE ROAD AND HAINES ROAD FROM R-1-b RESIDENTIAL TO C-5 PLANNED COMMERCIAL AND R-3 RESIDENTIAL APARTMENT (ACCESSIBLE SPACE).

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The meeting was adjourned at 10:00 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, May 1, 1995, 5:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 8

Absent: Councilor Wheeler -- 1

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MOTIONS AND RESOLUTIONS

Resolution 95-0381, by Councilor Prettnner, authorizing execution of anticipated documents regarding the Northwest Airlines Heavy Aircraft Maintenance Base, was introduced for discussion.

Robert Maki, attorney, reviewed in detail the changes in the documents. He noted that many changes are only to describe issues more specifically. Regarding the Indenture of Trust, he said First Bank is the trustee and the city and DEDA are not signatories but are consenting parties. In response to councilors, Mr. Maki said if Northwest Airlines fails to provide the minimum jobs agreed to, DEDA and the city have full legal recourse. He pointed out that the TIF and the franchise fee were designed to have separate remedies. In response to Councilor Talarico, Mr. Maki said the development agreement allows the city to seek any remedy available to it to enforce Northwest Airlines to provide the agreed upon number of jobs and noted that the city can sue separately from the state.

Responding to Councilor Hardesty, Administrative Assistant Nollenberger said the final number of jobs agreed upon was 300 by the year 2000 and 350 ultimately. He further responded that if Northwest Airlines does not pay the rent, the state will own the project but cannot touch the city's tax increment funds.

In response to President Keenan regarding hiring subcontractors locally, Mayor Doty said union officials have met with Northwest Airlines regarding that issue and that the administration has requested that Northwest Airlines employ as many local subcontractors as possible. Councilor Talarico said the law does not allow ensuring that local contractors will get the bids, but the goal is to make a climate that is as friendly to local businesses as possible.

In response to Councilor Downs about jeopardizing the future tax base of the city, Mr. Maki said the two ways the city can be penalized is if all of the real estate taxing laws in Minnesota were repealed or if the city withholds its payments, in which case the state would take it from the city's local government aid. He added that the ground lease specifically provides that the taxes must be paid or the lease is canceled and if the lease is canceled, the city and the airport authority own it free and clear. He said the city and airport authority are leasing the ground to DEDA and then DEDA is leasing it to Northwest. He said if the taxes are not paid the city is the owner of the property, noting that the state has made the agreement to pay the taxes so it does not lose its right to have the project. Mr. Maki answered that the minimum tax is the minimum amount needed to service the debt.

In response to Councilor Prettnner regarding the effect of changes in property taxes on this project, Mr. Maki said if real estate taxes fall below the amount of debt service, there is an obligation to make a deficiency payment to get back up to the amount of debt service.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Jim VanDell felt council should table the resolution until it has a full understanding of the revisions that have been made to the agreements. He felt that taxpayers are putting their homes at risk for this project, and the measure of risk is just cause for the project to be reevaluated.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Mr. VanDell said there should be a full disclosure of the changes in the agreements that would allow citizens to understand where their obligations are and what risks are involved. He added that he hopes that the proposed 300 jobs are dedicated to Duluth citizens.

In response to Mr. VanDell, President Keenan noted that the city's financial obligations toward this project have decreased in relationship to the reduced number of jobs.

Councilor Prettner said changes in the original documents are minimal, and commended Mr. Maki for being able to secure positions requested by the city. She cited the positive aspects of spin-off jobs, increase in population and economic explosion the city will realize with the project.

Councilor Bohlmann said she will not support the resolution because she feels the project is too risky for taxpayers.

Resolution 95-0381 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the agreements listed below, substantially in the form of those on file in the office of the city clerk as public documents numbered as shown below, and other related documents appurtenant thereto. Other than the first amendment to loan agreement and first amendment to amended & restated master financing agreement and development agreement, the obligations and rights of the city are not amended under any of the documents entered into by the city in December 1994.

<u>Agreement</u>	<u>Public Document Number</u>
First Amendment to Loan Agreement	95-0501-01(a)
Indenture of Trust Series 1995A and 1995B Bonds	95-0501-01(b)
Intercreditor Agreement	95-0501-01(c)
Disbursing Agreement	95-0501-01(d)
Servicing Agreement	95-0501-01(e)
Continuing Disclosure Agreement	95-0501-01(f)
Mortgage to City of Duluth	95-0501-01(g)
Assignment of Rents & Leases	95-0501-01(h)
First Amendment to Amended & Restated Master Financing Agree & Development Agree	95-0501-01(i)
Guaranty Agreement	95-0501-01(j)

Resolution 95-0381 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Wheeler -- 1

Approved May 1, 1995

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:00 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 1, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 8

Absent: Councilor Wheeler -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0501-02 Minnesota pollution control agency submitting permits for construction and operation of sanitary sewers located in:

(a) Rice Lake Road (Permit No. 19562);

(b) Maple Ridge Subdivision (Permit No. 19563). -- Sewer division

95-0501-09 Fitger's Limited Partnership submitting acceptance of terms, conditions and provisions of concurrent use permit issued by Ordinance No. 9237 on February 27, 1995. -- Received

95-0501-03 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from:

(a) League of Minnesota Cities on June 14, 1995;

(b) National Advanced Rural Transportation System on September 10, 1995. --

Received

- - -

REPORTS OF OFFICERS

95-0501-04 Assessor submitting letter of sufficiency regarding petition to vacate a portion of the vacated part of Morris Avenue reserved for utility and sewer easements lying adjacent to the northerly 60 feet of Lot 5, Block 9, Woodland Park, Seventh Division. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0501-05 Board of directors of trust for Miller-Dwan Hospital and Medical Center: (a) Minutes of March 16, 1995 meeting; (b) Financial report for December 31, 1994. -- Received

95-0501-07 Duluth airport authority minutes of March 21, 1995 meeting. -- Received

95-0501-06 Planning commission minutes of: (a) March 14; (b) March 21, 1995 meetings. -- Received

95-0501-08 Seaway Port authority of Duluth: (a) Minutes of January 18, 1995 meeting; (b) December 1994 financial statement; (c) Minutes of February 16, 1995 meeting; (d) January 1995 financial statement; (e) Economic impact report for the 1994 shipping season. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Patty Martin, Central Hillside Community Club, requested the council's help in expediting the distribution of community development block grant funds which were awarded in 1993 for the Central Hillside home ownership program.

- - -

RESOLUTION TABLED

Councilor Downs moved to remove from the table Resolution 95-0371, awarding contract to Cherrington Corporation for one self-propelled beach cleaning unit in accordance with specifications on its low specification bid of \$27,800, which motion was seconded and unanimously carried.

Resolution 95-0371 was adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Cherrington Corporation be and hereby is awarded a contract for furnishing and delivering one self-propelled beach cleaning unit for the fleet services division in accordance with specifications on its low specification bid of \$27,800, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E509.

Resolution 95-0371 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

UNFINISHED BUSINESS

BY COUNCILOR DOWNS (introduced by Councilor Wheeler):

RESOLVED, that the city is hereby authorized to be a major sponsor of the 1995 Grandma's Marathon and to make a contribution for such purpose in the amount of \$15,000 to Grandma's Marathon, Inc., which contribution shall be payable from Fund 258, Agency 030, Org. 1431, Object 5490, the above amount is to be funded from the unreserved fund balance in Fund 258.

Resolution 95-0379 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner and Talarico -- 7

Nays: None -- 0

Abstention: President Keenan -- 1

Absent: Councilor Wheeler -- 1

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approves the issuance of an on sale wine license, for the periods ending April 30, 1996, and August 31, 1995, respectively, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Just Take Action, Inc. (Fitger's Brewhouse), 600 East Superior Street, with Rod Raymond, 50% stockholder, and Tim Nelson, 50% stockholder.

Resolution 95-0406 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

College of St. Scholastica, 1200 Kenwood Avenue, for May 3 & 5, 1995, with Kathy Doughtdale, manager.

Resolution 95-0407 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license for the period beginning May 15, 1995, and ending August 31, 1995, subject to departmental approvals, the payment of sales and property taxes, and further subject to the approval of the liquor control commissioner:

Dajer, Inc. (Lake Superior Bottle Shop), 31 East First Street, transferred from Lake Superior Liquors, Inc. (Lake Superior Bottle Shop), same address, with Dale Taran, president, secretary and 250 shares, and Jerome Taran, vice president and 250 shares.

Resolution 95-0408 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license, for the period beginning May 1, 1995, and ending April 30, 1996, subject to departmental approvals, and the payment of sales and property taxes:

Dukes Baseball, Inc. (Duluth-Superior Dukes), Wade Stadium, with Frank Gahl, manager.

Resolution 95-0409 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0411, by Councilor Downs, establishing the salary and fringe benefits for the mayor, was introduced for discussion.

Councilor Downs moved to table the resolution for one week, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

SPECIAL BOARD OF REVIEW

Lynn Beechler (real estate broker) for a term expiring July 31, 1998, replacing Nancy Sampson.

Resolution 95-0404 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the HRA Housing Rehabilitation Program Project;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute an agreement, on file with the city clerk as Public Document No. 95-0501-10, said agreement to be with the housing and redevelopment authority of Duluth, Minnesota, under which the authority will operate the city of Duluth Property Rehabilitation Program and other

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

housing rehabilitation programs through December 31, 1996, at a total cost to the city not to exceed \$850,000, which amount shall be payable out of the 1995 Federal Program Fund 263 - HRA Housing Rehabilitation Program, Account Number 6351.

Resolution 95-0382 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the West Duluth Housing Rehabilitation Program project;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute an agreement, on file with the city clerk as Public Document No. 95-0501-11, said agreement to be with the Spirit Valley Citizens Neighborhood Development Association (SVCNDA) of Duluth, Minnesota, under which SVCNDA will operate the West Duluth Housing Rehabilitation Program by SVCNDA at a total cost to the city not to exceed \$235,000, which amount shall be payable out of the 1995 Federal Program 263 Fund - SVCNDA Housing Rehabilitation Program Account Number 6354.

Resolution 95-0383 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Discovery Center project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Discovery Center of Duluth, Inc., of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0501-12, shall not exceed \$22,000, payable out of the 1995 Federal Program Fund 263 - community development - Discovery Center Project Account No. 6375.

Resolution 95-0384 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by the city council Resolution 94-0915, on the 17th day of October, 1994, established the Minnesota Clients' Council/Tenants' Union Project.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for Tenants' Union services with Minnesota Clients' Council of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0501-13, shall not exceed \$16,000, payable out of the 1995 Federal Program Fund 263 - community development - Minnesota Clients' Council Tenants' Union Account No. 6379.

Resolution 95-0385 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the YWCA Kid's Corner - Central Hillside project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Young Women's Christian Association (YWCA), Inc., of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0501-14, shall not exceed \$8,000, payable out of the 1995 Federal Program Fund 263 - community development - Account No. 6380.

Resolution 95-0386 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the Depot Arts Connection Project.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with the St. Louis County Heritage & Arts Center of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0501-15, shall not exceed \$7,000, payable out of 1995 Federal Program Fund 263 - community development - Depot Arts Project Account No. 6381.

Resolution 95-0387 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 93-0825, on the 18th day of October, 1993, established the Arts Institute Tuition Assistance Project.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with the Duluth Art Institute Association Incorporated of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0501-16, shall not exceed \$5,000, payable out of 1994 Federal Program Fund 263 - community development - Art Institute Tuition Assistance Project Account No. 6271.

Resolution 95-0393 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth desires to complete a study for stairway, retaining wall and parking lot; and

WHEREAS, the city desires to hire a consulting engineer to provide the architectural services required to design services for stairway at 18-1/2 Avenue West to Third Street and retaining wall and parking lot at Dakota Avenue and Second Street of West End Neighborhood; and

WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for architectural services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such architectural services.

BE IT FURTHER RESOLVED, that the cost of said architectural services, estimated at \$8,989, will be payable from the Community Development Fund 263, Dept./Agency 602, Object 6259.

Resolution 95-0398 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Scott's Proturf Division be and hereby is awarded a contract for furnishing and delivering approximately 1,500 bags of various golf course, athletic field and plant fertilizers and grass seed for the parks and recreation department and forestry toolhouse division in accordance with specifications on its low specification bid of \$29,199.07, terms net 30, FOB destination, \$25,358.10 payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229; \$1,037.74 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225; \$1,401.61 payable out of Special League Fund 790, Dept./Agency 400, Object 5229 and \$1,401.62 payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS19.

Resolution 95-0402 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the city is authorized to employ Innovations in Quality, a professional consulting firm, to continue the strategic planning process with the Duluth public library, at a cost not to exceed \$1,500, which shall be payable from Library Special Gift Fund 740, Agency 300, Organization SG60, Object 5334.

Resolution 95-0410 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$10,000 from the Minnesota department of economic security to operate the Title V Senior Community Service Employment Program from July 1, 1994, through June 30, 1995. Total grant amount is \$116,212. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0501-17.

FURTHER RESOLVED, that amounts received will be deposited in Fund #271, Budget Item #6338.

Resolution 95-0396 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Silverness Plumbing and Heating, Inc., be and hereby is awarded a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

contract for construction of gas mains and gas services at various locations in the city of Duluth for the water and gas department in accordance with specifications on its low specification bid of \$120,050, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0400 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council covering the routine and regular cleaning of sidewalks, public places, parking lots, abutting service areas, etc.; said agreement to be in the form of Public Document No. 95-0501-18 on file with the city clerk; the \$29,500 payable thereunder to be paid from 100-015-2020-MS10.

Resolution 95-0403 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that is hereby deemed necessary for public convenience and safety, and it is hereby ordered that sidewalks be constructed or repaired at various city sites (City Job No. 8898SW95) at an estimated cost of \$385,000.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$385,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5279, Object 5530; that approximately \$35,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund, that approximately \$79,642 of the cost of said improvement be payable from capital improvement fund, Agency 015, Organization 1994, Object C433, for A.D.A. curb cuts and sidewalks ramps, that \$40,000 of the cost of said improvements be payable from the CDBG West Duluth Sidewalk Safety Account 6363, that approximately \$5,358 be payable from the Sanitary Utility Fund 530, that approximately \$10,000 be payable from the Water Utility Fund 510, and that approximately \$195,000 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; that the assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter, and that said improvement is hereby ordered.

Resolution 95-0388 was unanimously adopted.

Approved May 1, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that ASDCO, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous sewer supplies to the sewer division in accordance with specifications on its low specification bid of \$6,902.80, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 95-0399 was unanimously adopted.

Approved May 1, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of a storm sewer and watermain clamps in Michigan Street between First Avenue West to Third Avenue West for the engineering division in accordance with specifications on its low specification bid of \$140,553, term net 30, FOB job site, payable out of Sewer Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 95-0401 was unanimously adopted.

Approved May 1, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following street is hereby designated and established as a one way street upon which vehicular traffic shall move in the designated direction only:

Lakeview Drive from Arrowhead Road to Vermilion Road, one way southbound.

FURTHER RESOLVED, that this resolution become effective on May 8, 1995, when said street will be posted with proper signs indicating the same to be a one way street in the designated direction only.

Resolution 95-0395 was unanimously adopted.

Approved May 1, 1995
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-024 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT POINT TO DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-023 (9251) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MAPLE GROVE ROAD AND HAINES ROAD FROM R-1-b RESIDENTIAL TO C-5 PLANNED COMMERCIAL AND R-3 RESIDENTIAL APARTMENT (ACCESSIBLE SPACE).

Councilor Bohlmann stated concern about rezoning part of this property for commercial use without knowing the type of development that will be placed there. She felt the council may be setting a precedent to rezone without specific reasons. She supported rezoning for the proposed apartments and noted the ecological sensitivity of the area.

Councilor Prettnner said this was approved unanimously by the planning commission, and said the C-5 area is contiguous with other C-5 areas in this location.

Darrell Lewis, planning director, said the planning commission recognizes that the rezoning was approved in advance of a specific proposal. He said the planning commission felt the

property's highest and best use is commercial, and it was viewed as a positive move to be in front of a development instead of react to a proposal. In response to Councilor Bohlmann, Mr. Lewis said that the C-5 designation is the most restrictive zoning district with a very extensive site plan review process.

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

- - -

The meeting was adjourned at 8:10 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9251

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MAPLE GROVE ROAD AND HAINES ROAD FROM R-1-b RESIDENTIAL TO C-5 PLANNED COMMERCIAL AND R-3 RESIDENTIAL APARTMENT (ACCESSIBLE SPACE).

The city of Duluth does ordain:

Section 1. That Plate No. 22 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)
(refer to page 233)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 18, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Wheeler -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 1, 1995
Approved May 1, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 8, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on November 7, 10, 14, 21, 22, 28 (special) and 28 (regular), 1994, were unanimously approved.

- - -

REPORTS OF OFFICERS

95-0508-06 Community development and housing division manager submitting HUD 1994 CDBG annual grantee performance reports (GPR) - city and county. -- Received

95-0508-02 Purchasing agent submitting emergency purchase order to put in a constant torque digital 60 H.P. inverter, bid was given to G.P.M., Inc., in the amount of \$5,575. -- Received

95-0508-01 Treasurer submitting acceptance of gambling funds from: (a) West Duluth American Legion Post No. 71; (b) Congdon Park Recreation Association, Inc. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0508-03 Alcoholic beverage board minutes of March 15, 1995 meeting. -- Received

95-0508-04 Civil service board minutes of March 7, 1995 meeting. -- Received

95-0508-05 Duluth SRO housing commission minutes of March 8, 1995 meeting. -- Received

95-0508-10 Special assessment board report, minutes, findings and recommendations regarding the proposed sanitary sewer in Willow Street and Blackman Avenue. -- Received

- - -

REPORTS OF COUNCILORS

To Councilor Wheeler's questioning, Cindy Kosiak, attorney representing A.F.S.C.M.E., reviewed the history of the mediation hearing regarding the Preferred Service contract and the history of who has been the employer in the past.

- - -

To Councilor Bohlmann's concerns regarding the Bayfront development and information being made available to the public, Administrative Assistant Nollenberger reviewed the status of the development at this time and at what point the information legally becomes public.

Various councilors requested information regarding financing and asked that they be informed of the details at least privately if not publicly.

Councilor Talarico, as president of the Duluth economic development authority, reviewed that the development of the outlet mall is between the developer and DEDA with legal responsibilities on each. He said that DEDA has hired Attorney Robert Maki as legal counsel, therefore, information relevant is privileged information between counsel and client. He further stated data is legally classified as nonpublic until details are approved by the city council.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Reynolds, representing NTR Services, raised concern regarding a contract that was recently awarded for grass cutting services. Mr. Reynolds noted that he has had city contracts

in the past for lawn care and that he is proud to be part of the city's beautification program. He noted that he was the low bidder on some of the parcels but that the city chose to award the contract in total to Goodwill Industries. Mr. Reynolds voiced concern that Goodwill Industries will now have a monopoly of this service, and stated that if contracts were awarded by parcel to low bidders, the city would save \$10,000. Mr. Reynolds noted the city has never awarded this contract for the entire project before and that equipment purchases by vendors are determined by the award of contract.

- - -

Ken Hogg voiced his concern that the original intent of the Bayfront development agreement was that all councilors would see the financial commitments. He noted that since the original resolution was passed, the council transferred some authority to DEDA, which in turn has given some authority to Mr. Nollenberger as the executive director. Mr. Hogg then questioned how much official authority the council has in receiving information. He stated that councilors should know who and how long the financing commitment is for.

- - -

Mr. Hogg reviewed his concern that the I&I task force recommendations, which are not costly, are not being looked at and that because of this, and because he will be a candidate in the upcoming city election for city councilor at large, he is resigning from the I&I citizens task force.

- - -

Greg Price stated that no one disagrees that the barrels in Lake Superior need to be removed, however, questions remain as how to do it, who is going to do it and who is going to pay for it. Mr. Price suggested that the city seek funds from the environmental trust fund in as much as that fund has funded less hazardous issues.

- - -

Tom Paradise, representing F.I.G.H.T., voiced his concern regarding H.F. 869, the corporate welfare bill, more commonly known as the living wage bill, in that it restricts the wages in economic development aspects, or T.I.F., in requiring a certain wage level for those construction projects. Mr. Paradise urged the city to watch this legislation carefully.

- - -

Mr. Paradise voiced concern regarding the citizens' petition with regard to term limitations of elected officials, and noted that the City Charter gives the citizens the right to petition initiative which process is spelled out in the Charter. Mr. Paradise questioned why the petition has not been submitted to the city council yet as the Charter provides for.

City Attorney Dinan reviewed that state law, not the City Charter, regulates the process for amending the City Charter. Mr. Dinan noted that this issue has been brought before the state Supreme Court and that the Charter commission is holding it to determine the constitutionality of it.

- - -

RESOLUTION TABLED

Councilor Downs moved to remove from the table Resolution 95-0411, establishing the salary and fringe benefits for the mayor, which motion was seconded and unanimously carried.

Councilor Dahlberg moved to amend the resolution as follows: that in the sixth paragraph the words "during calendar year 1996" be deleted and be replaced with the words "through calendar year 1999," and that paragraph seven be deleted in its entirety, which motion was seconded and discussed.

Councilor Atkins stated that he supports the amendment because citizens don't want to see

an increase in salaries and that he feels salaries should be frozen. He predicted that administrative raises will set a precedent for wage increases when city contracts are negotiated, and that candidates running for mayor run because they want to help the community, not because of salary raises.

Councilor Bohlmann stated that no one has approached her in support of a cost of living increase and that her constituents feel a freeze or a reduction in salary is more appropriate.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Tom Paradice urged that the total spent collectively for management be looked at, and he stated that his organization doesn't support a cost of living increase for top management because it will filter down for all employees.

Councilor Bohlmann stated that you can't treat elected officials the same as city employees because there is no form of qualifications for mayor or city councilors and that there is no need for this increase.

Councilor Hardesty stated she supports the amendment and feels it's better to set the salary for four years because the public isn't happy with frequent increases.

Councilor Dahlberg's amendment passed upon the following vote:

Yeas: Councilor Atkins, Bohlmann, Dahlberg, Hardesty and President Keenan -- 5

Nays: Councilors Downs, Prettnner, Talarico and Wheeler -- 4

Resolution 95-0411, as amended, was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, by Resolution 94-0055 adopted on January 18, 1994, the city council declared its intent to establish the salary of the mayor once every four years prior to the filing period for the next mayoral term; and

WHEREAS, by Resolution 95-0069 adopted on January 17, 1995, the city council created a citizens' task force to make recommendations to the council on the appropriate level of compensation for the mayor; and

WHEREAS, the citizens' task force has completed its study and has given its report and recommendations to the council; and

WHEREAS, the task force believes that the current salary is appropriate and competitive and should be continued in future years with some adjustment for inflation; and

WHEREAS, the city council, after reviewing the report of the task force, agrees that the current salary is appropriate, but does not believe that it should be adjusted for inflation during the next term;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby determines that the current annual salary of the mayor of \$71,021 shall remain in effect through calendar year 1999.

RESOLVED FURTHER, that the mayor shall be entitled to the following fringe benefits:

(a) A monthly car allowance in the amount of \$400;

(b) Hospital-medical insurance benefits that are available to city employees, including family coverage. The city shall pay the entire cost of single coverage and up to \$350 per month of the cost of family coverage;

(c) Dental insurance benefits that are available to city employees, including the right to cover eligible dependents under the city's dental care plan. The city shall pay the entire cost of single coverage, but shall not be responsible for any of the cost of dependent coverage;

(d) Group term life insurance in the amount of \$50,000;

(e) Long term disability income benefits that are available to other city employees.

RESOLVED FURTHER, that the city council would like to thank the citizens' task force

members for the time and effort they have given to this matter, the expeditious manner in which they performed their task and the quality of the report they have produced.

Resolution 95-0411, as amended, was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide training and development services to the city at a cost of \$1,800, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0425 was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth desires to complete a stairway between Pittsburg and West Sixth Street at Third Avenue West; and

WHEREAS, the city desires to hire an architect to provide the architectural design services required for this project; and

WHEREAS, LHB Engineers and Architects has submitted a proposal for architectural design services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB Engineers and Architects to provide the city with such architectural design services.

BE IT FURTHER RESOLVED, that the cost of said architectural design services, estimated at \$3,661, will be payable from the Community Development Fund 263, Dept./Agency 603, Object 6360.

Resolution 95-0412 was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as "conservation lands" the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state:

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Brighton Gardens Second Division Lot 17, Block 3 (10-290-570)	south side of Brighton Ave. b/w 70th Ave. E. & 71st Ave. E.	North Shore/lack of utilities

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Lots 4 & 5, Block 4 (10-290-640) Lots 16 & 17, Block 4 (10-290-760)	adjacent lots on the the south side of Brighton Ave. & the north side of Superior St. b/w 71st Ave. East and 72nd Ave. E. (North Shore)	North Shore/lack of utilities
Carlton Place Addition to Duluth Lots 103-13, Block 24 (10-370-3370)	four adjacent lots on the south side of 69th Ave. W. b/w Redruth St. & Sherburne St. (West Duluth)	in-fill housing
Central Baptist Division of Duluth Lot 6, Block 1 inc pt of vac Faith Pl. adj. (10-405-60) Lot 7, Block 1 inc pt of vac Faith Pl. adj. (10-405-70) Lot 2, Block 2 inc pt of vac Faith Pl. adj. (10-405-110)	west side of Faith Pl b/w Providence Rd. & Peace Drive east side of Faith Pl b/w Providence & Peace Drive (Piedmont Heights)	wetlands/drainage course
Central Division of West Duluth Lots 1 & 3, Block 3 (10-420-240) Lots 5-9 odd numbers, Block 3 (10-420-260)	jct. of Worden St. & 59th Ave. W. (W. Duluth)	DW&P trail
Duluth Proper Second Division Lot 330, Block 125 (10-1180-4960) Lot 336, Block 144 (10-1220-270)	s. side of 5th St. b/w 21st & 20th Ave. W. & Piedmont Ave. (Piedmont) triangular shaped wedge at the jct of Sixth St., 21st Ave W., & Piedmont Avenue (West End)	Piedmont Ave. housing relocation site Piedmont Ave. housing site
Fond du Lac Fourth Street Lots 141 - 159 odd numb. (10-1620-780)	s. side of Hwy 23 b/w 121st Ave. W. and 122nd Ave. W. (Fond du Lac)	wetland

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
East Fond du Lac N. 60' Lot 16, Block 4 (10-1760-710)	side of 120th Ave. W. north of 8th St.	wetland
N. 60' Lot 17, Block 4 (10-1760-720)	w. side of 120th Ave. w. north of Eighth St. (Fond du Lac)	wetland/creek
First Division of Home Acres Lot 44, Block 3 (10-2230-1340)	s. side of Sumac Ave. b/w Walnut Ave. & North Ave. (Duluth Heights)	wetland
Lot 30, Block 1 (10-2230-300)	s. side of Joshua St. b/w Allen Ave. & North Avenue (Duluth Heights)	wetland/Joshua Ave. ext.
Parkwood Outlot B (10-3752-800)	s. side of Asbury Dr. above Portage Dr.	open space/wetland
Outlot C (10-3752-810)	n. side of Asbury Dr.	open space/wetland
Outlot D (10-3752-820)	n. side of Portage Dr. b/w Parkwood La & Karl Ave. adj. b/w Portage Dr. & Parkwood Ln. (Piedmont Heights)	open space/wetland
Public Open Space (10-3752-830)		" "
Pinehurst on the Lester Lot 7, Block 2 (10-3790-190)	n. side of the e. branch of the Lester River; S. side of Lester Boulevard (Lester Park)	Lester Park
Ponderosa Groves First Addition Outlot A (10-3813-380)	n. side of Silver Leaf St. (Duluth Heights)	drainage course
Seibourn Park Ex w'ly 9' Lot 16, Block 10 (10-4010-2280)	jct. of 37th Ave. W. & 4th St. (W. Duluth)	Wade-Wheeler parking
Lot 17, Block 10 (10-4010-2290)		
Lot 18, Block 10 (10-4010-2300)		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Springfield Addition to Duluth Lot 3, Block 4 (10-4100-740)	n. side of 99th Ave. W. b/w Ruby & Cedar Sts. (upper Smithville)	Memorial Forest
Summit Park Division of Duluth Lots 3 & 4, Block 10 (10-4250-520)	s. side of 14th St. b/w 3rd & 4th Ave. W. (Central Hillside)	Antenna Farm
Plat of West Duluth Fifth Division Lot 6, Block 145 Inc pt of vac sts & alley (10-4510-4360) Lots 7 & 8, Block 145 (10-4510-4370)	e. side of 59th Ave. W. b/w Cody St. & Wadena St. (Cody)	DW&P Trail

Resolution 95-0416 was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts from the family of Clarence Maddy, a granite bench and pedestal to be located in Enger Park and dedicated in memory of Clarence E. Maddy.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of the resolution to the Maddy family as a message of thanks.

Resolution 95-0356 was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Drift N Furrow be and hereby is awarded a contract for furnishing and delivering one John Deere 6X4 "Gator" utility vehicle for the parks and recreation department in accordance with specifications on its low specification bid of \$6,336.75, terms net 30, FOB destination, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1563, Object E510.

Resolution 95-0421 was unanimously adopted.
Approved May 8, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into a 43 month agreement with Mark Rauschenfels for custom programming consultant services in connection with the joint city-county real estate project, in an amount not to exceed \$24,940, payable from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Fund 100, Org. 2020, Obj. MS11; said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0508-07.

Resolution 95-0397 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to accept \$19,520 in Job Training Partnership Act 5% incentive funds from the Minnesota department of economic security to provide capacity building and staff training activities and to develop a local coordinated service delivery system. A copy of this agreement shall be on file in the city clerk's office as Public Document. No. 95-0508-08.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund #268, Budget Item #6229.

Resolution 95-0405 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Kerrick Sod Company, Inc. be and hereby is awarded a contract for construction of a fourth softball field at Wheeler Field for the city architect division in accordance with specifications on its low specification bid of \$133,000, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C416.

Resolution 95-0370 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED that the proper city officials are authorized to accept \$120,000 as full settlement of the city's claims against Krech and Ojard, Consulting Engineers, P.A., arising out of design and construction of the pedestrian bridge across Minnesota Slip, and to execute and implement the release of liability therefore, which is on file with the city clerk as Public Document No. 95-0508-09. Said funds to be deposited in Fund 605, Agency 036, Org. 1651, Revenue Source 4698.

Resolution 95-0392 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the Phase IV Arrowhead Road; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for this project;

WHEREAS, Seaway Engineering Company has submitted a proposal for the engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Seaway Engineering Company, to provide the city with such

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$27,380, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2139, Object 5303.

Resolution 95-0413 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a two-year agreement with the Oneida Realty Company, Inc. relating to the operation of the pedestrian draw bridge over Minnesota Slip; payments thereunder, in the estimated amount of \$24,000 during the 1995 season, to be paid from General Fund 100, Dept./Agency 500, Organization 1925, Object 5455.

Resolution 95-0414 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by resolution of intent numbered 95-0306 the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Willow Street and Blackman Avenue (City Job No. 8906SA95); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefiting property owners; the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment; the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$78,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5280, Object 5530, that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; which land and premises are described in the report of the special assessment board; and which report is on file in the office of the city clerk as Public Document No. 95-0508-10; and which description is hereby incorporated herein by reference to said Public Document No. 95-0508-10; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 95-0415 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that The Jamar Company be and hereby is awarded a contract for re-roofing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

of the Lakeview Chalet for the city architect division in accordance with specifications on its low specification bid of \$34,150, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object 1427.

Resolution 95-0422 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, that the following handicapped parking zones are hereby established:

One stall in front of United Protestant Church, 8746 Arbor Street;

One stall in front of 1018 North Eighth Avenue East;

One stall in front of 8917 Idaho Street;

One stall in front of 26 England Avenue;

One stall in front of 4527 Dodge Street;

One stall in front of 2425 West Seventh Street.

Resolution 95-0417 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota juvenile delinquency prevention grant to reimburse the police department's police overtime expenditures related to juvenile alcohol/curfew offender program. Grant dollars paid from JTPA Fund 268, Org. 6243.

Resolution 95-0424 was unanimously adopted.

Approved May 8, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-025 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT POINT TO LEO G. OLIVER & SUZANNE M. OLIVER.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-024 (9252) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT POINT TO DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

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

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The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9252

BY COUNCILOR PRETTNER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT
POINT TO DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey, by quitclaim deed, that certain property in St. Louis County, Minnesota, legally described below to the Duluth economic development authority, an economic development authority under Minnesota Statutes (1989), Chapter 469, at no cost to the Authority:

Those parts of Lots One (1) and Two (2), Block One (1), Fremont Point, formerly known as Lots Three (3) through Fourteen (14) and Seventeen (17) through Twenty-seven (27), Block Six (6), Hunter's Grassy Point Addition to Duluth, Second Division.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: June 18, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 8, 1995

Approved May 8, 1995

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, May 11, 1995, 5:15 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Atkins -- 1

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PRESENTATION OF PETITIONS AND OTHERS COMMUNICATIONS

95-0511-01 Dain Bosworth, Inc., submitting post sale analysis of Duluth economic development authority \$2,720,000 lease revenue bonds, Series 1995A. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 95-0428, by Councilor Wheeler, prescribing the form of and authorizing the execution of a primary lease, a lease and a bond purchase agreement with the Duluth economic development authority in connection with the community center in Washington Junior High School, was introduced for discussion.

Administrative Assistant Nollenberger noted that this is a joint issue between DEDA and the city for financing of the Washington community center. He introduced Wayne Burgraff and Bob Toftey.

Wayne Burgraff, Evensen Dodge financial consultants, briefly reviewed terms of the sale, stating that it represents a fair financing for this project within existing market conditions. He recommended approval.

In response to Councilor Bohlmann, Bob Toftey, attorney for Fryberger, Buchanan, Smith and Frederick, P.A., described the financing method, stating that each time the city issues bonds it must find a statutory authority on which to structure the financing. He said the method used in this case is a lease which provides for an annual appropriation of funds in the general fund budget. He added that rental payments under the lease to DEDA are the same amount needed to pay the principal and interest on the DEDA revenue bonds. He noted that DEDA is a conduit issuer, that it is the city's project and the city's liability, and at the end of the financing the city will be the owner of the community center.

Councilor Bohlmann said she will support the resolution, but that she feels casino profits should have been used for this project rather than issuing bonds.

Resolution 95-0428 was adopted as follows:

BY COUNCILOR WHEELER:

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

Section 1. Recitals.

1.01 The city and Artspace Projects, Inc. have entered into a Development Agreement dated December 30, 1994, regarding the renewal and redevelopment of Washington Junior High School, such agreement being amended by the first and second amendments to such development agreement between the city, Artspace Projects, Inc. and Washington Studios Limited Partnership.

1.02 Pursuant to Resolution No. 95-0127, duly adopted by the city council on March 6, 1995, the city determined that it was necessary and expedient to develop a community center facility including meeting rooms, community police offices, storage space and athletic facilities, consisting of a gymnasium, swimming pool and changing facilities and related improvements for

parking and park/open space (the "city project") within the former Washington Junior High School, such facility being located in a Housing Development Project area and to finance the city project through a lease with option to purchase pursuant to Minnesota Statutes Section 465.71.

1.03 As authorized by Minnesota Statutes, Chapter 469 (the "Act"), the Duluth Economic Development Authority (the "Issuer") has agreed to enter into a lease with option to purchase with the city and to issue its Lease Revenue Bonds, Series 1995A (the "Bonds") to finance the city project. The debt service on the Bonds will be payable from the basic rent provided for in the Lease, as hereinafter defined. The Lease is subject to annual appropriation by the city council with a right of the city to terminate the Lease upon nonappropriation of funds to pay the rents.

1.04 The forms of the following documents have been prepared and submitted to the city council:

(a) A Primary Lease (the "Primary Lease") proposed to be entered into between the city and the Issuer, pursuant to which the city, as lessor, will lease the city portion (as defined in the Primary Lease) to the Issuer, as lessee (Public Document No. _____);

(b) A Lease (the "Lease") proposed to be entered into between the Issuer and the city, pursuant to which the Issuer, as lessor, will lease the city portion (as defined in the Lease) to the city, as lessee (Public Document No. _____);

(c) The Bond Purchase Agreement (the "Bond Purchase Agreement") proposed to be made and entered into among the Issuer, the city and Dain Bosworth Incorporated (Public Document No. _____); and

(d) The Trust Indenture (the "Indenture") between the Issuer and Norwest Bank Minnesota, National Association (Public Document No. _____).

Section 2. Findings.

2.01 The city is willing to lease the city portion to the Issuer, pursuant to the Primary Lease.

2.02 The terms of the Primary Lease, the Lease, the Bond Purchase Agreement and the Indenture are found to be advantageous to the city and are hereby approved.

Section 3. Authorization and Approval of the Documents.

The Primary Lease, the Lease, the Bond Purchase Agreement and the Indenture are hereby made a part of this resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the city council. The mayor and the city clerk are authorized and directed to execute, acknowledge and deliver the Primary Lease, the Lease and the Bond Purchase Agreement on behalf of the city with such changes, insertions and omissions therein as the attorney for the city may hereafter deem appropriate. Such execution is to be conclusive evidence of approval of such documents in accordance with the terms hereof.

Section 4. Other Documents.

The mayor, the city clerk and the other officers of the city are authorized and directed to execute and deliver all of the certificates, documents and agreements, which may be required under the terms of the Primary Lease, the Lease, the Bond Purchase Agreement and the Indenture or by attorneys approving the Bonds and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

Section 5. Other Proceedings.

5.01 The mayor, the clerk and the other officers of the city are authorized to furnish to Dain Bosworth Incorporated, the Issuer, and counsel approving the Bonds certified copies of all proceedings and records of the city and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the transactions contemplated

herein, as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies of certificates and affidavits, including any heretofore furnished, shall constitute representations of the city as the truth of all statements contained therein.

5.02 The city covenants and agrees for the benefit of the holders of the Bonds that it will provide to a nationally recognized municipal securities information repository:

(a) The city's annual audited financial statement; and

(b) In a timely manner, notice of any of the following events, if material: (i) principal and interest payment delinquencies; (ii) non-payment related defaults; (iii) unscheduled draws on debt service reserves reflecting financial difficulties; (iv) unscheduled draws on credit enhancements reflecting financial difficulties; (v) substitution of credit or liquidity providers, or their failure to perform; (vi) adverse tax opinions or events affecting the tax-exempt status of the Bonds; (vii) modifications to rights of holders of the Bonds; (viii) Bond calls; (ix) defeasances; (x) release, substitution or sale of property securing repayment of the Bonds; and (xi) rating changes.

The financial statement shall be prepared in accordance with generally accepted accounting principles consistently applied. The city does not anticipate providing any financial information other than the audited financial statements and such annual audited financial statements shall be provided to the repository by June 30 following year end.

5.03 The city covenants and agrees with the Issuer and the holders of the Bonds that the city will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income tax, including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on specified periods.

Section 6. Establishment of Accounts.

6.01 The city hereby creates a separate construction account within the Capital Improvement Fund to which there shall be credited the portion of the proceeds of the Bonds used to pay costs of construction of the city project, together with any additional funds which may be available and are appropriated for the city project or which may be advanced to such account on condition that such amounts be reimbursed from Bond proceeds.

6.02 There is hereby created a separate rental payment account for payment of Rent under the Lease, which shall be a separate segregated account within the city's general fund. The monies in the Rental Payments Account shall be used for no purpose other than the payment of the Basic Rent and the Additional Rent under the Lease. The Treasurer is authorized and directed to transfer monies of the city to the Rental Payments Account at the times and in an amount sufficient to ensure that Rent under the Lease is paid when due. The city will pay promptly when due, all of the Rent and other amounts required by the Lease from the sources at the times and in the amounts specified herein and in the Lease.

Resolution 95-0428 was unanimously adopted.

Approved May 11, 1995

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:20 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 15, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettnner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Hardesty -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0515-01 Patty Opland, et al. (two signatures) petitioning for vacation of an easement in Lot 15, Block 4, Plat of Brookline. -- Assessor

95-0515-06 The following submitting communications regarding appeal of BZA decision regarding property located at 2628 Branch Street (Jarocki/Blakeslee): (a) Gerald Kimball; (b) Dan Nelson; (c) Dolly Schnell (3); (d) Thomas Shefchik (3); (e) Chris Swenson; (f) Julie Gilbertson; (g) Richard Nelson; (h) Ken Hogg. -- Received.

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REPORTS OF OFFICERS

95-0515-02 Building official submitting appeal of BZA denial of request to relax the side yard corner lot setback from 15 feet to 5.5 feet for the construction of a breezeway between dwelling and garage on property at 5302 Ramsey Street (Fortner). -- Committee 2 (planning)

95-0515-03 Community development and housing division manager submitting HRA report for the HUD-CD funded housing rehabilitation program for March 1995. -- Received

95-0515-04 Parks and recreation department director submitting minutes of the board of directors of the Lake Superior zoological society March 16, 1995 meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0515-05 Duluth transit authority: (a) Minutes of April 1995 meeting; (b) Financial statement summary for March 1995. -- Received

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REPORTS OF COUNCILORS

Councilor Bohlmann noted that constituents from all areas of the city have telephoned her with complaints that the administration has kept city councilors uninformed by denying them the privilege of reviewing documentation and agreements regarding the Bayfront outlet mall. She stated that the most frequent complaint has been that constituents fear that the project will be pushed through without appropriate representation of the citizenry of Duluth. She asked what assurances the citizens have that the city isn't giving the store away with regard to this project. She stated she feels DEDA is usurping the council and ignoring the wishes of local residents.

Administrative Assistant Nollenberger reminded councilors that Bob Maki, legal counsel for DEDA, has indicated that when public financing moves forward, then the private financing is required by state law to be disclosed. He assured councilors that as soon as the amount of public financing is determined and the project is ready to move forward, the council will be informed of that as well as what private financing is involved. He further stated that it's not a matter of if but when the project will move ahead.

Councilor Talarico noted that all records kept for DEDA are public for anyone who wishes to see them. He clarified that in respect of the developer's request the administration and DEDA have kept financing options in confidence.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Michael Fischhoff spoke regarding the noise of the foghorn that has been put back into operation within the last month. He encouraged the administration to seek a solution whereby the old foghorn and the new foghorn could be utilized together to alleviate the incessant noise created by the return of the old foghorn.

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Robert Harboldt, representing Intertribal Arts, stated that in the past his board has requested an original storefront or theater and asked that DEDA inform the Native Arts Board regarding space availability included in the community plan, the old Downtown strategic plan and Artspace projects.

Greg Price read a letter from the Save Lake Superior Association to the corps of engineers dated August 2, 1976, to a Colonel Noah regarding barrels retrieved from Lake Superior by Sivertson Fishery to further illustrate the inconsistencies which have been given by the Army Corps of Engineers as to the contents of barrels, records of dumping and reports of radioactivity. He stated there has been conflicting information received regarding recovery of records of the barrel dumping and that it is clear there are problems with the case presented by the corps of engineers. He stated that congressional hearings on this matter with sworn testimony by all involved and protection for all witnesses should be a prerequisite to any further barrel recovery operations.

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RESOLUTION TABLED

Councilor Wheeler moved to remove from the table Resolution 95-0322, confirming assessment roll levied to defray the assessable portion of improvements of Parkwood, Phase III, which motion was seconded and unanimously carried.

Councilor Wheeler moved to refer the resolution back to the administration because there is another resolution on the agenda, by Councilor Talarico, that resolves the issue, which motion was seconded and discussed.

City Attorney Dinan clarified that the latter resolution is only an agreement between the parties regarding the assessment and that the resolution should be acted on after the agreement has been approved.

Councilor Talarico moved to table the resolution until after Resolution 95-0423 has been acted upon, which motion was seconded and carried upon a unanimous vote.

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to May 15, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR DOWNS

95-0446R - RESOLUTION AWARDDING CONTRACT TO NORTHERN PINE LANDSCAPING FOR GRASS CUTTING SERVICES IN ACCORDANCE WITH SPECIFICATIONS ON ITS LOW SPECIFICATION BID OF \$11,776.98, PAYABLE OUT OF VARIOUS FUND, DEPT./AGENCY VARIOUS, ORG. VARIOUS, OBJ. VARIOUS.

- - -

BY COUNCILOR DOWNS

95-0447R - RESOLUTION AWARDDING CONTRACT TO N.T.R. SERVICES FOR GRASS CUTTING SERVICES IN ACCORDANCE WITH SPECIFICATIONS ON ITS LOW SPECIFICATION BID OF \$14,674.64, PAYABLE OUT OF VARIOUS FUND, DEPT./AGENCY VARIOUS, ORG. VARIOUS, OBJ. VARIOUS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- - -

BY COUNCILOR PRETTNER

95-0429R - RESOLUTION AUTHORIZING HOME PROGRAM ADMINISTRATION AGREEMENT WITH HRA FOR FISCAL YEAR 1995 IN THE AMOUNT OF \$337,000 PAYABLE FROM FEDERAL HOME PROGRAM FUND 260.

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Unitog Rental Services be and hereby is awarded a contract for furnishing laundry/rental service (annual contract) for the various city departments/divisions in accordance with specifications on its low specification bid of approximately \$68,350, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0427 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Anchor Paper Company be and hereby is awarded a contract for furnishing and delivering 50 cases of watermark paper for the various departments/divisions in accordance with specifications on its low specification bid of \$5,075.52, terms 2% tenth net EOM, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS25.

Resolution 95-0434 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Resolution 95-0368 to Goodwill Industries Vocational Enterprises for furnishing grass cutting services, be amended to decrease the amount by \$33,208.99 for a new total of \$53,175.03, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0441 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

Licensee

Gambling Site

Date Application Filed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- | | | |
|---------------------|-----------------------|----------------|
| 1. Epilepsy League | Pioneer Bar | April 11, 1995 |
| 2. Moose Lodge #505 | 114 East First Street | April 19, 1995 |
- Resolution 95-0443 was unanimously adopted.
Approved May 15, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, Temple Israel has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth city council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Temple Israel, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 95-0444 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

WOMEN'S COMMISSION

Mary Jones for a term expiring September 17, 1997, replacing Mary Vandercar, who resigned.

Resolution 95-0438 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

COMMISSION ON AGING

Lloyd A. Ethier for a term expiring July 1, 1996, replacing Diane Garasha, who resigned.

Lawrence D. Whalen for a term expiring July 1, 1996, replacing Terri Sward, who resigned.

Resolution 95-0439 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the committee desires to continue to have public information services provided; and

WHEREAS, Margaret R. Colombo has satisfactorily performed such services previously for the committee; and

WHEREAS, the state of Minnesota department of natural resources has agreed to finance the costs of public information services; and

WHEREAS, the McQuade protected access committee recommends Margaret R. Colombo be contracted for the services based on her previous recent experience working for the committee.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17222 with Margaret R. Colombo for public information services to an amount not to exceed \$6,500 payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. MS 26; said agreement to be substantially in the form of Public Document No. 95-0515-08 on file in the office of the city clerk.

Resolution 95-0418 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, continued administrative services will be required for the next ten months in order for the committee to complete its work; and

WHEREAS, an existing agreement with Cheryl Lynn Erickson has been completed; and

WHEREAS, the state of Minnesota department of natural resources has agreed to finance the continuing costs of administrative services; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for the services based on her work with the committee.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17153 with Cheryl Lynn Erickson for administrative services to an amount not to exceed \$23,550 payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. MS 26; said agreement to be substantially in the form of Public Document No. 95-0515-09 on file in the office of the city clerk.

Resolution 95-0419 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of easterly seventeen feet (17') and the westerly seventeen feet (17') of Apple Ridge Drive (formerly known as Broadway Avenue), legally described as:

The easterly seventeen feet of Apple Ridge Drive (formerly known as Broadway Avenue) adjacent to Block 4 and the westerly seventeen feet of Apple Ridge Drive (formerly known as Broadway Avenue) adjacent to Block 5 and the vacated Cleveland Street, in the plat of Grays Addition to Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its November 8, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the easterly and westerly seventeen feet (17') of Apple Ridge Drive described above, and as more particularly described on Public Document No. 95-0515-10.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the to be vacated.

Resolution 95-0431 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for construction of Martin Road, Stebner Road and Service Road, including grading, base, bituminous surfacing, curb and gutter, storm sewer and turf establishment for the business development division in accordance with specifications on its low specification bid of \$1,251,024.52, terms net 30, FOB job sites, payable out of Airbus Construction Project Fund 420, Dept./Agency 020, Organization 4200, Object 5530.

BE IT FURTHER RESOLVED, that this resolution authorizes a ten percent contingency of \$120,000 over the low bid amount.

Resolution 95-0436 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Hardesty -- 1

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, May 14-20, 1995 is National Historic Preservation week; and

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties; and

WHEREAS, preservation of Duluth's heritage serves to strengthen the community through a connection to the past; and

WHEREAS, preservation of the community's historic properties contributes to Duluth's uniqueness, attractiveness and livability; and

WHEREAS, a number of events have been scheduled during this week to highlight preservation efforts in Duluth;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the week of May 14 through May 20, 1995, is hereby declared Duluth Historic Preservation week.

Resolution 95-0437 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, John Thomas Hampson/Duluth Helicopters has submitted to the city council a request to renew a special use permit to operate a seasonal commercial helicopter ride service and heliport, on property legally described as part of Block 11, Bayfront Division of Duluth, and said permit application was referred to the city planning commission for study, report and public hearing, and the city planning commission has subsequently reported its conditional approval to the city council; and

WHEREAS, said approval of the current request is made because the city planning commission's finding that the appropriate safeguards will exist to protect the comprehensive plan and to preserve and protect property values in the neighborhood if certain conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to John Thomas Hampson/Duluth Helicopters, for the period of May 1 to October 1 for the years of 1995, 1996 and 1997, to allow for the operation of a helicopter ride service on property located south of Railroad Street on Block 11, Bayfront Division, under the following conditions:

(a) That the pilots and the helicopter be licensed, registered and insured in accordance with the Minnesota department of transportation standards and that the helicopter be equipped with floats;

(b) That the "landing site" be provided and secured in accordance with plans indicated as Exhibit "C" on Public Document No. 87-0420-16 dated February 10, 1987;

(c) That the landing area be kept clean and free of litter and debris which may become airborne during periods of takeoff and landing;

(d) That warning signs be placed on all four sides of the landing site;

(e) That the special use permit is subject to compliance with a required use easement agreement between the city of Duluth and John T. Hampson;

(f) That the permit is issued for and limited to properties identified as properties identified as Block 11, Bayfront Division;

(g) That a ground control person be located at the landing site during all hours of operation;

(h) That the applicant agree to indemnify and hold harmless the city of Duluth against all claims and liabilities;

(i) That the applicant provide evidence of at least \$5,000,000 liability insurance coverage with both the city of Duluth and the Bayfront Park Development Association, Inc., being listed as additional insureds;

(j) That the helicopter ride service be operated only during the following hours: Monday through Saturday: 10 a.m. to 8 p.m., and Sundays: 10:00 a.m. to 8:00 p.m.;

(k) That the ride service be operated on Saturdays and Sundays only between May 1 and May 22 and between September 5 and October 1 and during park events as determined by the city;

(l) That flight patterns avoid Canal Park, Park Point, the boardwalk along the harbor line and the bandstand;

(m) That flight operations cease during scheduled events at the Bayfront Park stage;

(n) That there be a minimum of 30 minutes of rest in every three hours of operation to avoid pilot fatigue. Such 30 minutes shall be taken in no less than 15 minute intervals. Said rest period by pilots shall be taken outside the aircraft;

(o) That this special use permit may be revoked by the city council upon 30 days' notice to the applicant; provided, however, that the effective date of such revocation shall not be prior to July 15, 1995;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

(p) That the operator maintain a telephone at the landing site and provide ground to air communications so as to be advised of area air operations.

Resolution 95-0445 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, Republican members of congress have proposed drastic cuts in funding of the Community Development Block Grant (CDBG) program as one of the means of reducing the federal budget; and

WHEREAS, the CDBG program has been in existence for many years and proven to be extremely successful in providing benefits to low and moderate income people throughout the nation; and

WHEREAS, the CDBG program is an excellent example of a federal program that has been successful because the decisions on how the funds should be spent are made at the local level; and

WHEREAS, reducing the funding of the CDBG program would seriously impact the low and moderate income people who now benefit from this program, and would place additional burdens on local governmental units to provide assistance to these people;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council strongly objects to any reductions in funding levels for the CDBG program, and requests the city's congressional delegation to oppose any efforts to reduce such funding.

RESOLVED FURTHER, that the city clerk is directed to send a copy of this resolution to the members of the city's congressional delegation and to the chairpersons of the U.S. House and Senate budget committees.

Resolution 95-0459 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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Resolutions 95-0463 and 95-0464, by Councilor Prettner, affirming and reversing the decision of the board of zoning appeals to deny a request to relax the 2-1/2 story height limitation to allow construction of a three story dwelling on property located at 2628 Branch Street, were introduced for discussion.

Councilor Prettner made a majority committee recommendation that Resolution 95-0463, affirming the board of zoning appeals decision to deny the request, be approved. She stated that she believes there is a process in place, that the builders were made aware of that process, that they have been familiar with the building laws and the Code of the city of Duluth and have been working in this area for a long period of time and were informed also about the violation to the process and decided to continue building inspite of that.

Councilor Keenan stated he supports Resolution 95-0464, reversing the decision of the board of zoning appeals, because the dormers do not change the height of the building which is in compliance with the Code. He stated that his opinion is that the Code is clearly outdated and very confusing on dormers. He further stated that the administrative assistant is in favor of this resolution, that the administrative assistant feels there were staff errors in this process and that the cost to take the dormers down will be thousands of dollars and doesn't make sense. Councilor Keenan said he didn't feel any of the information they received regarding the issue justifies the ordering of the dormers removed.

Councilor Atkins stated he is concerned about the confusion this issue has caused. He felt the Code is confusing regarding dormers, but he also believes the builder knew of the regulations and went ahead and built anyway. He said he will support Resolution 95-0463, affirming the board of zoning appeals decision, because of the precedent that reversing might set for future building projects in the city.

The rules were suspended upon a unanimous vote to hear speakers on the resolutions.

John McGee spoke in support of Mr. Jarocki and suggested that because of the confusion in the process in this case, the council should allow the dormers and should also look at the regulations to make sure that a situation like this doesn't happen again.

Terry Morgan and Robert Bell, area contractors, and Dolly Schnell urged that the denial be upheld and felt that a reversing of it is for convenience to the builder and homeowner. They sympathized that the homeowner has fallen victim because of the builder's actions. They said that the issue is not the dormers but rather the process which has been abused by the builder in this case. They reminded councilors that the reason the variance was not approved was because no hardship existed. It was stated that 98 percent of area builders don't start projects until permits have been issued and noted that this particular builder applied for a permit without furnishing plans, which is not common practice, and then took the risk of going ahead with construction without a permit. Concern was expressed with regard to the precedent that is being set for future construction projects. It was agreed that the Code is not clear in the area of dormers and revision was urged. Councilors were urged not to deviate from city regulations in this case.

Arno Kahn, Builder and Laborer's Commonwealth, supported Resolution 95-0464, reversing the decision of the board of zoning appeals. He stated he feels that previous speakers have made false and misleading statements and is an attempt to defame a business that operates lawfully. Mr. Kahn said that plans were presented to building officials, the project was commenced with verbal approvals from various officials, inspections by various officials were conducted in a timely manner and that it was four months after the project was commenced that a city staff member determined that there was something wrong with the dormers on this building. He noted that the dormers were shown on the initial documents presented. He stated that he complied with procedure and pursued obtaining a variance which was denied on the basis that the Code says that dormers should not be put on this building. Mr. Kahn stated he feels the decision is in error and represents extremely detrimental action both to his business and to the home owner.

Michael Orman, attorney, clarified that there can be dormers as long as they're opposite each other and not at 90 degree angles to each other. He stated that a precedent would not be set as a result of the council overturning the board of zoning appeals and that he does not believe there is the threat that other builders will not follow the rules. He stated that the ordinance is unclear and that there are varying interpretations of the same rule or law and suggested that where that situation exists, the efforts of the council should be to make the language clear. He urged the council not to penalize Mr. Jarocki and the builder who acted in good faith with respect to their actions.

Cheryl Reitan, member of the Duluth Preservation Alliance, stated that she feels the Jarocki/Blakesley house honors the style of the neighborhood. She recommended that the council approve Resolution 95-0464, reversing the decision of the board of zoning appeals, stating it is unreasonable not to allow dormers on this structure since dormers too numerous to count have been allowed throughout the city in the past.

Responding to Councilor Dahlberg, Sue Hiller, building inspection staff, reviewed the process involved in obtaining a building permit and stated that when contractors apply for permits, they generally bring a completed set of drawings with them which are logged in. She continued that occasionally a partial set of drawings are submitted, but may not be reviewed until a complete set has been provided. She noted that review is done by city staff and may take two weeks. She said that generally there are a few small issues to be cleared up and that in most cases contractors work well with city staff to resolve whatever issues are remaining. She said it is at this point that the contractors are told verbally that if they proceed they do so at their own risk and noted that they may be given an implied approval. She said in most cases, the problems are cleared up and the official permit is issued in a very short period of time whether the project has begun or not. She noted that an official permit for this project was never issued.

Councilor Dahlberg stated he will support the BZA on this issue based on the fact that the contractor proceeded on this project at his own risk before receiving an official building permit and because building regulations were not adhered to. He felt that the hardship of removing the dormers is justified and that a precedent will be set if the dormers are allowed to remain.

Councilor Wheeler felt that two issues exist, which are what to do with this particular house, which does conform in terms of its height, and what to do about the Code. He noted there are problems with the Code, which was revised in 1958 and includes language from much earlier than that and is ambiguous. He suggested fining the builders \$300, which the Code provides for when the rules are not followed. He urged the council not to impose the hardship of tearing the dormers down on a new homeowner who has been caught in the midst of numerous mistakes made by others. He strongly urged the administration to rewrite the Code so that future dilemmas such as this can be avoided.

Councilor Bohlmann questioned if the reason for not issuing the permit was because of the dormer issue. She felt the Code is not clear and is open to anyone's interpretation and strongly urged the planning department to revise the building Code in a manner which is precise and consistent and can be easily interpreted by all.

Resolution 95-0463 (Public Document No. 95-0515-11), affirming the decision of the board of zoning appeals, failed upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Prettnner and Talarico -- 4

Nays: Councilors Bohlmann, Downs, Wheeler and President Keenan -- 4

Absent: Councilor Hardesty -- 1

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Councilor Talarico stated he will support Resolution 95-0464 because he feels that the Jarocki's should not suffer in this matter.

Resolution 95-0464, reversing the decision of the board of zoning appeals, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Jim Jarocki has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the 2½ story height limitation to allow construction of a three story dwelling on property located at 2628 Branch Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a three story dwelling can be made in this case, based upon limits set forth in the zoning ordinance;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of March 28, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0464 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Downs, Talarico, Wheeler and President Keenan -- 5

Nays: Councilors Atkins, Dahlberg and Prettner -- 3

Absent: Councilor Hardesty -- 1

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the following individuals and groups to provide summer children's programs at the library: Sean Emery, Duo Flamenco, Pat Surface and Kenny Ahern, in an amount not to exceed \$1,950, payable from Library Special Gifts 740.

Resolution 95-0432 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that On The Limit, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 600 t-shirts and 100 sweatshirts for the 1995 Friendship Games for the parks and recreation department in accordance with specifications on its low specification bid of \$6,184, terms net 10, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2030, Object SP02.

Resolution 95-0440 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials be and hereby are authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, an additional \$8,346 from the National Council of Senior Citizens to operate the Senior Aides Program through June 30, 1995.

RESOLVED FURTHER, that monies received pursuant to this grant be deposited in Fund #271, Budget Item 6339.

Resolution 95-0426 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of a business requesting financing through the Northland Foundation for a state challenge grant; and

WHEREAS, the city of Duluth has received a request to adopt a resolution of support on behalf of Mark-Daniel Enterprises, Inc.; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, it is consistent with the purpose of the city of Duluth to encourage employment and increase the tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby supports this application for state challenge grant funding on behalf of Mark-Daniel Enterprises, Inc.

Resolution 95-0430 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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Resolution 95-0455, by Councilor Atkins, requesting the city to refrain from enforcing certain sign regulations relating to advertising banners pending planning commission and city council review of such regulations, was introduced for discussion.

Councilor Atkins reviewed that the current Code allows for permitting of banners to advertise various goods and services over a 14 day period. He noted that, according to the Code, the penalty for noncompliance is that the advertiser may be assessed up to a \$700 fine per day. He further noted that because of inconsistencies in enforcement, he is requesting that the planning commission and city council be allowed to review the process while placing a moratorium on enforcement of the regulations. He stated concern that the City Charter prohibits the council from not abiding by the city ordinances and regulations that are passed which results in the council being in technical violation of the Charter. Councilor Atkins asked that the city attorney rule on this situation. He noted several specific violations that are not presently being enforced.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Ken Hogg opposed the resolution, stating a more proper procedure would be for the council to request the planning commission to review and make a recommendation on the issue.

President Keenan noted that an ordinance regarding parking in front yards, which is also not enforced, is to be considered this evening and he requested direction from the administration regarding such issues.

Mr. Nollenberger stated that the administration's position is that if the majority of the council feels it is appropriate to review the sign ordinance relating to banners, then the administration will not pursue enforcement or the issuing of tickets for a policy that may be changed within a short period of time. He noted, however, that without a vote of the council he cannot ascertain that the majority is desirous of a change of policy with regard to banners. He noted similar situations of the past in which the administration waited for the completion of a review process before proactively enforcing policy. He said that the administration doesn't have a problem with granting the request unless there is a safety issue or there are numerous complaints because something is so offensive and is causing a problem that it requires action by the administration.

Councilor Talarico noted that the administration and attorneys have the right to suggest what the fines will be in cases of noncompliance. He supported amendment of the resolution to request leniency in enforcement of the issue during review.

Councilor Atkins made a motion to amend the resolution as follows: replace the words "refrain from enforcing" with the word "study" in the title and body of the resolution, which motion was seconded and unanimously carried. He explained that the intent is to have the administration send this to the planning commission to review the sign ordinance.

Resolution 95-0455, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the city council hereby requests the city administration to study the sign regulations contained in Chapter 44 of the City Code against on-premises advertising banners that are affixed in a secure manner to building walls until such time as the planning commission

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

and city council have completed their review of these regulations as they relate to such banners, and have taken whatever action they deem appropriate.

Resolution 95-0455, as amended, was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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Resolution 95-0457, by Councilor Atkins, requesting the city to refrain from enforcing sign and other regulations relating to advertising devices known as sandwich boards pending planning commission and city council review of such regulations, was introduced for discussion.

Mr. Nollenberger stated concern regarding safety issues with this type of sign being placed on sidewalks, and noted potential liability issues due to federal laws, the Americans for Disabilities Act (ADA) and others. He noted there is a process for certificates of appropriateness through the design review committee for the Canal Park area for the placement of these in certain areas based upon review and approval.

Councilor Atkins stated his intent is to have the city look specifically at businesses that have their own property such as convenience stores where customers need to drive onto the premises. He said this is not a request for sandwich boards on public sidewalks or in the Canal Park area. He noted that even though the public sidewalk is not being obstructed, property owners have been cited for violation of this ordinance.

Councilor Downs suggested that in the review process the council be very careful not to take the power of enforcement out of the hands of city employees who are hired to perform those duties.

Councilor Atkins moved to table the resolution, which motion was seconded and carried upon a unanimous vote.

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Councilor Talarico moved to remove from the table Resolution 95-0322, confirming assessment roll levied to defray the assessable portion of improvements of Parkwood, Phase III, which motion was seconded and unanimously carried.

Resolution 95-0322 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following, on file in the city clerk's office as Public Document No. 95-0515-07, be and the same is hereby confirmed:

Parkwood, Phase III (Contract Nos. 5243, 1192131 and 1192132) (assessable amount: \$1,527,725).

Resolution 95-0322 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Banks Roofing and General Contracting be and hereby is awarded a contract for reroofing the water and gas Garfield Avenue service center for the water and gas department in accordance with specifications on its low specification bid of \$31,198, terms net 30, FOB job site, \$15,599 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$15,599 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0435 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved May 15, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 24 electronic parking meters complete with debit key system for the traffic operations division and treasurer division in accordance with specifications on its low specification bid of \$5,631.83, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B530.

Resolution 95-0420 was unanimously adopted.

Approved May 15, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute revised assessment agreement with Northland Investment Enterprises, Inc., relating to the improvement with residential street, sewer, water and gas facilities property owned by Northland Investment Enterprises identified as Second Addition to Parkwood (Parkwood Phase III - City Job No. 8724RS920); said agreement to be substantially in the form of city clerk's Public Document No. 95-0515-12.

Resolution 95-0423 was unanimously adopted.

Approved May 15, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for street improvement of 23rd Avenue West from Fifth Street to Seventh Street for the engineering division in accordance with specifications on its low specification bid of \$94,945.05, terms net, FOB job site, \$84,595.05 payable out of Community Development Fund 263, Dept./Agency 601, Object 6158 and \$10,350 payable out of Community Development Fund 263, Dept./Agency 603, Object 6362.

Resolution 95-0433 was unanimously adopted.

Approved May 15, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0442, by Councilor Talarico, authorizing the execution of an agreement with Canosia Township relating to the Northwest Airlines facility access road, was introduced for discussion.

Responding to Councilors Downs and Bohlmann, Mr. Nollenberger stated that the city of Duluth will maintain the road, and that if grant funds are not obtained, costs will be paid by other Northwest funds. He noted that the grant has been pledged by the state as being already agreed to based upon the application being submitted so the department of trade and economic development has already committed that this grant will be awarded.

Resolution 95-0442 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Canosia Township relating to the funding for and construction and maintenance of an access road from Martin Road to the Northwest Airline Maintenance Facility at Duluth International Airport; said agreement to be substantially in the form of Public Document No. 95-0515-14 on file with the city clerk.

Resolution 95-0442 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Hardesty -- 1

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a document entitled settlement agreement and mutual release of all claims in connection with a city lawsuit against various parties to recover damages for defects in the construction of the casino parking facility located between First and Second Avenues East on Superior Street, which document is on file in the office of the city clerk as Public Document No. 95-0515-13.

Resolution 95-0448 was unanimously adopted.

Approved May 15, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-025 (9253) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT POINT TO LEO G. OLIVER & SUZANNE M. OLIVER.

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

- - -

The meeting was adjourned at 9:45 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9253

BY COUNCILOR PRETTNER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN LANDS IN FREMONT POINT TO LEO G. OLIVER & SUZANNE M. OLIVER.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey, by quitclaim deed, that certain property in St. Louis County, Minnesota, legally described below, to Leo G. Oliver and Suzanne M. Oliver, citizens of the city of Duluth, at no cost to Leo G. and Suzanne M. Oliver.

Lot Two (2), Block Four (4), Fremont Point.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: June 25, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Hardesty -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 15, 1995
Approved May 15, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 22, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on December 5, 12, and 19, 1994, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0522-01 Patrick Grohsmann submitting communication (12 signatures) regarding BZA denial of request to relax the side and front yard setback requirements for construction of a detached garage at 218 Maple Grove Road (Beaupre). -- Received

95-0522-18 H.D.F. Essaysons, lease to dock at MN Slip (95-0483R), letters opposing: (a) Steve Johnson, for Waterfront Plaza Marina Charter Captains Association; (b) Charlie Haslerud. -- Received

- - -

REPORTS OF OFFICERS

95-0522-02 Assessor submitting letter of sufficiency for vacation of an easement on Brookline Drive. -- Received

95-0522-03 Purchasing agent submitting emergency order for aerial photography awarded to Horizon's, Inc. -- Received

95-0522-04 Water and gas director submitting Duluth Steam District #2 1994 audit. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0522-08 Board of zoning appeals minutes of April 25, 1995 meeting. -- Received

95-0522-05 Duluth housing trust fund board minutes of April 13, 1995 meeting. -- Received

95-0522-07 Duluth SRO housing commission minutes of April 12, 1995 meeting. -- Received

95-0522-06 Special assessment board minutes of: (a) April 25, 1995; (b) May 2, 1995 meetings. -- Received

95-0522-19 Spirit Mountain recreation area authority budget proposal for 1995-1996 season. -- Received

- - -

REPORTS OF COUNCILORS

Regarding the status of Bayfront, Administrative Assistant Nollenberger responded to Councilor Bohlmann that the property ownership was previously presented in a memo and reviewed the deadlines of June 3, 1995, for resolution of the engineering status and the status of Phase II for the LaFarge property.

- - -

RESOLUTION TABLED

Councilor Atkins moved to remove Resolution 95-0378, requesting representatives Oberstar and Obey to sponsor legislation appropriating money to the corps of engineers to continue the study of the barrels in Lake Superior, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Alden Lind reviewed his proposed language changes emphasizing that:

- (a) That Honeywell make suitable financial contribution to the recovery of the barrels;
- (b) That the environmental protection agency (EPA) negotiate with Honeywell concerning their participation and if they refuse to participate, that super funds be used for legal recourse;
- (c) Have congress and the senate urge EPA to take responsibility for rectifying the situation; and
- (d) That the responsibility for recovery be changed from the U.S. Corps of Engineers to the Coast Guard.

Councilor Atkins reviewed that his National League of Cities committee on energy and environmental resources supports the city's actions in this area.

Greg Price reviewed a story in the November 1993, Popular Mechanics regarding the underwater technology that is available regarding opening the barrels in the water to eliminate possible explosion of materials in the barrels. Mr. Price expressed his concern that radioactive materials need to be considered and addressed.

Councilor Atkins moved to retable Resolution 95-0378 for further information, which motion was seconded and unanimously carried.

- - -

UNFINISHED BUSINESS

BY COUNCILOR DOWNS:

RESOLVED, that Northern Pines Landscaping be and hereby is awarded a contract for furnishing grass cutting services for the various departments/divisions in accordance with specifications on its low specification bid of \$11,776.98, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0446 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that N.T.R. Services be and hereby is awarded a contract for furnishing grass cutting services for the various departments/divisions in accordance with specifications on its low specification bid of \$14,674.64, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0447 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0522-09, with the housing and redevelopment authority of Duluth for administration of the Fiscal Year 1995 HOME Program Housing Rehabilitation Program in the amount of not to exceed \$337,000 payable from Federal HOME Program Fund 260.

Resolution 95-0429 was unanimously adopted.

Approved May 22, 1995
GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was filed prior to May 22, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR KEENAN

95-0491R - RESOLUTION AUTHORIZING PAYMENT TO THELMA KORTKAMP IN SETTLEMENT OF CLAIMS ARISING FROM AN ACCIDENT AT GARY-NEW DULUTH SENIOR CENTER.

- - -

Resolution 95-0482, by Councilor Wheeler, authorizing the issuance and establishing the terms and providing for the public sale of approximately \$17,790,000 general obligation bonds, was introduced for discussion.

Councilor Bohlmann stated that some of the projects that are lumped into this financing are issues that she disapproves of and therefore she will be voting against it.

Resolution 95-0482 was adopted as follows:

BY COUNCILOR WHEELER:

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

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation bonds for the following purposes (collectively, the "Bonds"):

a. \$2,000,000 General Obligation Sewer Utility Revenue Bonds are hereby authorized and shall be issued pursuant to Ordinance No. 9248, adopted April 10, 1995, for the payment of the costs of improvements to the municipal sewer utility and for the payment of part of the interest costs of such bond issue;

b. \$1,000,000 General Obligation Water Utility Revenue Bonds are hereby authorized and shall be issued pursuant to Ordinance No. 9247, adopted April 10, 1995, for the payment of the costs of improvements to the municipal water utility and for the payment of part of the interest cost of such bond issue;

c. \$1,215,000 General Obligation Transit Bonds are hereby authorized and shall be issued pursuant to Ordinance No. 9249, adopted April 10, 1995, comprising \$1,200,000 of bonds for the purpose of financing costs of the Duluth Transit Authority to purchase new transit coaches, buses and vans, improvements to the transit operating facility and an additional amount of \$15,000 representing part of the interest costs of such bond issue, as authorized by Minnesota Statutes, Section 475.56;

d. \$2,070,000 General Obligation DECC Bonds are hereby authorized and shall be issued pursuant to Laws of Minnesota 1994, Chapter 489, and Minnesota Statutes, Chapter 475, comprising \$2,045,000 of bonds for the purpose of financing improvements to the Duluth Entertainment Convention Center and an additional amount of \$25,000 representing part of the interest cost of the issue, as authorized by Minnesota Statutes, Section 475.56;

e. \$505,000 General Obligation Recreation Facilities Bonds are hereby authorized and shall be issued pursuant to Ordinance No. 9216, adopted October 11, 1994, comprising \$500,000 of bonds for the purpose of financing improvements to several recreational facilities within the City, including city-wide soccer field additions and alterations, Glen Avon hockey and soccer facility replacement, related site work and improvements to Wheeler Fields and an additional amount of \$5,000 representing part of the interest costs of such bond issue, as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

authorized by Minnesota Statutes, Section 475.56;

f. \$8,015,000 General Obligation Improvement Bonds are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of financing local public improvements and for the payment of part of the interest cost of such bond issue;

g. General Obligation Sewer Utility Revenue Refunding Bonds in the approximate principal amount of \$2,735,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's two series of General Obligation Sewer Utility Revenue Bonds each dated December 1, 1985; and

h. General Obligation Improvement Refunding Bonds in the approximate principal amount of \$250,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Improvement Bonds dated December 1, 1985.

2. Issuance and Sale of Bonds. The general terms and conditions of the Bonds and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. The City administration and financial advisors may modify the terms of each or any of such bond issues for reasons including, but not limited to, state legislation enacted (or bills defeated) prior to the date of sale. Subject to such modification, each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the City Council shall meet at the time and place fixed herein to consider the proposals for the purchase of the Bonds.

3. Solicitation of Proposals. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided in Minnesota Statutes, Section 475.60, subd. 2(9).

4. Bond Resolutions. The form, specifications and provisions for repayment of the Bonds shall be set forth in subsequent resolutions of the City Council.

Resolution 95-0482 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved May 22, 1995

GARY L. DOTY, Mayor

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Western Softball Team (Early Bird Tournament), Wheeler Field, for June 3 & 4, 1995, with Darrell Eckenberg, manager.

Woodland Fast Pitch Association (Miller Genuine Draft Fastpitch Tournament), Anoka & Woodland Avenue, for July 15 & 16, 1995, with Gary Luke, manager.

Resolution 95-0461 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

permanent expansion of the "designated serving area" of the following on sale intoxicating liquor license, subject to departmental approvals:

Grandma's Sport Bar and Grill, Inc. (Grandma's Sport Garden), 425 Lake Avenue South.

Resolution 95-0462 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that George Lucia Trucking be and hereby is awarded a contract for furnishing and delivering annual requirements of bedding sand, random rip-rap and pit run gravel for the various city departments/divisions in accordance with specifications on its low specification bid of \$27,423.75, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0479 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering annual requirements of Class 5 gravel, bedding sand, crushed rock and pit run gravel for the various city departments/divisions in accordance with specifications on its low specification bid of \$19,896.06, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0480 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the reappointment and appointments by Mayor Doty be and the same are hereby confirmed:

NEIGHBORHOOD ADVISORY COUNCIL

Allen Willman (park & rec brd) for a term expiring March 1, 1998.

Alan Billington (planning comm) for a term expiring June 1, 1996, replacing Richard Pearson.

Stephen Shepherd (Central Hillside) for a term expiring June 1, 1996, replacing George Parker.

Theresa Simiyu (Central Hillside) for a term expiring June 1, 1996, replacing Viola Foldesi who resigned.

Resolution 95-0450 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments and reappointments by Mayor Doty be and the same are hereby confirmed:

CITYWIDE CITIZENS ADVISORY COMMITTEE

Patrick A. Shaw (at large) for a term expiring March 1, 1998, replacing Rosemary Christensen who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Theresa Simiyu (Central Hillside) for a term expiring June 1, 1996, replacing Viola Foldesi who resigned.

Melanie Shephard (at large) and Allen Willman (park & rec brd) for terms expiring March 1, 1998.

Resolution 95-0467 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

COMMISSION ON DISABILITIES

Don Barnes for a term expiring November 1, 1998, replacing Roger Gunderson who resigned.

Cheryl Ann Rotondo for a term expiring November 1, 1998, replacing Stephen Pfingsten who resigned.

Paul Riordan for a term expiring November 1, 1996, replacing Peggy White who resigned.

Resolution 95-0468 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

HERITAGE PRESERVATION COMMISSION

Diane Kettelhut for a term expiring May 31, 1998, replacing Daniel King.

Debra Kelly for a term expiring May 31, 1998, replacing Bonnie Melander.

Resolution 95-0469 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, the administrative assistant has appointed Todd Torvinen as the director of finance, subject to the approval of the mayor and the city council; and

WHEREAS, the mayor has approved such appointment;

NOW, THEREFORE, the city council hereby approves the appointment of Todd Torvinen as the director of finance for the city of Duluth.

Resolution 95-0497 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0449, by Councilor Prettner, authorizing an agreement with Neighborhood Housing Service for \$140,000 payable from the 1994 community development program for the Central Hillside homeownership program, was introduced for discussion.

Councilor Prettner stated that this has been a controversial issue between the city staff, CDBG representatives, and the Duluth housing trust fund representatives, and there needs to be a further meeting to let all parties express their concerns.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The rules were suspended by a unanimous vote to hear speakers on the resolution.

Regarding Neighborhood Housing's budget cash flow, Nancy Anderson reviewed that there are more buyers than projected and the buyers usually choose rehab houses knowing that the majority of home buyers are below the median income. To councilor questions, Ms. Anderson stated that these are construction rehabilitation loans and that contractors bid on jobs being done at this time during the construction season. Ms. Anderson expressed support for the resolution but stated that there won't be any delay if this resolution isn't passed at this time.

Patty Martin, representing the Central Hillside Community Club, voiced support for the resolution and reviewed at length the background of this issue.

Davy Jones urged support for programs that better serve the people that need it and not the ones with minimal funding and more waste and bureaucracy.

Councilor Dahlberg expressed his support for this resolution and said that it is a good program.

Councilor Prettner moved to table the resolution for a committee meeting, which motion was seconded and failed upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner and Talarico -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg, Wheeler and President Keenan -- 5

Councilor Bohlmann voiced her support in getting this done now.

Councilor Talarico stated there should be an opportunity for all to address this issue at a future committee meeting and that he would support this resolution even though the money wasn't originally designated to Neighborhood Housing. He didn't feel Neighborhood Housing should have planned to receive the \$140,000 until a resolution was approved.

Administrative Assistant Nollenberger noted that other parties not in attendance were informed that there would probably be a future meeting on this issue and he supported tabling the resolution for a committee meeting.

Councilor Dahlberg moved to call the question, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

6

Councilor Downs moved to table the resolution for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

6

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

- - -

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 23 foot wide utility easement legally described as:

the westerly 23 feet of Morris Avenue adjacent to the northerly 60 feet of Lots four and five, except the westerly 50 feet of Lot four, Block nine, Woodland Park, Seventh Division; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its May 9, 1995, meeting;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the westerly 23 feet of Morris Avenue adjacent to the northerly 60 feet of Lots four and five, except the westerly 50 feet of Lot four, Block nine, Woodland Park, described on Public Document No. 95-0522-10.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution to be vacated.

Resolution 95-0465 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, Jaimi Hill Nelson has submitted to the city council a request for a special use permit for a home beauty salon on property described as Lots 68 and 69 Morris Park Division of Lakeside and located at 5217 London Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Jaimi Hill Nelson to allow for the operation of a home beauty salon at 5217 London Road, on the condition that the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 95-0522-11.

Resolution 95-0466 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462.A221, et seq., the city of Duluth, Minnesota, is a sublocator of low-income housing tax credits (LIHTC); and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, the city has adopted a qualified allocation plan for 1995 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received two complete applications for the LIHTCs by the March 31, 1995, deadline; and

WHEREAS, the city has also received a request from Upper Minnesota Properties, Irving-Inc. (UMP-I for additional tax credits for a project which received tax credits from MHFA an amount which is less than the amount for which it qualified; and

WHEREAS, the applications have been scored in accordance with the plan as set forth in Public Document No. 95-0522-12.

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

(a) The city hereby finds and determines that:

(1) The application of Artspace Projects, Inc. (Artspace) for LIHTCs for its Washington Junior High School Project (the Artspace Project) in the amount of \$65,316 is complete in all material respects. The request for allocation in such amount does not exceed the amount which

is necessary for the financial feasibility of the Artspace Project and its viability as a qualified low-income housing project throughout the ten-year period;

(2) The application of Center City Housing Corp. (CCHC) for LIHTCs for its Memorial Park Apartments Project (the CCHC Project) in the amount of \$86,194 is complete in all material respects. The request for allocation in such amount does not exceed the amount which is necessary for the financial feasibility of the CCHC Project and its viability as a qualified low-income housing project throughout the ten-year credit period;

(b) The request from UMP-I for additional allocation in the amount of \$2,215 does not exceed the amount which is necessary for the financial feasibility of the UMP-I Project and its viability as a qualified low-income housing project throughout the ten-year credit period;

(c) In making each of the determinations set forth above the city considered the following with respect to each project:

(1) The sources and uses of funds and the total financing planned for the project;

(2) Any proceeds or receipts expected to be generated by reason of tax benefits;

(3) The percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries; and

(4) The reasonableness of the developmental and operational costs of the project;

(d) There is hereby authorized the following allocation of the city's LIHTC allocation:

\$65,316 to Artspace for the Artspace Project;

\$86,194 to CCHC for the CCHC Project; and

\$ 2,215 to UMP-I for the UMP-I Project.

Staff is authorized to prepare, execute and deliver all documents necessary or convenient to provide for the commitment, carryover and allocation of such credits, based on findings made in accordance with the requirements of the Code at each of such steps.

Notwithstanding the foregoing, the commitment of additional allocation to UMP-I is expressly conditioned upon receipt prior to May 24, 1995, of an opinion of tax counsel to UMP-I that confirms its eligibility for the additional credits.

Resolution 95-0470 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that Reuben Johnson & Son, Inc., be and hereby is awarded a contract for construction of sanitary sewer and lift station for the business development division in accordance with specifications on its low specification bid of \$401,000, terms net 30, FOB job site, payable out of Air Bus Construction Project Fund 420, Dept./Agency 020, Organization 4210, Object 5530.

Resolution 95-0477 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0483, by Councilor Prettnner, authorizing the execution of a lease agreement for a portion of Minnesota Slip with HDF Essayons, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Steve Johnson, representing Lake Superior Sport Fishing Charters, referred to his letter (Public Document No. 95-0522-18(a)) from the organization stating its opposition to this

resolution. Mr. Johnson reviewed that the site and the ship's size already affect the passage in the slip.

Charlie Haslerud stated that he opposes this resolution for the item stated in his letter (Public Document No. 95-0522-18(b)) and noted that he didn't have notice of this issue coming before the council.

Bill Meierhoff voiced his opposition to this resolution, noting that there are seven boats over 30 feet long in the slip and the boats have to come to the end of the slip to turn around. Mr. Meierhoff further suggested putting the Essayons at the other end of the slip towards the pedestrian bridge by the Irving which has better public visibility and access.

Mr. Nollenberger requested that this resolution be referred back to the administration for further review.

Councilor Prettner moved to refer Resolution 94-0483 back to the administration for review, which motion was seconded and unanimously carried.

- - -

Resolutions 95-0485 and 95-0486, by Councilor Prettner, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request 1) to relax the side yard setback from an alley from five feet to one foot; and 2) to relax the front yard setback from 60 feet to 53 feet, six inches, for construction of a 20 foot by 24 foot detached garage on property located at 218 Maple Grove Road (Gerald Beaupre), were introduced for discussion.

Councilor Prettner stated that she supports Resolution 95-0485, but that the majority of the planning committee supports Resolution 95-0486.

The rules were suspended upon a unanimous vote to hear a speaker on the resolutions.

Greg Talus, attorney representing Gerald Beaupre, voiced his support for Resolution 95-0486. Mr. Talus reviewed the specifics of the request that were covered at length at the planning committee meeting. Mr. Talus responded to Councilor Talarico that the hardship in this case would be a financial hardship and that Mr. Beaupre only wants to build a standard two car garage.

Resolution 95-0486 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Gerald Beaupre has appealed to the city council the decision of the board of zoning appeals to deny a request 1) to relax the side yard setback from an alley from 5' to 1' and 2) to relax the front yard setback from 60' to 53'6" for construction of a 20' x 24' detached garage on property located at 218 Maple Grove Road; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a 20' x 24' detached garage can be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals decision of March 28, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0486 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Wheeler and President Keenan -- 7

Nays: Councilors Prettner and Talarico -- 2

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolutions 95-0487 and 95-0488, by Councilor Prettner, affirming and reversing, respectively, the decision of the board of zoning appeals to grant a request 1) to relax the 60 foot front yard setback requirement; 2) to relax the side yard setback from three feet to zero feet; and 3) to allow parking in a required front yard for the construction of a curbcut, retaining wall and fill area for an off-street parking pad and unloading zone in the front yard with the stipulation that the parking pad must extend 20 feet beyond the front property line into the applicant's yard (David Grandaw), were introduced for discussion.

Councilor Prettner reviewed that the planning committee supports Resolution 95-0488. She noted that this resolution has brought the issue of front yard parking before the planning commission.

Councilor Talarico stated that he could find a hardship on this issue because of the topography of the land but will support Resolution 95-0488.

Resolution 95-0488 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Darrell Lewis, director of physical planning and secretary of the Duluth city planning commission has appealed to the city council the decision of the board of zoning appeals to grant a request 1) to relax the 60' front yard setback requirement; 2) to relax the side yard setback from 3' to 0' and 3) to allow parking in a required front yard for the construction of a curbcut, retaining wall and fill area for an off-street parking pad and unloading zone in the front yard with the stipulation that the parking pad must extend 20' beyond the front property line into the applicant's yard. Applicant must submit an accurate site plan/survey showing the distance from the front property line to the far end of the parking area. And with the further stipulation that no accessory structures will be permitted on the fill area in the future on property located at 1228 West Fifth Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a retaining wall and parking pad, 28' x 26' total, cannot be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals decision of March 28, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0488 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

Resolutions 95-0489 and 95-0490, by Councilor Prettner, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to relax the side yard corner lot setback from 15 feet to 5.5 feet for construction of a breezeway between dwelling and garage on property located at 5302 Ramsey Street (Larry Fortner), were introduced for discussion.

Councilor Prettner stated the planning committee fully supports Resolution 95-0490.

Councilor Dahlberg stated that the contractor should not have moved ahead with this, and therefore, he cannot support Resolution 95-0490.

Resolution 95-0490 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Larry Fortner has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the side yard corner lot setback from 15' to 5.5' for construction of a breezeway between dwelling and garage on property located at 5302 Ramsey Street; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a breezeway connecting a converted church building to a garage can be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals decision of March 28, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0490 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Dahlberg -- 1

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the city council hereby requests that the Duluth city planning commission review and, if they deem necessary, revise that portion of the zoning ordinance (Chapter 50 of the Duluth City Code) that prohibits the parking of vehicles in the required front yard of any property located in an R-1 through R-4 zoning district.

Resolution 95-0492 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the city council hereby requests that the Duluth city planning commission review, and if they deem necessary, revise those portions of the zoning ordinance (Chapter 50 of the Duluth City Code) that regulate the number of stories allowed, and the method of determining what constitutes a story.

Resolution 95-0493 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 95-0522-13 to City Contract No. 17070 with Center City Housing Corporation and the housing and redevelopment authority of Duluth extending the time for commencement of construction thereunder not later than May 1, 1995, and completion by December 31, 1995, and also clarifying the term of the agreement.

Resolution 95-0494 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Cushman Motor Company be and hereby is awarded a contract for furnishing and delivering a 4-wheel drive riding mower for the parks and recreation department

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

in accordance with specifications on its low specification bid of \$13,120.80, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E530.

Resolution 95-0478 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

BE IT RESOLVED, that proper city officers are hereby authorized to accept funds from the local Rotary organizations for participation in the Y.E.S. Duluth Summer Youth Employment Program; said funds to be deposited in Fund #268, Budget Item 6245.

Resolution 95-0453 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into a short-term lease agreement with Carol A. Vierima to lease office space at 219 West First Street. Space is being leased from May 15, 1995, through August 15, 1995, and will be used to provide services to youth ages 14-21 under the Y.E.S. Duluth program. A copy of this modification shall be on file in the city clerk's office as Public Document No. 95-0522-14.

FURTHER RESOLVED, that \$600 for security deposit will be payable from Fund #268, Budget Item #6239, and that \$1,800 in rent (\$600 per month) will be payable from Fund #268, Budget Item #6245.

Resolution 95-0454 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Premier Lawn Service be and hereby is awarded a contract for the painting of approximately 1,700 gas meter piping sets in various neighborhoods for the water and gas department in accordance with specifications on its low specification bid of \$15,368, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5319.

Resolution 95-0473 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Ogston's, Inc., be and hereby is awarded a contract for furnishing and delivering construction of six inch, three inch and two inch polyethylene gas main and related work in Glenwood Street, from South Ridge Road to 43rd Avenue East for the water and gas department in accordance with specifications on its low specification bid of \$65,680, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0475 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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BY COUNCILOR DAHLBERG:

RESOLVED, that R.E. Carlson, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 105 feet of conduit piping for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$8,567.51, terms net 30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 95-0481 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Salo Engineering, Inc., for professional engineering services in connection with relocation of the TACAN navigational aid facility at the Duluth International Airport, which agreement is on file in the office of the city clerk as Public Document No. 95-0522-15, at a cost to the city of not to exceed \$22,030.74, which shall be payable from Fund 420.

Resolution 95-0456 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Northern Natural Gas Company relating to the access road to the Northwest Airlines Maintenance Facility crossing a gas pipeline owned by Northern Natural Gas Company, which agreement is on file in the office of the city clerk as Public Document No. 95-0522-16, at an estimated cost to the city of \$6,500, which shall be payable from Fund 420.

Resolution 95-0458 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has entered into an agreement with the state of Minnesota department of transportation designating the commissioner of transportation to act as agent for the city of Duluth for the purpose of accepting a contract for the improvement of Kent Road, Swan Lake Road, and Eighteenth Avenue West (S.P. 119-080-12, Minn. Proj. No. IX PAVE (005), City Job Nos. 8808FA93, 8809FA93, 8810FA9).

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth recommends acceptance by the commissioner of transportation of the state of Minnesota department of transportation of the following bid:

S.P. No. 118-080-12, improvement of Kent Road, Minn. Proj. No. IX PAVE (005), Swan Lake Road, 18th Avenue West, \$633,820.96, Nels Nelson & Sons, Inc., of Cloquet, Minnesota.

Resolution 95-0460 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete construction staking, construction observation and material testing at Fifth Avenue West - Railroad Street to Harbor Drive; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering design services; and

WHEREAS, Seaway Engineering Company has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Seaway Engineering Company to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$67,935, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2146, Object 5303.

Resolution 95-0474 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that Logan & Associates/3D Midwest be and hereby is awarded a contract for furnishing and delivering two triple combination pumper fire apparatus for the fire department in accordance with specifications on its low specification bid of \$321,672, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E502.

Resolution 95-0476 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with R.R.E.M., Inc., for the sum of not to exceed \$840, from Fund 100, Agency 200, Org. 1610, Object 5303, for providing certain surveying services to the city of Duluth in connection with the police department firing range; said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0522-17.

Resolution 95-0484 was unanimously adopted.

Approved May 22, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER

95-027 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A GARAGE ENCROACHMENT INTO THE SELKIRK STREET RIGHT-OF-WAY (O'HARA, FORMERLY J. THOMPSON, 2001 TYROL STREET).

- - -

BY COUNCILOR PRETTNER

95-028 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO FITGER'S LIMITED PARTNERSHIP FOR A SIGN TO BE LOCATED IN THE EAST SUPERIOR STREET RIGHT-OF-WAY.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- - -

BY PRESIDENT KEENEN

95-026 - AN ORDINANCE ADDING A NEW ARTICLE XXIII TO CHAPTER 2 OF THE CITY CODE CREATING A TREE COMMISSION.

- - -

BY COUNCILOR HARDESTY

95-029 - AN ORDINANCE RELATING TO THE OPERATION OF MOTOR VEHICLES; PROHIBITING UNREASONABLE ACCELERATION; ADDING A NEW SECTION 33-13 TO CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 9:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 5, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0605-01 Earl King, King Properties, Inc., petitioning to vacate utility easement in alley lying easterly of 28th Avenue West and abutting Lot 442, Block 46, Duluth Proper, Second Division. -- Assessor

95-0605-02 Minnesota pollution control agency submitting Permit No. 19681 for construction of an eight inch sewer in Block 46, Duluth Proper, Second Division. -- Sewer division

95-0605-03 Minnesota state auditor submitting audit reports for year ending December 31, 1994, for:

(a) Duluth state convention center administrative board;

(b) Duluth transit authority. -- Received

95-0605-15 Jay Cole submitting letter supporting Neighborhood Housing Services CDBG funds. -- Received

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REPORTS OF OFFICERS

95-0605-04 Assessor submitting affidavit of mailing of notice of public hearing on June 8, 1995, at 4:30 p.m. on the proposed ordering of improvement of Seventh Street from 37-1/2 Avenue West to 39th Avenue West. -- Clerk

95-0605-12 Building official submitting appeal of the decision of the board of zoning appeals denial for a permit for construction of an awning at 4507 East Superior Street (Falk's Woodland Pharmacy, Inc.). -- Committee 2 (planning)

95-0605-05 Engineering division submitting May 1, 1995, project status report. -- Received

95-0605-14 Water and gas department director submitting 1994 annual report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0605-06 Alcoholic beverage board minutes of April 19, 1995 meeting. -- Received

95-0605-07 Citywide citizens advisory committee minutes of May 23, 1995 meeting. -- Received

95-0605-13 Civil service board minutes of April 4, 1995 meeting. -- Received

95-0605-08 Duluth airport authority: (a) Minutes of April 1, 1995 meeting; (b) Balance sheets of January 31, February 28 and March 31, 1995. -- Received

95-0605-09 Lawful gambling commission minutes of March 14, 1995 meeting. -- Received

95-0605-10 Seaway Port authority of Duluth minutes of March 29, 1995 meeting. -- Received

95-0605-11 Special assessment board minutes of May 17, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kathy Gottschald expressed concern about the Lake Superior excursion train, especially noting noise and safety issues.

Administrative Assistant Nollenberger noted that the train is operated and licensed by the regional railroad authority, which is a separate political division made up of commissioners from St. Louis and Lake counties.

Councilor Bohlmann questioned what the city's liability is with regard to the railroad and what freight is being carried. She requested assurance that no hazardous waste is being carried through the city.

Councilor Atkins noted that hazardous chemicals are being transported throughout the city via trucks.

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RESOLUTIONS TABLED

Councilor Prettner moved to remove from the table Resolution 95-0449, authorizing an agreement with the Neighborhood Housing Service for \$140,000, payable from the 1994 community development program for the Central Hillside Homeownership Program, which motion was seconded and unanimously carried.

Councilor Prettner recommended approval of the contract, stating it has the support of the neighborhood.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Patty Martin spoke in support of the resolution, stating the Neighborhood Housing Service's mission is to help stabilize and revitalize the neighborhood. She felt the Northern Communities Land Trust organization, which also submitted a proposal for the Central Hillside Homeownership Program, would not best represent the neighborhood.

Jay Cole, neighborhood resident, supported the Neighborhood Housing Service.

Councilor Wheeler supported the resolution, stating he feels it is critical to get the funds out into the community.

Councilor Talarico expressed concern about the negative process that occurred between the Neighborhood Housing Service and Northern Communities Land Trust, and noted that the land trust has withdrawn its application for this project.

Councilor Hardesty noted that her vote in favor of this resolution is not a vote against other housing organizations that serve a different purpose.

Resolution 95-0449 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, the city by city council Resolution 93-0825, on the 18th day of October, 1993, established the Central Hillside Homeownership Program project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Neighborhood Housing Services (NHS), Inc., of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0605-16, shall not exceed \$140,000, payable out of the 1994 Federal Program Fund 263 - community development - Central Hillside Homeownership Account No. 6256.

Resolution 95-0449 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

Councilor Atkins moved to remove from the table Resolution 95-0378, requesting representatives Oberstar and Obey to sponsor legislation appropriating monies to the Corps of

Engineers to continue the study of the barrels in Lake Superior, which motion was seconded and unanimously carried.

Councilor Atkins moved to return the resolution to the administration, which motion was seconded and unanimously carried.

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UNFINISHED BUSINESS

BY PRESIDENT KEENAN:

BE IT RESOLVED, that the proper city officials are authorized to pay the sum of \$30,000 to Thelma Kortkamp and her lawyer, James Sage, in full settlement of all claims, including Medicare claims, against the city of Duluth arising out of an accident occurring at the Gary-New Duluth Senior Center on April 14, 1992; payment from self-insurance fund.

Resolution 95-0491 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was filed prior to June 5, 1995, in accordance with Section 11 of the City Charter:

BY PRESIDENT KEENAN

95-0536R - RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH LAKE PARK LITTLE LEAGUE, INC., FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF LITTLE LEAGUE FIELDS.

- - -

Resolution 95-0472, by Councilor Wheeler, authorizing a collective bargaining agreement between the city and city of Duluth supervisory association, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Tom Paradice compared department head salaries and benefits with those of state of Minnesota employees and encouraged councilors to look at the disparity between the two. He requested that councilors not approve this resolution and instead review the entire contract and eliminate various items. He said the private sector won't continue to pay for benefits for city employees that private sector employees do not receive.

Councilor Bohlmann expressed disagreement with various fringe benefits in the contract and encouraged councilors to vote against the contract. She felt all employees should receive the same benefit package.

Councilor Hardesty felt a more appropriate comparison would be with department heads in other cities.

Mr. Nollenberger said the state commissioned a salary study in 1990 and 1991, which showed that city of Duluth department head salaries are in line with comparable cities in Minnesota. He recommended approval of the resolution, stating it offers the same benefit package as was approved for other bargaining groups.

Councilor Atkins did not feel that department heads should be included in the same bargaining group as other supervisors. He suggested requesting that the bureau of mediation services separate the two groups.

Councilor Prettner stated that she feels this is an equitable contract and moved to call the question, which motion was seconded and unanimously carried.

Resolution 95-0472 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between city of Duluth and city of Duluth Supervisory Association; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0605-17, on file with the city clerk.

Resolution 95-0472 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0515, by Councilor Wheeler, authorizing a collective bargaining agreement between the city and the confidential unit of the city of Duluth, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Jim VanDell didn't feel that pay increases should be retroactive.

In response to Councilor Bohlmann, Mr. Nollenberger said there are 11 employees in the confidential unit and he guessed that most of those employees are at the top step of their respective pay ranges.

Resolution 95-0515 was adopted as follows:

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between city of Duluth and the Confidential Bargaining Unit of the city, acting through its bargaining agent; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0605-18, on file with the city clerk.

Resolution 95-0515 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0518, by Councilor Wheeler, of intent to issue bonds for the construction of improvements to the St. Louis County Heritage and Arts Center, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

William Miller, executive director of the St. Louis County Heritage and Arts Center, requested the council's support for this proposal.

Councilor Bohlmann expressed concern about the concept of bonding for projects such as this.

Resolution 95-0518 was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, the St. Louis County Heritage and Arts Center (the Depot) has proposed a \$6-7 million expansion of its facilities to provide new studio, exhibit and support spaces for its eight member organizations; and

WHEREAS, the Depot has thus far raised approximately \$2.8 million in public and private support for this project, and will be seeking state funding in next year's legislative session as well as continuing its efforts to secure contributions from private foundations and individuals; and

WHEREAS, the Depot has requested that the city contribute \$1 million to such project, and the mayor has given his support to such request; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the city council believes that because the Depot is such an important asset to this community, a contribution of \$1 million by the city towards the expansion of this facility would be a wise investment;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby states its intent to issue bonds in the amount of \$1 million to provide funds for the proposed expansion of the Depot if sufficient funding is secured from other sources to complete the proposed project.

Resolution 95-0518 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that M. J. Widdes, Inc., be and hereby is awarded a contract for furnishing and delivering a stock trailer for the fleet services division in accordance with specifications on its low specification bid of \$6,733.63, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E436.

Resolution 95-0507 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Duluth-Superior Blacktop, Inc., Glacier Paving, Inc., and Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for furnishing annual requirements of bituminous material for the water and gas department and street maintenance division in accordance with specifications on its low specification bid of \$157,620, terms net 30, FOB plant site, \$14,910 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227; \$14,910 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227 and \$127,800 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232.

Resolution 95-0509 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Motorola, Inc., be and hereby is awarded a contract for furnishing and delivering two mobile data terminal units for the police department in accordance with specifications on its low specification bid of \$10,867, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0524 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Streicher's, Inc., be and hereby is awarded a contract for furnishing and delivering squad car accessories for the police department in accordance with specifications on its low specification bid of \$5,295.45, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0526 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved June 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Pequaywan Area Trail Blazers, Inc.	Hickory Pit	May 31, 1995

Resolution 95-0543 was unanimously adopted.

Approved June 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Mr. D's Men's and Women's Softball Team, Wheeler Field, for June 24 & 25, 1995, with Dwayne Terwey, manager.

Resolution 95-0545 was unanimously adopted.

Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

CITYWIDE CITIZENS ADVISORY COMMITTEE

Michael Lang (planning comm) for a term expiring June 1, 1997, replacing Richard Pearson.

Resolution 95-0451 was unanimously adopted.

Approved June 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

COMMISSION ON DISABILITIES

Duane C. Timo for a term expiring November 1, 1997, replacing James Anderson.

Resolution 95-0452 was unanimously adopted.

Approved June 5, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the regents of University of Minnesota under which the city will conduct a work-study program with the university, which agreement is on file in the office of the city clerk as Public Document No. 95-0605-19.

Resolution 95-0519 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

DULUTH AIRPORT AUTHORITY

Mark D. Erickson for a term expiring July 1, 1998.

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Richard Pearson for a term expiring June 30, 1998.

Resolution 95-0520 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

DULUTH TRANSIT AUTHORITY

John E. Bray (Dist. 3), Mark Johns (at large), James Laumeyer (at large) and Barbara Soder (Dist. 2) for terms expiring June 30, 1998.

Resolution 95-0521 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide training and development services to the city at a cost of \$1,800, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0544 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, by passing Resolution 93-0825 on October 18, 1993, the city established the 1994 HUD funded Community Development Block Grant (CDBG) Program Human Development Center (HDC) Project which called for construction of a new addition to the existing HDC facility payable out of the 1994 Federal Program Fund 263 - community development - Human Development Center Project Account No. 6265; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, final architectural cost estimates would not allow for implementation of the HDC project as proposed within the project and agency budget resources; and

WHEREAS, the citywide citizen advisory committee (CCAC) for the Duluth CDBG Program at their meeting held on March 28, 1995, passed a recommendation to the Duluth City Council that the 1994 Human Development Center CDBG funded project be changed from the original concept to a project that would allow for the acquisition, relocation of present occupants, and rehabilitation of a separate building within the immediate vicinity of the HDC facility with the acquired building to be used for short-term treatment and housing of HDC clients.

BE IT RESOLVED, that the project description shall be changed from the original concept to a project that would allow for the acquisition, relocation of present occupants, and rehabilitation of a separate building within the immediate vicinity of the HDC facility with the acquired building to be used for short-term treatment and housing of HDC clients.

BE IT FURTHER RESOLVED, that proper city officials are hereby authorized to enter into a grant agreement with the HDC and the Duluth HRA in the amount of \$75,000, which agreement is substantially in the form of the copy which is on file in the office of the city clerk as Public Document No. 95-0605-20, for the acquisition, relocation of present occupants, and rehabilitation of the building for short-term treatment and housing of HDC clients, said sum to be payable from 1994 Federal Program Fund 263 - community development - Human Development Center Project No. 6265.

Resolution 95-0512 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0513, by Councilor Prettner, authorizing an agreement for \$350,000 with the Duluth Community Action Program (CAP) to continue to operate the weatherization program, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Tom Paradise requested that the council research the salaries of directors for nonprofit organizations, their payrolls, and if funds given to them by the city are then gifted to other organizations. He felt it is not proper to give tax dollars to nonprofit organizations who are competing with the private sector or who gift those funds to other nonprofits. He questioned whether those practices are legal and requested that the council obtain a complete list of how much money the council has given to nonprofits in 1994, who it was given to and where the money went from there. Mr. Paradise claimed that some unspent CAP funds were passed down to employees in the form of bonuses.

In response to Councilor Atkins, Mr. Nollenberger said a breakdown of administrative costs for CAP, as well as other organizations, is included with the community development block grant proposal document that the council receives each year.

Councilor Hardesty suggested that this issue would be more appropriate for the CAP board to review. She did not feel that salaries of CAP employees are out of line.

Councilors requested documentation of Mr. Paradise's allegations about CAP employee bonuses.

Councilor Bohlmann requested a cost analysis of CAP and a list of all salaries of employees. She felt the state auditor may be needed to audit CAP's books.

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At this time, 11:00 p.m., Councilor Prettner moved to adjourn the meeting until 4:45 p.m. the next day, which motion was seconded and failed upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Yeas: Councilors Downs, Hardesty, Prettner and Talarico -- 4

Nays: Councilors Atkins, Bohlmann, Dahlberg, Wheeler and President Keenan -- 5

Councilor Atkins moved to continue with the meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Wheeler and President Keenan -- 5

Nays: Councilors Downs, Hardesty, Prettner and Talarico -- 4

- - -

Councilor Hardesty moved to call the question, which motion was seconded and unanimously carried.

Resolution 95-0513 was adopted as follows:

BY COUNCILOR PRETTNER:

BE IT RESOLVED, that the proper city officers are authorized to enter into an agreement; said agreement to be on file in the office of the city clerk as Public Document No. 95-0605-21, with the Duluth Community Action Program (CAP), Inc., to operate the 1995 Home Weatherization Program in an amount of \$350,000, payable out of the 1995 Federal Program Fund 263 - community development - CAP Weatherization Regular Project Account No. 6352.

Resolution 95-0513 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

BE IT RESOLVED, that the proper city officers are authorized to enter into an agreement; said agreement to be on file in the office of the city clerk as Public Document No. 95-0605-22, with the Duluth Community Action Program (CAP), Inc., to operate the 1995 CAP Sliding Fee Weatherization Program in an amount of \$75,000, payable out of the 1995 Federal Fund 263 - community development - CAP Sliding Fee Weatherization Program Account No. 6353.

Resolution 95-0514 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0517, by Councilor Prettner, awarding contract to Northland Constructors of Duluth, Inc., for construction of ten inch watermain in accordance with specifications on its low specification bid of \$364,750, was introduced for discussion.

Councilor Talarico moved to amend the resolution to delete the last paragraph authorizing a ten percent contingency over the low bid amount, which motion was seconded and unanimously carried.

Resolution 95-0517, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of ten inch watermain for the business development division in accordance with specifications on its low specification bid of \$364,750, terms net 30, FOB job site, payable out of Airbus Construction Project Fund 420, Dept./Agency 020, Organization 4220, Object 5530.

Resolution 95-0517, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved June 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0605-23, with Neighborhood Housing Services, Inc., (NHS) for the operation of a revolving loan fund for residential rehabilitation in the amount of not to exceed \$62,000, payable out of the 1995 Federal Program Fund 263 - Central Hillside/West End Neighborhood Housing Services Project Account No. 6355.

Resolution 95-0527 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to apply to the Minnesota Housing Finance Agency for \$4,000,000 pursuant to the Minnesota City Participation Program, said funds to be made available to low- and moderate-income, first-time home buyers at below-market interest rates.

Resolution 95-0528 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth desires to complete a consolidated plan for housing and community development for fiscal year 1996-2000; and

WHEREAS, the city desires to hire a consulting firm to provide the consolidated plan required to complete the fiscal year 1996-2000 consolidated plan for housing and community development; and

WHEREAS, Klaers, Powers and Associates, Inc., has submitted a proposal for plan in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Klaers, Powers & Associates, Inc., to provide the city with such plan.

BE IT FURTHER RESOLVED, that the cost of said plan, estimated at \$4,935, will be payable from the Community Development Fund 263, Dept./Agency 603, Object 6384.

Resolution 95-0531 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0605-25, with Neighborhood Housing Services (NHS) for the operation of a revolving loan fund for residential rehabilitation in the amount of not to exceed \$140,000, payable out of the 1992 Federal Program Fund 262 - Central Hillside/West End Neighborhood Housing Services Project Account No. 6804.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0533 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, by Resolution 94-0544 adopted on June 13, 1994, the council, upon appeal, among other things, granted C-5 plan approval under Section 50-140 of the City Code to TOLD Development for a Kohl's department store upon a number of conditions, including the following:

(j) That a permanent fund be established in the amount of \$20,000 to provide for stream bank enhancement, fisheries habitat enhancement and channel improvement of Miller Creek, to be administered under the supervision and project authorization of the Minnesota department of natural resources, Minnesota pollution control agency and the city planning commission; and

WHEREAS, the city has been notified that TOLD Development has placed funds sufficient to meet 150% of these requirements in trust with the law offices of Clure, Eaton, Butler, together with authorization to distribute said funds to the permanent account when established; said funds to be administered as set forth in condition (j) of Resolution 94-0544.

NOW, THEREFORE, BE IT RESOLVED, that:

(a) There is hereby established a Miller Creek enhancement account in the general fund, to be identified as 100-015-1514-4702-MS01;

(b) That the \$30,000 held in trust by Clure, Eaton, Butler be deposited in that account, along with any other funding or contributions received by the city from other agencies or persons for the enhancement of Miller Creek;

(c) That disbursements from this account be made only for stream bank enhancement, fisheries habitat enhancement and channel improvement of Miller Creek, under the supervision and project authorization of the Minnesota department of natural resources, Minnesota pollution control agency and the city planning commission, as evidenced by written concurrence of authorized representatives of each of those agencies;

(d) That Miller Creek enhancement account established hereby shall be maintained in the general fund until all deposits therein have been exhausted.

Resolution 95-0537 was unanimously adopted.

Approved June 5, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to acquire the in-place playground equipment installations located at Washburn and Lakeside schools from Independent School District No. 709 for a total consideration of \$20,000; payable from Capital Improvements 450-015-1994-C410.

Resolution 95-0498 was unanimously adopted.

Approved June 5, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

WHEREAS, by Resolution 95-0302, adopted on April 3, 1995, the city council closed the Wade Stadium Renovation Fund 425 into the Economic Development Fund 255 and set aside \$373,702 in economic development fund monies to cover the Wade Stadium renovation deficit

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

until such time as such deficit was retired through contributions from charitable gambling proceeds and other sources; and

WHEREAS, at the present rate at which charitable gambling proceeds are being received, it will be 10-12 years before sufficient proceeds are generated to pay off the Wade Stadium deficit, and, until that time is passed, such proceeds will not be available to fund other projects in the city; and

WHEREAS, the city council feels that it is important to make the charitable gambling proceeds available at this time to fund the many worthy projects that could benefit from these monies;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby authorizes the city to permanently cancel the Wade Stadium deficit designated in the economic development fund and to treat such deficit as having been paid off with monies from the economic development fund.

Resolution 95-0499 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Blesener Dahlberg Architects, for the sum of not to exceed \$8,000, from Capital Fund 450, AG015, Org. 1994, Obj. C422, for providing certain architectural services to the city of Duluth in connection with the Leif Erikson/London Road business district revitalization (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0605-26.

Resolution 95-0502 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Associates, for the sum of not to exceed \$4,600, from Capital Fund 450, Agy. 015, Org. 1994, Object C410, for providing certain architectural services to the city of Duluth in connection with the citywide play structure update, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0605-27.

Resolution 95-0522 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Jamar, Inc., be and hereby is awarded a contract for reroofing three areas of the DECC for the DECC authority in accordance with specifications on its low specification bid of \$567,100, terms net 30, FOB job site, payable out of DECC Improvement Fund 470, Dept./Agency 030, Object 5520.

Resolution 95-0523 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY PRESIDENT KEENAN:

RESOLVED, that Resolution 95-0366 to Bryan Rock, Inc., for furnishing and delivering 930 tons of limestone aggregate, be amended to increase the amount by \$10,562.63 for a new total of \$17,083.91, \$5,281.31 payable out of Special League Fund 790, Dept./Agency 400, Object 5229 and \$5,281.32 payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS19.

Resolution 95-0530 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$6,903, from Gen. Fund 100, Agy. 700, Org. 2726, Obj. 1428, for providing certain engineering services to the city of Duluth in connection with Lakewalk slope stabilization, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0605-28.

Resolution 95-0532 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0605-29, with National Golf Foundation Consulting, Inc., for consultant services in the amount of not to exceed \$12,775, payable from Golf Fund 503, Dept./Agency 400, Org. 0505, Obj. 5319.

Resolution 95-0534 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept JTPA eight percent education coordination allocation funds of \$20,647 from the Minnesota state board of technical colleges. This money will be used to provide adult basic education instruction for JTPA eligible participants. This funding is available from July 1, 1995, through June 30, 1996. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 95-0605-30.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund #268, Budget Item 6242.

Resolution 95-0496 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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Resolution 95-0541, by Councilor Atkins, requesting action by a number of parties relative to recovery of certain barrels of waste material from Lake Superior, was introduced for discussion.

Councilor Bohlmann moved to amend the resolution to include a final paragraph as follows: "FURTHER RESOLVED, to submit under the Freedom of Information Act to the department of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

defense for a complete history of military and industrial dumping in Lake Superior," which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner and Talarico -- 6

Nays: Councilors Downs, Wheeler and President Keenan -- 3

Resolution 95-0541, as amended, was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, during a period from 1959 to 1972 the U.S. army corps of engineers (USACoE) assisted in the disposal of some 1,437 barrels of waste materials from the Honeywell Corporation in Lake Superior; and

WHEREAS, assurances were given subsequent to that time that the barrels contained only scrap ordnance and timers; and

WHEREAS, a number of efforts to recover barrels have turned out to be both costly and inept, producing, thus far, only nine barrels; and

WHEREAS, of the nine barrels thus far recovered three contain materials clearly different from those we were assured would be there and which clearly are inconsistent with efforts to protect the water quality of Lake Superior; and

WHEREAS, recent public reports allege that confirmation of detection of radioactivity in at least one barrel was not followed up by USACoE personnel; and

WHEREAS, no reasonable explanation has been given for the inconsistencies in the records and statements of the USACoE; and

WHEREAS, the Honeywell Corporation has not been forthcoming either with respect to its obligations to reveal definitive records of the materials dumped or with resources to recover barrels; and

WHEREAS, the only reasonable reassurance available at this time is the recovery of a meaningful sample of barrels from each of the seven identified dump sites;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council

(a) Calls upon the Honeywell Corporation to make a substantial contribution to the recovery of such sample of barrels;

(b) Calls upon the U.S. Environmental Protection Agency (EPA) to negotiate with Honeywell concerning their participation and, if Honeywell refuses, to pursue legal remedies under the Superfund Law or other legal authority;

(c) Calls upon representatives Oberstar and Obey and senators Wellstone, Grams, Kohl and Feingold to urge the EPA to accept responsibility for rectifying the situation; and

(d) Calls upon the same members of congress to assure that responsibility for actual implementation of any barrel recovery be shifted from the USACoE to the Coast Guard, which has no vested interest in the situation.

FURTHER RESOLVED, to submit under the Freedom of Information Act to the department of defense for a complete history of military and industrial dumping in Lake Superior.

Resolution 95-0541, as amended, was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Ogston's, Inc., be and hereby is awarded a contract for construction of gas service replacements and moving gas meters in the East Hillside area for the water and gas department in accordance with specifications on its low specification bid of \$108,145, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object

5533.

Resolution 95-0505 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of six inch ductile iron watermain in Glenwood Street for the water and gas department in accordance with specifications on its low specification bid of \$23,772, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0508 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Resolution 95-0009 to LHB Engineers & Architects, Inc., for professional construction administration services for the renovation of the Tischer Creek Pipe Bridge, be amended to increase the amount by \$8,159 for a new total of \$15,209, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0525 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Kraemer Construction, Inc., be and hereby is awarded a contract for the restoration of the Tischer Creek Pipe Bridge for the water and gas department in accordance with specifications on its low specification bid of \$146,877.60, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0529 was unanimously adopted.
Approved June 5, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city council hereby accepts the dedication of the following sanitary sewer easements from the parties indicated:

(a) King Properties, Inc.

Lot 439 and the easterly eighteen feet (18') of Lot 441, Block 46, DULUTH PROPER SECOND DIVISION, according to the plat thereof on file and of record in the office of the county recorder for St. Louis County, Minnesota,

Said easement being more particularly described as follows, to-wit:

That part of said Lot 439 described as follows:

From the centerline of the vacated alley on the southwesterly line of said Lot 439, as the point of beginning, thence northeasterly along said alley centerline a distance of 25 feet; thence southeasterly, parallel to the southwesterly line of said Lot 439, a distance of 25 feet; thence southwesterly, parallel to the alley centerline a distance of 25 feet, more or less, to the southwesterly line of said Lot 439; thence Northwesterly, along the southwesterly line of said Lot 439, a distance of 25 feet, more or less, to the point of beginning; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

That part of the easterly 18 feet of said Lot 441 described as follows:

From the point of intersection of the centerline of the vacated alley with the northeast line of said Lot 441, thence southeasterly along said lot line a distance of 25 feet; thence southwesterly parallel to the alley centerline, a distance of 18 feet, more or less, to a point; thence northwesterly, parallel to the northeast line of said Lot 441, a distance of 25 feet, more or less, to the centerline of said vacated alley; thence northeasterly along said alley centerline a distance of 18 feet, more or less, to the point of beginning;

(b) Lighthouse Community Development Corporation:

Lot 441 except the easterly 18 feet thereof, Block 46, DULUTH PROPER SECOND DIVISION, according to the plat thereof on file and of record in the office of the county recorder for St. Louis County, Minnesota,

Said easement being more particularly described as follows, to-wit:

That part of said Lot 441, except the easterly 18 feet thereof, described as:

From the point of intersection of the southwesterly line of said Lot 441 with the centerline of the vacated alley, thence northeasterly along said alley centerline a distance of 12 feet to the point of beginning; thence continuing northeasterly along said alley centerline a distance of 20 feet to a point; thence southeasterly, parallel to the northeasterly line of said Lot 441, a distance of 25 feet to a point; thence southwesterly, parallel to the said alley centerline, a distance of 20 feet to a point; thence northwesterly, parallel to the northeasterly line of said Lot 441, a distance of 25 feet, more or less, to the point of beginning.

Resolution 95-0495 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Salo Engineering, Inc., for professional engineering services in connection with the Northwest Airlines Site Wetlands Mitigation Plan, which agreement is on file in the office of the city clerk as Public Document No. 95-0605-31, at a cost to the city of not to exceed \$43,352.49, which shall be payable from Fund 420.

Resolution 95-0500 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Salo Engineering, Inc., for professional engineering services in connection with the construction of Stebner Road from Martin Road to the Northwest Airlines maintenance facility, which agreement is on file in the office of the city clerk as Public Document No. 95-0605-32, at a cost of not to exceed \$183,178.06, which shall be payable from Fund 420, and which fund shall be reimbursed in the amount of \$109,906.83 from grant funds for this project to be received from the federal EDA.

Resolution 95-0501 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires surveying services in 1995; and

WHEREAS, the city desires to hire firms to provide the surveying services required to locate monuments throughout the city; and

WHEREAS, RREM, Inc., and Seaway Engineering, Inc., have submitted proposals for surveying services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into agreements with RREM, Inc., and Seaway Engineering, Inc., to provide the city with such surveying services.

BE IT FURTHER RESOLVED, that the cost of said surveying services, estimated at \$12,500 to be paid to each firm for a total of \$25,000, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9500, Object 5319.

Resolution 95-0503 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that K.G.M. Contractors, Inc., be and hereby is awarded a contract for the 1995 street improvement plan for the Irving community for the engineering division in accordance with specifications on its low specification bid of \$767,622.01, terms net 30, FOB job sites, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9502, Object 5530.

Resolution 95-0504 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Ruhnke Trucking, Inc., be and hereby is awarded a contract for snow plowing of city lots during the 1994-95 season for the property management division and treasurer division in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB job sites, \$11,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5441 and \$4,000 payable out of Casino Parking Ramp Fund 502, Dept./Agency 030, Object 5402.

Resolution 95-0506 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Seaway Engineering Company for construction engineering services in connection with utility extensions to the Northwest Airlines maintenance facility, which agreement is on file in the office of the city clerk as Public Document No. 95-0605-33, at an estimated cost to the city of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$128,485, which shall be payable from Fund 420, and which shall be reimbursed in an estimated amount of \$77,091 (60%) from grant funds provided by the federal EDA.

Resolution 95-0511 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with RREM, Inc., to provide engineering services to the city in connection with preparation of wetland mitigation plan documents related to the Northwest Airlines maintenance facility project, which agreement is on file in the office of the city clerk as Public Document No. 95-0605-34, at an estimated cost to the city of \$4,902, which shall be payable from Fund 420.

Resolution 95-0516 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved June 5, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Duluth Superior Erection be and hereby is awarded a contract for the 1995 street patching program for the engineering division in accordance with specifications on its low specification bid of \$382,500, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2157, Object 5530.

Resolution 95-0535 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute Traffic Control Signal Agreement No. 73138 with Minnesota department of transportation, St. Louis County and the city of Hermantown; said agreement to be in the form of Public Document No. 95-0605-35 on file in the office of the city clerk.

Resolution 95-0539 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Minnesota department of public safety be and hereby is awarded a contract for utilization of the Criminal Justice Data Network service for the police department in accordance with its fee structure at an annual cost of \$7,320, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 95-0510 was unanimously adopted.

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR DAHLBERG

95-030 - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE PERTAINING TO WATER AND GAS; AMENDING SECTION 48-1 AND ADDING A NEW SECTION 48-157.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER

95-027 (9254) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A GARAGE ENCROACHMENT INTO THE SELKIRK STREET RIGHT-OF-WAY (O'HARA, FORMERLY J. THOMPSON, 2001 TYROL STREET).

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

- - -

BY COUNCILOR PRETTNER

95-028 (9255) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO FITGER'S LIMITED PARTNERSHIP FOR A SIGN TO BE LOCATED IN THE EAST SUPERIOR STREET RIGHT-OF-WAY.

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

- - -

BY PRESIDENT KEENAN

95-026 (9256) - AN ORDINANCE ADDING A NEW ARTICLE XXIII TO CHAPTER 2 OF THE CITY CODE CREATING A TREE COMMISSION.

President Keenan moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR HARDESTY

95-029 (9257) - AN ORDINANCE RELATING TO THE OPERATION OF MOTOR VEHICLES; PROHIBITING UNREASONABLE ACCELERATION; ADDING A NEW SECTION 33-13 TO CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The rules were suspended upon a unanimous vote to hear a speaker on this ordinance.

Jim VanDell felt the ordinance would be unenforceable.

Councilor Dahlberg said this ordinance will help police deter unsafe driving.

In response to councilors, City Attorney Dinan stated that the careless driving and reckless driving statutes do not cover this type of activity.

Councilor Hardesty reminded councilors that this ordinance was requested by the police department to help promote safe driving in some problem areas. She moved to call the question, which motion was seconded and unanimously carried.

The ordinance was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 11:40 p.m.

ZELDA CHERNE, Deputy City Clerk
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9254

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A GARAGE ENCROACHMENT INTO THE SELKIRK STREET RIGHT-OF-WAY (O'HARA, FORMERLY J. THOMPSON, 2001 TYROL STREET).

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Dennis O'Hara, his successors and interests, referred to herein as the permittee, to occupy and maintain a portion of a garage in that part of Selkirk Street as the same was dedicated to the use of the public and plat of Tyrol Heights Division, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) The westerly ten feet of Selkirk Street adjacent to Lot 1, Block 2, Tryol Heights Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittee shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittee for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittee six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittee shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said garage and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, and agree that such garage shall be maintained at all times so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Selkirk Street and agree that the city of Duluth shall not be liable for damage caused to such garage while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such garage in said Selkirk Street.

Section 6. That the permittee shall further observe the following conditions:

(a) That all applicable codes will be observed and construction of said garage;

(b) The size and location of garage shall be limited to and maintained in accordance with drawings on file with the building inspection division and attached to this ordinance as city council Public Document No. 95-0605-36.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

- - -

Passed June 5, 1995

Approved June 5, 1995

GARY L. DOTY, Mayor

ORDINANCE NO. 9255

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO FITGER'S LIMITED PARTNERSHIP FOR A SIGN TO BE LOCATED IN THE EAST SUPERIOR STREET RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter setforth, permission is hereby granted to Fitger's Limited Partnership, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a parking sign in that part of East Superior Street as the same was dedicated to the use of the public in the plat of Portland Division, on file and of record in the office of the registrar of deeds in and for the St. Louis County, Minnesota, described as follows:

the Superior Street right-of-way 260 feet east of the centerline of Fourth Avenue East 15 feet north of the southerly right-of-way line of Superior Street.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said parking sign and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the

permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such parking sign shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said east Superior Street and agree that the city of Duluth shall not be liable for damage caused to such parking sign while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such parking sign in said East Superior Street.

Section 6. That the permittee shall observe the following condition:

(a) That the project be limited to, constructed and maintained in accordance with the plans submitted by Thomas and Vecchi and on file as city council Public Document No. 95-0605-24.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 5, 1995

Approved June 5, 1995

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9256

BY PRESIDENT KEENAN:

AN ORDINANCE ADDING A NEW ARTICLE XXIII TO CHAPTER 2 OF THE CITY CODE CREATING A TREE COMMISSION.

The city of Duluth does ordain:

Section 1. That a new Article XXIII be added to Chapter 2 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXIII. Tree Commission.

Sec. 2-124. Commission created.

There is hereby created a tree commission.

Sec. 2-125. Members; appointment; terms; vacancies.

The commission shall consist of nine members who shall be appointed by the mayor subject to confirmation by the city council. Vacancies shall be filled for the unexpired term in the same manner. Of the initial members, three shall be appointed for three years, three shall be appointed for two years and three shall be appointed for one year; thereafter all appointments, other than those to fill unexpired terms, shall be for three years. The terms of members shall expire on August 31 of the appropriate year. Members shall serve until their successors are appointed and qualified. Two members of the commission shall be professionally engaged in an occupation relating to forestry, landscaping, tree or plant nursery, architecture or an allied or related profession, and seven shall be interested citizens. The city forester shall be an ex officio member of the commission.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Sec. 2-126. Adoption of rules and regulations; election of officers; quorum.

Within 20 days after all of the original members have been appointed, the commission shall meet and organize and adopt rules and regulations for the conduct of its business that are not inconsistent with the terms of this Article. The commissioners shall elect from among their membership a chairperson and a vice chairperson. At such initial meeting and at all subsequent meetings of the commission, six commissioners then holding office shall constitute a quorum for the transaction of business.

Sec. 2-127. Powers and duties.

The tree commission shall act as an advisory group for the city forestry program, by recommending and advising the city administration and the city council on policies, budgetary concerns and technical tree related issues having an impact on boulevard tree placement and replacement, management, maintenance and removal, reforestation, urban forest management, and tree preservation.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 16, 1995)

President Keenan moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 5, 1995
Approved June 5, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9257

BY COUNCILOR HARDESTY:

AN ORDINANCE RELATING TO THE OPERATION OF MOTOR VEHICLES;
PROHIBITING UNREASONABLE ACCELERATION; ADDING A NEW SECTION 33-13 TO CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Section 33-13 be added to Chapter 33 of the Duluth City Code, 1959, as amended, to read as follows:

Sec. 33-13. Unreasonable acceleration prohibited.

No person shall accelerate a motor vehicle, either from rest or while moving, in an unnecessary and unreasonable manner on any highway or public or private parking lot. Vehicular acceleration that results in unreasonable squealing or screeching sounds emitted by tires, or the throwing of sand or gravel by the tires, or the front wheel or wheels of the vehicle to lose contact with the highway or parking lot surface, shall be considered prima facie evidence that such acceleration was unnecessary and unreasonable.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 16, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 5, 1995
Approved June 5, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, June 8, 1995, 5:20 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico and President Keenan -- 6

Absent: Councilors Bohlmann, Prettner and Wheeler -- 3

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0608-01 Evensen Dodge, Inc., financial consultants, submitting: (a) Official statement; (b) Presale analysis regarding \$4,705,000 general obligation bonds, \$5,070,000 general obligation bonds and \$8,015,000 general obligation improvement bonds. -- Received

- - -

UNFINISHED BUSINESS

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Lake Park Little League, Inc., providing for the construction, operation and maintenance of Little League baseball fields on city property in the area of Riley Road and Jean Duluth Road, which agreement is on file in the office of the city clerk as Public Document No. 95-0608-02.

Resolution 95-0536 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

- - -

At this time, 5:20 p.m., President Keenan announced that the public hearing regarding proposed project and the issuance of tax exempt obligations by the city of Duluth to finance little league baseball fields would begin (Public Document No. 95-0608-03).

- - -

At this time, 5:22 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

- - -

MOTIONS AND RESOLUTIONS

Several resolutions by Councilor Downs providing for the issuance, sale and delivery of general obligation bonds, were introduced for discussion.

Evensen Dodge representatives Mark Stockwell and John Henningsgard reviewed details of the bids received, stating that the city chose the best time to sell bonds. In response to councilors, Mr. Stockwell said the city received an A rating for the bonds, noting also that they are insured bonds.

In response to Councilor Talarico, Mr. Stockwell said the difference between the B and C series is the Series C bonds begin principal payments in 1996, and the Series B bonds payments don't start until 1997.

Resolutions 95-0547, 95-0548, 95-0549, 95-0550, 95-0551, 95-0552, 95-0553, 95-0554, 95-0555 and 95-0557 were adopted as follows:

BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

1.02 The City Council has, by Ordinance No. 9216 adopted on October 11, 1994, ordered the issuance, sale and delivery of General Obligation Recreation Facilities Bonds of the City in the amount of \$725,000, for the purpose of improving recreation facilities within the City, including city-wide soccer field additions and alterations, Glen Avon hockey and soccer facility replacement and related site work and improvements to Wheeler Fields (the "Project") and for payment of part of the interest cost of such bond issue.

1.03 Pursuant to the authority herein recited, the City authorizes and directs, as the initial bond sale pursuant to such authority, the issuance and sale of \$505,000 General Obligation Recreation Facilities Bonds, Series 1995A-1 (the "Bonds"), comprising \$500,000 of bonds for the purpose of financing the Project and an additional amount of \$5,000 representing part of the interest cost of the issue, as authorized by Minnesota Statutes, Section 475.56.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate
1997	\$45,000	See Exhibit A
1998	50,000	
1999	50,000	
2000	50,000	
2001	55,000	
2002	60,000	
2003	60,000	
2004	65,000	
2005	70,000	

2.02 The Bonds maturing in the years 1997 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption

of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION RECREATION FACILITIES BOND,
SERIES 1995A-1

R-1 \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$505,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Laws, 1974, Chapter 130, Chapter 475 of Minnesota Statutes and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on June 8, 1995 (the "Resolution"), and is issued for the purpose of financing a portion of the cost of improvements to the City's recreation facilities and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from annual ad valorem taxes as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series maturing in the years 1997 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of

redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> / <u>95</u>	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate construction account within the Capital Improvements Account of the General Fund to which there shall be credited \$500,000 from the proceeds of the Bonds, together with any additional funds, including the grant funds, which may be available and are appropriated for the improvement program. There shall be established three separate subaccounts within the construction account, with the following Bond proceeds deposited in each subaccount:

- Softball Fields Subaccount - \$100,000
- Glen Avon Subaccount - \$140,000
- Soccer Fields Subaccount - \$260,000

These subaccounts shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the improvement projects described in Section 1.02, and the costs of issuance for the Bonds shall be paid from the Softball Fields Subaccount.

3.02 A. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and

interest on the Bonds as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

B. A separate debt service account is hereby created and designated as the "G.O. Recreation Facilities Bonds, Series 1995A-1 Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Bonds in excess of \$500,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into such account. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

3.05 Proceeds of the Bonds on deposit in the Capital Improvement Account and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to

become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Resolution 95-0547 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILORS DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, and Minnesota Statutes, Chapter 475, and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes.

1.02 The City Council has, by Ordinance No. 9249 adopted April 10, 1995, ordered the issuance, sale and delivery of the \$1,200,000 General Obligation Transit Bonds of the City for the purpose of financing costs of the Duluth Transit Authority to purchase new transit coaches, buses and vans, improvements to the transit operating facility (the "Project") and for payment of part of the interest cost of such bond issue.

1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,215,000 General Obligation Transit Bonds, Series 1995A-2 (the "Bonds"), comprising \$1,200,000 of the Bonds for the purpose of financing the Project and an additional amount of \$15,000 representing part of the interest costs of such bond issue, as authorized by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Minnesota Statutes, Section 475.56.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1997	\$110,000	See Exhibit A
1998	115,000	
1999	120,000	
2000	125,000	
2001	135,000	
2002	140,000	
2003	150,000	
2004	155,000	
2005	165,000	

2.02 The Bonds maturing in the years 1997 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for

all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION TRANSIT BOND,
SERIES 1995A-2

R-1 \$ _____

<u>Interest</u>	<u>Maturity Date</u>	<u>Date of</u>	<u>CUSIP</u>
<u>Rate</u>		<u>Original Issue</u>	
%	February 1, ____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered

owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,215,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, and all other laws thereunto enabling, and pursuant to Ordinance No. 9249 adopted on April 10, 1995, and resolutions adopted on June 8, 1995, by the governing body of the City (the "Resolution"), for the purpose of financing costs of the Duluth Transit Authority to purchase new transit coaches, buses and vans and improvements to the transit operating facility and for payment of part of the interest cost of said bond issue. The City has authorized the levy of a direct, annual, ad valorem tax upon all taxable property within the City of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due.

The Bonds of this series maturing in the years 1997 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered

owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> / <u>95</u>	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate fund entitled "Duluth Transit Support Capital Improvement Fund" to which there shall be credited \$1,200,000 from the proceeds for the Bonds, together with any additional funds which may be available and are appropriated for the payment of costs of the Project. This fund shall be used only to pay or reimburse the costs for the Project and costs of issuance of the Bonds, as such payments become due.

3.02 A. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Bonds as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

B. A separate debt service account is hereby created and designated as the "G.O. Transit Bonds, Series 1995A-2 Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Bonds in excess of \$1,200,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into such account. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in

the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

3.05 Proceeds of the Bonds on deposit in the Duluth Transit Support Capital Improvement Fund and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the

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available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Resolution 95-0548 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$625,000 General Obligation Improvement Bonds, dated December 1, 1985 (the "1985 Bonds"). The 1985 Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$250,000 General Obligation Improvement Refunding Bonds, Series 1995A-3 (the "Bonds"), to refund that portion of the 1985 Bonds maturing on and after February 1, 1996 (the "Refunded Bonds"), of which \$240,000 in principal amount is prepayable on August 1, 1995 (the "Redemption Date").

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1996	\$40,000	See Exhibit A
1997	45,000	
1998	45,000	
1999	40,000	
2000	40,000	
2001	40,000	

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond

Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of

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the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND,
SERIES 1995A-3

R-1 \$ _____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest

has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$250,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on June 8, 1995 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$625,000 General Obligation Improvement Bonds, dated December 1, 1985. The Bonds are payable from special assessments levied against properties specially benefitted by local improvements. The principal and interest on the Bonds will be payable from a special fund of the City entitled "1995 Improvement Refunding Bond Account."

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the

original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> / <u>95</u>	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the regis-

tered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 A. The Bonds are payable from the 1995 Improvement Refunding Bond Account (the "Debt Service Fund") hereby created within the City's Special Assessment Debt Service Fund, and the proceeds of special assessments described in the Prior Resolution, defined in Section 3.03, are pledged to the Debt Service Fund.

B. The proceeds of the Bonds not including (i) any capitalized interest financed from Bond proceeds; (ii) any amount over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; and (iii) accrued interest paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated and allocated to the Debt Service Fund heretofore established for the Refunded Bonds (the "Prior Debt Service Fund") in amounts which together with available funds therein shall be used solely to redeem the 1985 Bonds on the Redemption Date. Upon redemption of the 1985 Bonds on the Redemption Date, the Prior Debt Service Fund shall be terminated, and all monies remaining therein not required to refund the 1985 Bonds shall be transferred to the Debt Service Fund. If any payment of principal or interest on the Bonds shall become due when there is not sufficient money in the Debt Service Fund to pay the same, the Treasurer shall pay such principal or interest from the general fund of the City, and the general fund shall be reimbursed for such advances out of the proceeds of the taxes levied by this Resolution, when collected.

C. There is hereby appropriated to the Debt Service Fund all capitalized interest financed from Bond proceeds, if any, any amount over the minimum purchase price of the Bonds paid by the Purchaser and all accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.02 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it has assessed against benefitted property not less than 20% of the cost of the project financed by the 1985 Bonds. The City Council further represents that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

3.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the resolution authorizing and approving the Refunded Bonds (the "Prior Resolution").

3.04 It is hereby determined that the estimated collections of special assessments levied against benefitted properties pledged for payment of the Bonds will produce sums not less than 5% in excess of the amounts needed to meet when due the principal and interest payments on

the Bonds, and accordingly, no tax is levied by this resolution for that purpose; but under the provisions of Minnesota Statutes, Sections 475.61 and 475.74, the City's liability on the Bonds is not limited to the foregoing sources of payment, and the City Council will and shall levy upon all taxable property within the corporate limits of the City, and cause to be extended, assessed and collected, any taxes found necessary for full payment of the principal and interest, without limitation as to the rate or amount.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolution and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to prepay all of the principal of and interest on the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notice of Call for Redemption attached hereto as Attachment A, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent of the Refunded Bonds and to publish notice as provided in the Prior Resolution.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. Tax Covenants.

5.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

5.02 A. The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the

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Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

D. The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

Resolution 95-0549 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$1,250,000 General Obligation Sewer Utility Revenue Bonds, dated December 1, 1985, and its \$3,060,000 General Obligation Sewer Utility Revenue Bonds, Series 1985, dated December 1, 1985 (collectively referred to as the "1985 Bonds"). The 1985 Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$2,735,000 General Obligation Sewer Utility Revenue Refunding Bonds, Series 1995A-4 (the "Bonds"), to refund that portion of the 1985 Bonds maturing on and after February 1, 1996 (the "Refunded Bonds"), of which \$2,705,000 in principal amount is prepayable on August 1, 1995 (the "Redemption Date").

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1996	\$270,000	See Exhibit A
1997	340,000	
1998	355,000	
1999	385,000	
2000	385,000	
2001	410,000	
2002	290,000	
2003	300,000	

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall

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set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY
REVENUE REFUNDING BOND, SERIES 1995A-4

R-1 \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,735,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on June 8, 1995 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$1,250,000 General Obligation Sewer Utility Revenue Bonds, dated December 1, 1985, and the \$3,060,000 General Obligation Sewer Utility Revenue Bonds, Series 1985, dated December 1, 1985. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds of this series, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds of this issue.

The Bonds are not subject to redemption prior to maturity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> / <u>95</u>	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City Council covenants and agrees with the holders of the Bonds issued hereunder and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

3.02 The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided herein and in Sections 3.04 and 3.05, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the Director of Finance and Records shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

3.03 A. The proceeds of the Bonds not including (i) any capitalized interest financed from Bond proceeds; (ii) any amount over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; and (iii) accrued interest paid by the Purchaser upon closing and delivery of the Bonds are hereby

irrevocably appropriated and allocated to the debt service funds heretofore established for the Refunded Bonds (the "Prior Debt Service Funds") in amounts which together with available funds therein shall be used solely to redeem the 1985 Bonds on the Redemption Date. Upon redemption of the 1985 Bonds on the Redemption Date, the Prior Debt Service Funds shall be terminated, and all monies remaining therein not required to refund the 1985 Bonds shall be transferred to the Debt Service Fund.

B. It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Funds shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the resolution authorizing and approving the Refunded Bonds (the "Prior Resolution").

3.04 Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Service Sewer Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said funds. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The Treasurer shall transfer from the Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

3.05 Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the Operating Account and in said Debt Service Fund, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.06 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolution and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to prepay all of the principal of and interest on the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for Redemption attached hereto as Attachment A and Attachment B, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agents of the Refunded Bonds and to publish notice as provided in the Prior Resolution.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Refunded Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. Tax Covenants.

5.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

5.02 A. The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

D. The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

Section 6. City Proceedings.

6.01 The Mayor and City Clerk are authorized to execute and deliver the Amended Special Assessment Agreement filed as Public Document No. 95-0608-03.

Resolution 95-0550 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved June 8, 1995
 GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, as follows:

Section 1. The City Council of the City of Duluth, St. Louis County, Minnesota (the "City"), has by Ordinance Nos. 9216 and 9249 and by Resolution Nos. 95-0482, 95-0547, 95-0548, 95-0549 and 95-0550, authorized the issuance and public sale of \$4,705,000 General Obligation Bonds, Series 1995A, consisting of:

- (a) \$505,000 General Obligation Recreation Facilities Bonds, Series 1995A-1;
- (b) \$1,215,000 General Obligation Transit Bonds, Series 1995A-2;
- (c) \$250,000 General Obligation Improvement Refunding Bonds, Series 1995A-3; and
- (d) \$2,735,000 General Obligation Sewer Utility Revenue Refunding Bonds, Series

1995A-4

(the "Bonds"), approved the Official Terms of Offering, authorized and directed the solicitation of proposals for the sale of the Bonds and established the terms and conditions of the sale of the Bonds.

Section 2. The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$4,705,000, and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Firststar Bank Milwaukee, N.A. of Milwaukee, Wisconsin, and associates named in such proposal, who offered to purchase the Bonds at a cash price of \$4,670,981.20, upon condition that the Bonds mature and bear interest at the time and annual rates set forth in Section 3. The proposal is accepted and the Mayor and the City Clerk are authorized to execute on the part of the City a contract for the sale of the Bonds in accordance therewith. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 3. The Bonds to be issued hereunder shall each have an original issue date of June 1, 1995, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be in fully registered form. The Bonds, and each series, shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as follows:

Year	Transit Bonds	Rec. Fac. Bonds	Sewer Refunding Bonds	Improvement Refunding Bonds	Total All Issues	Interest Rate
1996			\$270,000	\$40,000	\$310,000	4.000%
1997	\$110,000	\$45,000	340,000	45,000	540,000	4.150
1998	115,000	50,000	355,000	45,000	565,000	4.250
1999	120,000	50,000	385,000	40,000	595,000	4.350
2000	125,000	50,000	385,000	40,000	600,000	4.450
2001	135,000	55,000	410,000	40,000	640,000	4.550
2002	140,000	60,000	290,000		490,000	4.650
2003	150,000	60,000	300,000		510,000	4.750
2004	155,000	65,000			220,000	4.850
2005	165,000	70,000			235,000	4.875

Section 4. The City Clerk is directed to file a certified copy of the Ordinances and Resolutions authorizing the Bonds with the St. Louis County Auditor.

Section 5. The Bonds, when prepared and executed, shall be delivered by or under the direction of the City Treasurer of the City of Duluth to The Depository Trust Company on behalf of the purchaser thereof for release upon receipt of the purchase price, premium, if any, and accrued interest.

Section 6. The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchaser of the Bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds, as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Resolution 95-0551 was unanimously adopted.
Approved June 8, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the municipal sewer utility plant (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, to be derived from the operation of the municipal sewer utility and pledged for their payment.

1.02 The City Council has, by Ordinance No. 9248 adopted April 10, 1995, ordered the issuance, sale and delivery of \$2,000,000 General Obligation Sewer Utility Revenue Bonds of the City (the "Bonds"), for the payment of the costs of improvements to the municipal sewer utility, and for payment of part of the interest cost of the Bonds.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates as set forth on Exhibit A:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1997	\$100,000	See Exhibit A	2004	\$140,000	See Exhibit A
1998	105,000		2005	150,000	
1999	110,000		2006	160,000	
2000	115,000		2007	170,000	
2001	120,000		2008	175,000	
2002	130,000		2009	190,000	
2003	135,000		2010	200,000	

2.02 The Bonds maturing in the years 1997 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY REVENUE BOND,
SERIES 1995B-1

R-1 \$ _____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and

surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,000,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075, and Chapter 475, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9248 adopted on April 10, 1995, and resolutions adopted on June 8, 1995, by the governing body of the City (the "Resolution"), for the purpose of providing funds for improvements to the municipal sewer utility and for payment of part of the interest cost of said bond issue. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of such utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds of this series, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds of this issue.

The Bonds of this series maturing in the years 1997 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the

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registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> /95	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Revenues, Accounts and Covenants.

3.01 The City Council covenants and agrees with the holders of the Bonds issued hereunder and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

3.02 The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided herein and in Sections 3.04 and 3.05, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the Director of Finance and Records shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

3.03 The City has created a separate construction account within the Public Service Sewer Utility Fund to which there shall be credited \$2,000,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the utility and costs of the issuance of the Bonds.

3.04 Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Service Sewer Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$2,000,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The Treasurer shall transfer from the Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

3.05 Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the Operating Account and in said Debt Service Fund, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.06 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the

Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 The City agrees it will not use the proceeds of the Bonds in such a manner as to cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and applicable Treasury Regulations. The City expects that at least 75% of the available construction proceeds of the Bonds are to be used for construction expenditures with respect to property which is owned by the City. The City will expend at least (i) 10% of the available construction proceeds of the Bonds within six months of the date of issuance of the Bonds; (ii) at least 45% of the available construction proceeds of the Bonds within one year of the date of issuance of the Bonds; (iii) at least 75% of the available construction proceeds of the Bonds within 18 months of the date of issuance of the Bonds; and (iv) 100% of the available construction proceeds of the Bonds within two years of the date of issuance of the Bonds.

Resolution 95-0552 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the municipal water utility plant (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, to be derived from the operation of the municipal water utility and pledged for their payment.

1.02 The City Council has, by Ordinance No. 9247 adopted April 10, 1995, ordered the issuance, sale and delivery of \$1,000,000 General Obligation Water Utility Revenue Bonds of the City (the "Bonds"), for the payment of the costs of improvements to the municipal water utility, and for payment of part of the interest cost of the Bonds.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple

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thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1997	\$ 50,000	See Exhibit A	2004	\$ 70,000	See Exhibit A
1998	50,000		2005	75,000	
1999	55,000		2006	80,000	
2000	60,000		2007	85,000	
2001	60,000		2008	90,000	
2002	65,000		2009	95,000	
2003	65,000		2010	100,000	

2.02 The Bonds maturing in the years 1997 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., of Duluth, Minnesota, which is to be complete, and cause the opinion to be attached to each Bond, together with a

certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION WATER UTILITY REVENUE BOND,
SERIES 1995B-2

R-1 \$ _____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such

owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,000,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Section 55 of the City Charter, Minnesota Statutes, Section 444.075, and Chapter 475, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9247 adopted on April 10, 1995, and resolutions adopted on June 8, 1995, by the governing body of the City (the "Resolution"), for the purpose of providing funds for improvements to the municipal water utility and for payment of part of the interest cost of said bond issue. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of such utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds of this series, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds of this issue.

The Bonds of this series maturing in the years 1997 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject

to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
___/___/95	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

—
(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer

the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Revenues, Accounts and Covenants.

3.01 The City Council covenants and agrees with the holders of the Bonds issued hereunder and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

3.02 The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate Water Utility Operating Account within the Public Utility Water Fund maintained under Section 54 of the City Charter. Except as provided herein and in Sections 3.04 and 3.05, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the Director of Finance and Records shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

3.03 The City has created a separate construction account within the Public Utility Water Fund to which there shall be credited \$1,000,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and

allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the utility and costs of the issuance of the Bonds.

3.04 Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Utility Water Fund, to be used solely for the payment of the principal and the interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$1,000,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The Treasurer shall transfer from the Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

3.05 Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the Operating Account and in said Debt Service Fund may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.06 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the

above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 The City agrees it will not use the proceeds of the Bonds in such a manner as to cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and applicable Treasury Regulations. The City expects that at least 75% of the available construction proceeds of the Bonds are to be used for construction expenditures with respect to property which is owned by the City. The City will expend at least (i) 10% of the available construction proceeds of the Bonds within six months of the date of issuance of the Bonds; (ii) at least 45% of the available construction proceeds of the Bonds within one year of the date of issuance of the Bonds; (iii) at least 75% of the available construction proceeds of the Bonds within 18 months of the date of issuance of the Bonds; and (iv) 100% of the available construction proceeds of the Bonds within two years of the date of issuance of the Bonds.

Resolution 95-0553 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Pursuant to authority contained in Laws of Minnesota 1994, Chapter 489 (the "Act"), the City is authorized to issue up to \$4,000,000 in general obligation bonds, in one or more series, to finance improvements to the Duluth Entertainment Convention Center (the "DECC"). The City issued \$1,980,000 General Obligation Bonds, Series 1994, dated July 1, 1994, comprising \$1,955,000 of bonds as authorized pursuant to the Act for the purpose of financing improvements to the DECC and an additional amount of \$25,000 representing part of the interest cost of the issue, as authorized by Minnesota Statutes, Section 475.56.

1.02 The City Council hereby determines that it is necessary and expedient to issue \$2,070,000 General Obligation DECC Bonds, Series 1995B-3, of the City (the "Bonds"), comprising \$2,045,000 of bonds as authorized pursuant to the Act for the purpose of financing improvements to the DECC and an additional amount of \$25,000 representing part of the interest cost of the issue, as authorized by Minnesota Statutes, Section 475.56.

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Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates as set forth on Exhibit A:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1997	\$105,000	See Exhibit A	2004	\$145,000	See Exhibit A
1998	110,000		2005	155,000	
1999	115,000		2006	165,000	
2000	120,000		2007	175,000	
2001	125,000		2008	185,000	
2002	130,000		2009	195,000	
2003	140,000		2010	205,000	

2.02 The Bonds maturing in the years 1997 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the

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Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION DECC BOND, SERIES 1995B-3

R-1 \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month

next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,070,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Laws of Minnesota 1994, Chapter 489, and Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on June 8, 1995 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, to finance improvements to the Duluth Entertainment Convention Center. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

The Bonds of this series maturing in the years 1997 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing.

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Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> / <u>95</u>	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate fund entitled "DECC Improvement Capital Project Fund" to which there shall be credited \$2,045,000 from the proceeds for the Bonds, together with any additional funds which may be available and are appropriated for the payment of costs of the Project. This fund shall be used only to pay or reimburse the costs for improvements to the Duluth Entertainment Convention Center and costs of issuance of the Bonds, as such payments become due.

3.02 A. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Bonds as such principal and interest respectively become due as set forth on Exhibit A attached hereto.

B. A separate debt service account is hereby created and designated as the "G.O. DECC Bonds, Series 1995B-3 Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Bonds in excess of \$2,045,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into such account. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Bonds and the interest thereon, in accordance with the terms set forth in this Resolution.

3.05 Proceeds of the Bonds on deposit in the DECC Improvement Capital Project Fund and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the

available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Resolution 95-0554 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, as follows:

Section 1. The City Council of the City of Duluth, St. Louis County, Minnesota (the "City"), has by Ordinance Nos. 9247 and 9248 and by Resolution Nos. 95-0482, 95-0552, 95-0553 and 95-0554, authorized the issuance and public sale of \$5,070,000 General Obligation Bonds, Series 1995B, consisting of:

(a) \$2,000,000 General Obligation Sewer Utility Revenue Bonds, Series 1995B-1;

(b) \$1,000,000 General Obligation Water Utility Revenue Bonds, Series 1995B-2; and

(c) \$2,070,000 General Obligation DECC Bonds, Series 1995B-3

(the "Bonds"), approved the Official Terms of Offering, authorized and directed the solicitation of proposals for the sale of the Bonds and established the terms and conditions of the sale of the Bonds.

Section 2. The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$5,070,000, and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Harris Trust and Savings Bank of Chicago, Illinois, and associates named in such proposal, who offered to purchase the Bonds at a cash price of \$5,009,229, upon condition that the Bonds mature and bear interest at the time and annual rates set forth in Section 3. The proposal is accepted and the Mayor and the City Clerk are authorized to execute on the part of the City a contract for the sale of the Bonds in accordance therewith. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 3. The Bonds to be issued hereunder shall each have an original issue date of June 1, 1995, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be in fully registered form. The Bonds, and each series, shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as follows:

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Year	Sewer Bonds	Water Bonds	DECC Bonds	Total All Issues	Interest Rate
1997	\$100,000	\$ 50,000	\$105,000	\$255,000	4.90%
1998	105,000	50,000	110,000	265,000	4.90
1999	110,000	55,000	115,000	280,000	4.90
2000	115,000	60,000	120,000	295,000	4.90
2001	120,000	60,000	125,000	305,000	4.90
2002	130,000	65,000	130,000	325,000	4.90
2003	135,000	65,000	140,000	340,000	4.90
2004	140,000	70,000	145,000	355,000	4.90
2005	150,000	75,000	155,000	380,000	4.95
2006	160,000	80,000	165,000	405,000	5.00
2007	170,000	85,000	175,000	430,000	5.05
2008	175,000	90,000	185,000	450,000	5.15
2009	190,000	95,000	195,000	480,000	5.20
2010	200,000	100,000	205,000	505,000	5.20

Section 4. The City Clerk is directed to file a certified copy of the Ordinances and Resolutions authorizing the Bonds with the St. Louis County Auditor.

Section 5. The Bonds, when prepared and executed, shall be delivered by or under the direction of the City Treasurer of the City of Duluth to The Depository Trust Company on behalf of the purchaser thereof for release upon receipt of the purchase price, premium, if any, and accrued interest.

Section 6. The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchaser of the Bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds, as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Resolution 95-0555 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the City Council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1.02 The City Council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Regular Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
93-0766	09/27/93	\$150,000	Sanitary Sewer-Rice Lake Road from Baylis-400' NW
93-0765	09/27/93	385,000	Maple Ridge Development
93-0823	10/04/93	111,000	Theraldson Development
93-0824	10/04/93	18,060	Sanitary sewer in Joshua Avenue
93-0859	10/18/93	15,000	Sanitary sewer in Roosevelt Street from 66th Avenue West
94-0352	04/25/94	17,200	26th Avenue East from Jefferson to Superior Street
94-0401	05/09/94	100,667	City sidewalks 1994
94-0468	05/23/94	125,000	Spirit Cove Drive from Bayhill Drive to 1100' east
94-0469	05/23/94	20,000	Sanitary sewer in Block 4, Spirit Cove Division
94-0470	05/23/94	16,200	St. Marie Street alley from Douglas
94-0472	05/23/94	14,400	Fourth alley from 25th to 26th Avenue East
94-0649	07/25/94	27,000	Fifth Street alley from 23-24th Avenue East
94-0829	09/19/94	8,700	Sanitary sewer in Olney Alley from 63rd Avenue West-150' west
94-0860	09/26/94	6,000	Sanitary sewer in Kennebec Avenue from Baylis Street-110' north
95-0388	05/01/95	195,000	City sidewalks 1995

1.03 The City Council has, by Resolution No. 93-0568 adopted October 12, 1993, ordered street improvements to certain streets, avenues and parkways set forth below (the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

"1994 Street Improvement Program"), as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Section 61(b) of the City Charter; and the Council has determined to defray one-fourth of the cost of the improvements set forth below to be assessed against benefitted property:

Assessable Cost	Project Description
\$144,027	Kent Road-19th Ave. E. to 8th St. Swan Lake Road-Arrowhead Rd. to 750' Sly 18th Ave. W.-Michigan St. to 1st St.
91,256	Elysian Ave.-Anoka St. to Winona St. Oneida St.-52nd Ave. E. to 54th Ave. E. 51st Ave. E.-London Rd. to Superior St.
178,599	26th Avenue E.-Superior St. to 8th St. Greysolon Place-31st Ave. E. to Congdon Park Dr. Basswood Ave.-Orange St. to Central Entrance Orange St.-Arlington Ave. to Basswood Ave.
221,244	93rd Ave. W.-Falcon St. to Grace St. 75th Ave. W.-Grand Ave. to Pulaski St. & Pulaski St.-75th Ave. W. to end of Pulaski St. Pacific Ave.-Wellington St. to 7th St. 15th Ave. E.-London Rd. to 4th St. 19th Ave. E.-London Rd. to Superior St.
114,051	Martha St.-Fern Ave. to Kenwood Ave. 11th Ave. E.-9th St. to Skyline Blvd. Mississippi Ave.-College St. to Lyons St.
82,450	Skyline Parkway-Glenwood St. to first turnaround

1.04 The City Council has, by Resolution No. 94-0718 adopted on October 3, 1994, ordered street improvements to certain streets, avenues and parkways set forth below (the "1995 Street Improvement Program"), as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Section 61(b) of the City Charter; and the Council has determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property or paid from Community Development Block Grants:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Assessable Cost/CDBG Funds	Project Description
\$230,287	Irving Community Streets: 56th Ave. W.-300' S. of Redruth St. to Raleigh St. 56th Ave. W.-Main St. to 200' N. of Nicollet St. 57th Ave. W.-dead end south of Redruth St. to Raleigh St. 58th Ave. W.-150' S. of Main St. to Roosevelt St. 61st Ave. W.-RR tracks to Raleigh St. 62nd Ave. W.-Raleigh St. to Redruth St. Main St.-Central Ave. to 59th Ave. W.
294,000	Endion Community Streets: Jefferson St.-15th Ave. E. to 19th Ave. E. Greysolon Rd.-17th Ave. E. to 20th Ave. E. 15th Ave. E.-South St. to London Road. 16th Ave. E.-South St. to Superior St. 17th Ave. E.-South St. to Superior St. 18th Ave. E.-South St. to Superior St.
130,196	Denfeld Streets: 48th Ave. W.-Grand Ave. to 7th St. 5th St.-48th Ave. W. to 54th Ave. W. 54th Ave. W.-Elinor St. to 5th St. Central Place-Central Ave. to 54th Ave. W.
286,619	Duluth Heights Streets: Palm St.-Arlington Ave. to Hugo Ave. Orange St.-Basswood Ave. to Hugo Ave. Hugo Ave.-Quince St. to dead end north of Palm St. Oregon Ave.-Quince St. to Central Entrance Lemon St.-dead end E. of Oregon Ave. to Hugo Ave. Basswood Ave.-Orange St. to Quince St. Quince St.-Arlington Ave. to Hugo Ave.
364,217	Lester Park Streets: 54th Ave. E.-Otsego St. to Glenwood St. 57th Ave. E.-Superior St. to Glenwood St. 58th Ave. E.-London Rd. to Glenwood St. 59th Ave. E.-London Rd. to northerly dead end London Rd.-60th Ave. E. to easterly dead end Tioga St.-54th Ave. E. to Occidental Blvd. Otsego St.-54th Ave. E. to Tioga St. Oneida St.-54th Ave. E. to Tioga St.

1.05 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$8,015,000 General Obligation Improvement Bonds to be dated June 1, 1995, as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the date of original issue (the "Bonds") for financing a portion of the costs of the Regular Public Improvements, the 1994 Street Improvement Program and the 1995 Street Improvement Program.

1.06 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$8,015,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Dain Bosworth, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$7,925,019.23, plus accrued interest on the total principal amount from June 1, 1995, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
1996	\$ 85,000	See Exhibit A	2004	\$560,000	See Exhibit A
1997	470,000		2005	585,000	
1998	475,000		2006	605,000	
1999	490,000		2007	625,000	
2000	500,000		2008	655,000	
2001	515,000		2009	680,000	
2002	525,000		2010	705,000	
2003	540,000				

2.02 The Bonds maturing in the years 1996 through 2004 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2005 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter, in whole or in part, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations to be executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. The execution and delivery of the Representation Letter to DTC by the City Clerk, in the form presented at this meeting with such changes, omissions, insertions and revisions as the City Clerk shall deem advisable is hereby authorized, and execution of the Representation Letter by the City Clerk shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT BOND,
SERIES 1995C

R-1 \$_____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	June 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$8,015,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Chapter 475 of Minnesota Statutes and all other laws and provisions thereunto enabling, and pursuant to the City Charter and a resolution adopted by the governing body of the City on June 8, 1995 (the "Resolution"), for the purpose of financing a portion of the cost of local public improvements. The principal hereof and interest hereon are payable in part from special assessments levied or to be levied against property specially benefitted by local improvements and in part from ad valorem taxes.

The Bonds of this series maturing in the years 1996 through 2004 are not subject to redemption before maturity, but those maturing in the year 2005 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2004, and on any date thereafter upon 30 days' notice, in whole or in part, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
<u> </u> / <u> </u> /95	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

_____ (Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Revenues, Accounts and Covenants.

3.01 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that (i) it will assess against benefitted property the cost of the improvements to the City for the Regular Public Improvements and the 1994 Street Improvement Program in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Regular Public Improvements and the 1994 Street Improvement Program and (ii) it will assess against benefitted property the cost of the improvements to the City for the 1995 Street Improvement Program in an amount which, together with the proceeds of federal grants to the City for such improvement projects, is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the 1995 Street Improvement Program. The City Council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to three separate construction accounts as follows:

A. \$1,245,298 into a separate construction account (the "1995 Projects Account") within the Special Assessment Capital Projects Fund for the Regular Public Improvements.

B. \$1,427,340 into a subaccount for the 1994 Street Improvement Program (the "1994 Street Account") within the Street Improvement Account in the Capital Projects Fund.

C. \$5,246,182 into a subaccount for the 1995 Street Improvement Program (the "1995 Street Account") within the Street Improvement Account in the Capital Projects Fund.

The proper City officers are authorized and directed to pay out of such construction accounts from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements for each improvement program. The costs of issuance of the Bonds shall be paid from the 1995 Projects Account.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1995 Improvement Bond Account." The money in such account shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in said account, the Treasurer shall pay the same from any other fund of the City and said fund shall be reimbursed out of said account. Into the 1995 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Sections 1.02, 1.03 and 1.04 hereof and the ad valorem taxes levied pursuant to Section 3.04 hereof.

3.04 A. The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth on Exhibit A attached hereto. Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds, except for anticipated receipt of special assessments and appropriated funds from the General Fund to the 1995 Improvement Bond Account for payment of the February 1, 1996, principal and interest payments.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies to the extent of funds expected to be received from special assessments from the projects described in Sections 1.02, 1.03 and 1.04 upon benefitted properties, and may direct the County Auditor to reduce the levy for such calendar year by that amount.

B. All proceeds of said special assessments and said taxes are hereby appropriated and shall be paid when collected into the 1995 Improvement Bond Account within the Special Assessment Debt Service Fund. If the balances in the 1995 Improvement Bond Account are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the 1995 Improvement Bond Account when the balances therein are sufficient.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City Council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield

on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Resolution 95-0557 was unanimously adopted.

Approved June 8, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

95-030 (9258) - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE PERTAINING TO WATER AND GAS; AMENDING SECTION 48-1 AND ADDING A NEW SECTION 48-157.

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

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The meeting was adjourned at 5:30 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9258

BY COUNCILOR TALARICO:

AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE
PERTAINING TO WATER AND GAS; AMENDING SECTION 48-1 AND
ADDING A NEW SECTION 48-157.

The city of Duluth does ordain:

Section 1. That Section 48-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Applicant. Any person or persons applying for water or gas service from the department and any guarantor of payment for such service as provided for in this Chapter.

Department. The department of water and gas of the city.

Domestic applicant. A non-commercial or non-industrial applicant who uses gas solely for purposes other than heat; i.e., cooking, hot water, clothes dryer, etc., and an applicant for water or sewage or both.

High pressure gas line. Any gas line transmitting gas at a pressure in excess of 0.25 pounds per square inch.

High volume gas service. Service used to provide gas at a rate in excess of 1,000,000 BTU's per hour.

High volume water service. Any service which is capable of providing in excess of 30 gallons of water per minute at water pressure levels which are normal at the location of such service.

House piping. The pipe or system of pipes conveying water or gas from the meter on a house service to the points of use of water or gas.

House service. That portion of a water or low pressure gas service which extends from the curb cock controlling the flow through the house service, to and including the meter through which the flow in the house service is measured.

Low pressure gas line. Any gas line transmitting gas at a pressure of 0.25 pounds per square inch or less.

Meter. Meter is a registration device connected directly to a water or gas service line directly registering the amount of water or gas passing through it.

Remote register. A registration device attached to a meter replicating the reading on that meter.

Residential heating applicant. An applicant whose primary use of gas is as fuel for heating of a residence or residential building.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Service. A pipe for conveying an individual supply of water or gas of a premises from the common supply in the main to and including the meter registering the flow of water or gas to the service.

Standard volume gas service. Any gas service capable of using not more than 300,000 BTU's per hour.

Standard volume water service. Any water service which is capable of providing up to 30 gallons of water per minute at water pressure levels which are normal at the location of such service.

Street. A street, avenue, alley or other regularly established and existing public highway or public right of way.

Street service. That portion of a gas or water service which extends from its connection with the main to and including the curb cock, which controls the flow through the street service.

Section 2. That a new Section 48-157 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 48-157. Transportation services.

The department is authorized to provide by contract, firm or interruptible natural gas transportation services to high volume gas service users. The provisions of this Chapter shall not apply to such services except as provided for and incorporated in such a contract.

Section 3. That this ordinance shall be in force and take effect 30 days from and after its passage and publication. (Effective date: July 16, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Talarico and President Keenan -- 6

Nays: None -- 0

Absent: Councilors Bohlmann, Prettnner and Wheeler -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 8, 1995
Approved June 8, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, June 22, 1995, 5:15 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Prettner, Wheeler and President Keenan -- 6

Absent: Councilors Dahlberg, Hardesty and Talarico -- 3

- - -

REPORTS OF OFFICERS

95-0622-01 Engineering division submitting five year street improvement plan - 1996 through 2000. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 95-0577, awarding contract to Levine and Sons, Inc., for street improvement/ Endion neighborhood in accordance with specifications on its low specification bid of \$1,178,613.95; Resolution 95-0578, awarding contract to Letourneau and Sons, Inc., for street improvement/Denfeld neighborhood in accordance with specifications on its low specification bid of \$449,901.50, and Resolution 95-0579, awarding contract to Nels Nelson, Inc., for street improvement/ Bristol Street and Colallilo Drive in accordance with specifications on its low specification bid of \$261,706.72, by Councilor Downs, were introduced for discussion.

In response to Councilor Downs, Richard Larson, public works director, said he estimates that residents will be paying approximately 20 percent of the project cost.

Councilor Downs noted that citizens on fixed incomes have expressed great concern about the assessments, and that many fear they will lose their homes.

Councilor Bohlmann questioned whether the assessments will be fixed costs or if they will increase in the future. She felt it should be guaranteed to homeowners that costs will not exceed a certain amount.

President Keenan responded that a flat rate cannot be guaranteed too far into the future because costs will increase.

Councilor Prettner questioned how these costs compare with what was earlier projected to the homeowner. She felt accurate estimates should be given to homeowners, and said she would like to increase the efficiency of projecting how much homeowners will be assessed so they can plan for that amount.

Mr. Larson responded that these particular contracts came in under the engineer's estimate. He said the process is that all homeowners will pay the same assessment amount per linear foot, so exact costs cannot be determined yet since all the contracts are not in.

Councilor Wheeler expressed frustration with the process, and said he hopes a formula can be developed to accurately determine what the costs will be to homeowners for the street improvement program.

Councilor Bohlmann said it bothers her that the costs are the same for all homeowners, because she does not feel it is fair that lower income homeowners should subsidize higher costs for streets for more expensive homes.

In response to Councilor Atkins, Assistant City Attorney Schindler said the council accepted the administration's recommendation that the street improvements be assessed on an average cost basis, so that if the council wanted the actual costs assessed rather than averaged out to all citizens, then the council would need to ask the administration to change that policy.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Mr. Larson explained that averaging the costs could be beneficial to lower income households because of the uncertainties in the bidding process and the possibility of higher bids in lower income neighborhoods.

President Keenan agreed that averaging the costs guarantees a relatively affordable price.

Councilor Bohlmann noted that she will support the resolutions even though she thinks there are too many unanswered questions.

Resolutions 95-0577, 95-0578 and 95-0579 were adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Levine and Sons, Inc., be and hereby is awarded a contract for construction of the street improvement of Endion neighborhood for the engineering division in accordance with specifications on its low specification bid of \$1,178,613.95, terms net 30, FOB job site, payable out of 95 SIP Fund 440, Dept./Agency 038, Organization 9504, Object 5530.

Resolution 95-0577 was unanimously adopted.

Approved June 22, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Letourneau and Son, Inc., be and hereby is awarded a contract for construction of the street improvement of Denfeld neighborhood for the engineering division in accordance with specifications on its low specification bid of \$449,901.50, terms net 30, FOB job site, payable out of 95 SIP Fund 440, Dept./Agency 038, Organization 9503, Object 5530.

Resolution 95-0578 was unanimously adopted.

Approved June 22, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Nels Nelson, Inc., be and hereby is awarded a contract for construction of the street improvement of Bristol Street and Colallilo Drive for the engineering division in accordance with specifications on its low specification bid of \$261,706.72, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2154, Object 5530.

Resolution 95-0579 was unanimously adopted.

Approved June 22, 1995

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:50 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 26, 1995, 7:50 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Wheeler and President Keenan -- 7

Absent: Councilors Hardesty and Talarico -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0626-01 George and Jane Hovland petitioning as follows:

(a) Construction of a six inch ductile iron watermain in East Skyline Boulevard from Boulevard Terrace Addition southerly 130 feet and easterly 475 feet; and a two inch P.E.H.P. gas main in East Skyline Boulevard Alley from 14th Avenue East to 570 feet westerly;

(b) Construct a sanitary sewer in easements south of Skyline Parkway, 13th to 14th Avenues East to serve Lots 1 through 6 in Boulevard Terrace First Addition; and construct a permanent alley in Skyline Parkway Alley from 13th to 14th Avenues East;

(c) Vacate 30 foot road easement along Skyline Drive adjacent to Lots 1-5 of Boulevard Terrace, First Addition. -- Assessor

95-0626-02 Charles Rouse, et al. (three signatures) petitioning for construction of a sanitary sewer in Marble Street from vacated Robin Avenue to 200 feet westerly. -- Assessor

95-0626-03 Minnesota state auditor submitting audit report on the Duluth airport authority for the year ended December 31, 1994. -- Received

95-0626-20 Duluth Paper & Specialties Company submitting letter opposing the proposed closure of 59th Avenue West (95-0610R). -- Received

95-0626-04 Miller-Dwan Medical Center submitting acceptance of terms and conditions of concurrent use permit issued by Ordinance No. 9246. -- Received

95-0626-05 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served by the Denfeld High School Class of 1970 on July 22, 1995. -- Received

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REPORTS OF OFFICERS

95-0626-06 City assessor submitting:

(a) Letters of sufficiency regarding petitions as follows:

(1) Construction of a sanitary sewer in Marble Street from vacated Robin Avenue to 200 feet westerly;

(2) Vacation of utility easement in alley lying easterly of 28th Avenue West and abutting Lot 442, Block 46, Duluth Proper, Second Division;

(b) Affidavit of mailing of notice of intent to levy to defray in full the expense of solid waste collection during the period March 1, 1994 through June 1, 1995, for which the licensed collector has not been reimbursed. -- Received

(c) Letter for confirmation of assessment roll levied to defray the assessable portion of watermain in Yosemite Avenue from existing main 114 feet south of south line of Walnut Street to 345 feet southerly (Contract No. 1194031). -- Clerk

95-0626-07 Community development and housing division submitting HRA housing rehabilitation report. -- Received

95-0626-08 Engineering division submitting June 1995 project status report. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

95-0626-18 Finance director submitting 1994 comprehensive annual financial report. -- Received

95-0626-09 Parks and recreation department submitting permits pursuant to Section 2-31 of the Duluth City Code as follows:

(a) Ordean Plaza, use of, by Lowell Roberts and Carol Sazama;

(b) Park Point Recreation Area, nonexclusive use of a portion of the southwest corner (bay side), for the purpose of allowing the operation of a radio wave, remote controlled model boat concession with Joel Clarke, Brady Hendricks and Gregory Nelson. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

95-0626-10 Board of directors of trust for Miller-Dwan Hospital and Medical Center minutes of: (a) April 20, 1995; (b) May 18, 1995 meetings. -- Received

95-0626-11 Building appeal board minutes of May 10, 1995, meeting. -- Received

95-0626-12 Duluth housing trust fund board minutes of May 11, 1995, meeting. -- Received

95-0626-13 Duluth transit authority submitting: (a) Minutes of May 31, 1995, meeting; (b) Income statement for April 1995. -- Received

95-0626-14 Neighborhood advisory council minutes of March 22, 1995, meeting. -- Received

95-0626-15 Seaway Port authority of Duluth minutes of April 27, 1995, meeting. -- Received

95-0626-16 Special assessment board minutes of June 8, 1995, meeting. -- Received

95-0626-17 Spirit Mountain recreation area authority minutes of April 24, 1995, meeting. -- Received

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REPORTS OF COUNCILORS

95-0626-19 Councilor Prettner submitting NLC-CED spring 1995 meeting summary. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Ken Hogg felt that the upcoming public hearing on the street improvement program should be held at 8:00 p.m. rather than 5:00 p.m. as scheduled.

Councilor Prettner felt 5:00 p.m. is a more convenient time for citizens to appear, and said that PACT would be asked to televise the hearing.

Councilor Bohlmann said she is told by citizens that 5:00 p.m. is a very inconvenient time to hold a public hearing. She felt the hearing was set at 5:00 p.m. purposely to avoid as many people appearing to speak as possible.

President Keenan replied that he did not choose the 5:00 p.m. time for that purpose, and said that he also believes 5:00 p.m. is a more convenient time for the public to appear.

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Nicole Hales feels the Northern Community Land Trust does not have a good housing program for low income people. She reviewed her ongoing dispute with the land trust, and requested that the council ask for a full accounting of all land trust properties before any funds are awarded to that organization.

Patty Martin felt the Northern Communities Land Trust does not work with the Central Hillside community, and requested that the council not award the land trust any more funds until that issue is resolved.

Marcia Hales also requested that Northern Communities Land Trust not receive any more housing funds until they provide a financial accounting of their expenditures.

President Keenan and Councilor Atkins requested that the administration review details of the funds awarded to the land trust.

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MOTIONS AND RESOLUTIONS

Resolution 95-0569, by Councilor Wheeler, authorizing the city to contribute \$10,000 to the St. Louis and Lake counties regional railroad authority, was introduced for discussion.

Councilor Bohlmann stated concern about the city's liability exposure with regard to the railroad tracks used by the railroad authority.

President Keenan clarified that this amount will pay the fee for the North Shore Scenic Railroad to operate its excursion train on the authority's tracks.

Councilor Atkins questioned giving tourism dollars to for-profit organizations.

Administrative Assistant Nollenberger recommended this resolution, which contributes \$10,000 from tourism money to the regional railroad authority so that they can renegotiate their contract with the North Shore Scenic Railroad, which is having financial difficulty at this time. He said the scenic railroad is a very positive element in the Duluth area and north shore and a piece of the attractions that bring tourists to this area.

Councilor Atkins noted other organizations that are tourist related but have not been subsidized by the city. He said he would like to table the resolution until the scenic railroad determines a financial plan to stay in operation.

Councilor Wheeler moved to call the question, which motion was seconded and failed upon the following vote:

Yeas: Councilors Downs, Prettnner and Wheeler -- 3

Nays: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Absent: Councilors Hardesty and Talarico -- 2

Councilor Bohlmann felt this would set an unwanted precedent and that legal questions need to be answered. She added that she understands there may be more freight trains operating on these tracks in the future, and said she does not feel this should be a taxpayer expense.

Councilor Atkins moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg and President Keenan -- 4

Nays: Councilors Downs, Prettnner and Wheeler -- 3

Absent: Councilors Hardesty and Talarico -- 2

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute a supplemental agreement with Local 66 of A.F.S.C.M.E., represented by Minnesota Arrowhead District Council 96, which agreement amends the city's labor agreement with the basic unit of city employees, and which supplemental agreement is on file in the office of the city clerk as Public Document No. 95-0626-22.

Resolution 95-0574 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Sellers Auction Company be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

furnishing auctioneering services for the finance department in accordance with their proposal of eight percent of gross sales receipts, terms net 10.

BE IT FURTHER RESOLVED, that proper city officials be authorized to the disposal of surplus city properties such as tires, vehicle and miscellaneous items stored at various sites around the city. The estimated value of the items are over \$10,000.

Resolution 95-0598 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 1995, subject to departmental approvals, and the payment of sales and property taxes:

O'Gilby's, Inc. (O'Gilby's Bar), 511 East Fourth Street, transferred from Boomer's Bar of Duluth, Inc. (Boomer's Bar), same address, with Curtis Oberg, 50% stockholder, and Mark E. Gilbertson, 50% stockholder.

Resolution 95-0604 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license, for the period ending August 31, 1995, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

John Goldfine, 105 Holiday Center, transferred from London Road Liquor Store, Inc., 1930-32 London Road.

Resolution 95-0605 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following bottle club license renewals for the 1995-1996 license period, subject to departmental approvals and the payment of sales and property taxes:

American Legion Post #71, 5814 Grand Avenue;

Order of Owls, Nest #1200, 118 East First Street.

Resolution 95-0607 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. East End Hockey Club	Stadium Lanes	May 31, 1995
2. Moose Lodge #505	114 East First Street	April 19, 1995 - one day off site
3. Duluth Junior Football	Midway Bar	June 6, 1995
4. Duluth Junior Football	Charlies Club	June 6, 1995

Resolution 95-0611 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for premise permit; and

WHEREAS, copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council previously approved of the following license on March 27, 1995, in Resolution 95-0258; and

WHEREAS, the gambling control board has stated that the city approval must be within the 60 days of the premise permit application (August 1, 1995); and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council reaffirms it's approval of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Owls Club 1200	118 East Second Street	March 2, 1995

Resolution 95-0614 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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Resolution 95-0559, by Councilor Bohlmann, confirming appointments of Vernon Amundson and Riki McManus to Duluth state convention center administrative board replacing Charles Andresen and Kurt Soderberg, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0560, by Councilor Bohlmann, confirming appointment of George Gerogeorge to sanitary sewer board of Western Lake Superior Sanitary District replacing Gary Glass, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of gas dispatch operator I, which were approved by the civil service board on March 7, 1995, and which are filed with the city clerk as Public Document No. 95-0626-23, are approved. This classification remains represented by the basic unit and compensated at Range 26, \$2,098 to \$2,478 per month (1994 rates).

Resolution 95-0564 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of maintenance worker, which were approved by the civil service board on June 6, 1995, and which are filed with the city clerk as Public Document No. 95-0626-24, are approved.

Resolution 95-0572 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of collection system maintenance worker, which were approved by the civil service board on June 6, 1995, and which are filed with the city clerk as Public Document No. 95-0626-25, are approved.

Resolution 95-0573 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-0626-26, with American Engineering Testing, Inc., for geotechnical services related to the storm sewer relocation of the Bayfront Project in the amount of \$1,623, payable from the special assessments fund.

Resolution 95-0263 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettnner, Wheeler and President Keenan -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hardesty and Talarico -- 2

Approved June 26, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0570, authorizing an amended agreement with Kennedy and Graven, Chartered, formerly known as Holmes and Graven, Chartered, for bond counsel services related to the Northwest Airlines (NWA) project in the amount of \$10,000; and Resolution 95-0593, authorizing a second amendment to contract No. 17124 with Maki & Overom, Chartered, for legal services related to the NWA project in the amount of \$39,500, by Councilor Prettner, were introduced for discussion.

Councilor Bohlmann noted that she will not support these resolutions because she does not agree with paying the additional attorney fees.

Resolutions 95-0570 and 95-0593 were adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a third amendment to legal services agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0626-27, with the firm of Kennedy and Graven, Chartered, formerly known as Holmes and Graven, for bond counsel services related to the NWA Airbus Maintenance Facility Project in the amount of not to exceed \$10,000, payable from Fund 420, Airbus construction, Agency 020, Org. 4260.

Resolution 95-0570 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Wheeler and President Keenan -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hardesty and Talarico -- 2

Approved June 26, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment to city of Duluth Contract No. 17124, a copy of which is on file in the office of the city clerk as Public Document No. 95-0626-33, with Maki & Overom, Chartered, for legal services related to the Northwest Airlines Project in the amount of not to exceed \$39,500, payable from Fund 420, Airbus construction, Agency 020, Org. 4260.

Resolution 95-0593 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Wheeler and President Keenan -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hardesty and Talarico -- 2

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, that the proper city officials are hereby authorized to enter into an CHDO operating grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0626-28, with Life House, Inc., in the amount of not to exceed \$8,000, payable from Fund 260, Agency 020, Organization 2632, Object H009.

Resolution 95-0581 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the board of county commissioners of St. Louis County is hereby

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

requested to reclassify from conservation to nonconservation and to offer for sale the following tax-forfeited parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95034	Gary DeBolt	Lots 10, 11, 12, 13, 14 15, 16, Blk. 8, Duluth Heights 5th Div. (10-880-2230, 2280, 2290)	southwest corner of Palm Street & Ebony Avenue (Duluth Heights)
95039	Richard Sather	Lots 9 & 58 except the easterly 50' and the easterly 50' of lots 8 & 59, Lakewood Div. (10-2805-80, 90, 585, 590)	north side of Congdon Blvd. about 78th Ave. E. (North Shore)
95040	Jon Keppers	Lot 6, Blk. 5, Bryants 3rd Div. (10-350-530 partial)	south side of Vernon St. west of Anson Ave. (West End)
95069	Blake Prince	Lots 11, 12, & 13, Blk 11 Gary First Div. (10-1800-1710, 1720)	east side of 97th Ave. W. between Reis St. & Dickson St. (Gary New Duluth)
95072	St. Louis Co.	Lots 6-10, Blk. 9, Home Acres First Div. (10-2230-3880,3890, 3900, 3910, 3920)	east side of Cedar St. between Ideal & Page Streets (Duluth Heights)
95073	St. Louis Co.	Lot 25, Blk. 10, Hunters Grassy Pt. (10-2320-1460)	east side of 63rd Ave. W. between Redruth & Sherburne Streets (Irving)
<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95075	Jim Krysiak	W'ly 60' Lot 7, Blk. 1, Central Baptist Div. (10-405-70)	north side of Peace Drive between Decker Rd. & Providence (Piedmont Hts.)
95076	Dan Seguin	S'ly 129.6' of N'ly 389.8' of the E'ly 66' of Outlot D, Auditors Bayview Heights Tract	west side of Ralph Alley between Cardigan & King (Bayview Heights)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

95077	Greg Francisco	Lots 12-13, Rearrange- ment of Part of Outlot K, Morgan Park (10-3304-110)	upper side of Falcon St. between 84th & 86th Ave. West (Morgan Park)
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Resolution 95-0582 was unanimously adopted.
Approved June 26, 1995
GARY L. DOTY, Mayor

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Resolution 95-0583, by Councilor Prettner, authorizing agreement with Walker Parking Consultants/Engineers, Inc., for design services related to the bingo ramp in the amount of \$50,000, was introduced for discussion.

Councilor Atkins noted that the parking ramp is financially self-sufficient, but said he would still prefer that the parking ramp is metered.

Resolution 95-0583 was adopted as follows:

BY COUNCILOR PRETTNER:

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. 95-0626-29 with Walker Parking Consultants/ Engineers, Inc., for design services related to the bingo ramp in the amount of not to exceed \$50,000, payable from Fund 502 East Superior Street ramp.

Resolution 95-0583 was unanimously adopted.
Approved June 26, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, pursuant to the World Development Act, local "governing units" are required to issue a sponsoring resolution on behalf of a business requesting a state challenge grant loan through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Plating Specialties, Inc.; and

WHEREAS, this is consistent with the purpose of this "governing unit" to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of Plating Specialties, Inc., in the amount of \$50,000.

Resolution 95-0584 was unanimously adopted.
Approved June 26, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of a utility easement legally described as:

That part of the ten foot wide utility easement in Block 4, Plat of Brookline, which lies between two lines parallel to the southeast line of Lot 15, Block 4, Plat of Brookline, and distant 5.0 feet and 1.52 feet northwesterly therefrom, and between two lines parallel to the prolongation of the line between Lots 17 and 18, Block 4, Plat of Brookline, and distant 15.0 feet and 25.0 feet southwesterly therefrom; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its June 13, 1995, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth vacates that portion of the utility easement described above, and as more particularly described on Public Document No. 95-0626-21.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing that portion of the easement to be vacated.

Resolution 95-0585 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city council has previously granted and amended a special use permit for the construction and operation of a medical clinic at 2900 Piedmont Avenue; and

WHEREAS, Skyline Family Medical Center has submitted to the city council a request for an amendment and renewal of a special use permit for a medical clinic in a residential zone on property described as Lot 14, the southerly 1/2 of Lot 15 and all of Lots 16 and 17, Block 1, Grant Park Division and located at 2900 Piedmont Avenue and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit is hereby renewed and amended to and for Skyline Medical Center to allow for the expansion and operation of a medical clinic at 2900 Piedmont Avenue, on the condition that the improvements to the property be limited to constructed and maintained in accordance with the plans entitled "Skyline Family Medical Center" Sheets A-1 through A-3 and site plan submitted by LHB Engineers and Architects dated 05-05-95 as identified as Public Document No. 95-0626-30.

Resolution 95-0586 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, Builders Commonwealth has submitted to the city council a request for a special use permit for a governmental use on property described as blocks 41 and 42 Ironton Second Division and located in the former Riverside School building at 9001 Grand Avenue Place; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Builders Commonwealth to allow for the lease, occupation and use of the former Riverside School by a government agency in accordance with Section 50-35(j), of the City Code, subject to the following conditions:

(a) That the term of the permit shall be limited to the length of the lease or ten years, whichever is shorter;

(b) That improvements to the property shall be limited to, constructed and maintained in accordance with the plans submitted by Commonwealth Design entitled "Riverside School, conversion to office," dated April 27, 1995, amended through May 26, 1995, and that signage be limited to the "Sign Plan," Sheet "R-9" as submitted by the Superior National Forest, dated 1-7-92 as identified as Public Document No. 95-0626-31.

Resolution 95-0587 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, Warren and Sue Monson have submitted to the city council a request to amend Condition D. of special use permit Resolution No. 87-0982 which provides for a bed and breakfast inn on property located at 3600 London Road; and said amendment application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the city council granted Resolution No. 83-0054 on February 7, 1983, and granted amendments by Resolution No. 84-0020 on January 16, 1984, and Resolution No. 84-0834 on December 16, 1984, and amended and renewed a special use permit by Resolution No. 87-0982 on December 21, 1987, which provided for the conditional special use of the property as a seasonal commercial use as a bed and breakfast inn; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that Condition D. of special use permit Resolution No. 87-0982 is hereby amended to read as follows:

D. Signage shall be limited to, constructed and maintained as per the sign plan submitted by Todd Signs dated 5-22-95 and identified as Public Document No. 95-0626-32.

BE IT FURTHER RESOLVED, that all other terms and conditions of Resolution No. 87-0982 shall remain unchanged.

Resolution 95-0588 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

BE IT RESOLVED, by the city council of the city of Duluth, that the proper city officers are hereby authorized to enter into an agreement with the Minnesota historical society in order to receive a matching grant totaling \$3,800 for survey work related to the nomination of Skyline Boulevard to the National Register of Historic Places, said sum to be deposited into Fund 100-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

015-2020-4230-MS18 (heritage preservation commission), said agreement to be in the form of the certain document on file in the office of the city clerk and recorded as Public Document No. 95-0626-34. The city's match for this grant shall be payable from Fund 100-020-1202-5319.

Resolution 95-0596 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the Duluth heritage preservation commission is hereby authorized to undertake fundraising efforts consisting of selling books, buttons and collecting fees in the amount of \$50 per space from participating vendors, proceeds of which shall be deposited in Fund 100-15-2020-4644-MS18.

BE IT FURTHER RESOLVED, that the city auditor is hereby authorized to pay charges which will be incurred by the Duluth heritage preservation commission in connection with the Fourth Annual Heritage Preservation Fair to be held July 26, 1995, at Glensheen, up to the amount in said account.

Resolution 95-0597 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Monte Ollenburger, director of administrative services, is hereby designated as the responsible authority for data practices as defined by Section 13.02, Subdiv. 16, of Minnesota Statutes 1994, for the purpose of implementing Chapter 13 of Minnesota Statutes 1994.

BE IT FURTHER RESOLVED, that the resolution adopted September 23, 1974, which named the director of finance and records as responsible authority is hereby rescinded.

Resolution 95-0538 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the following individuals to provide summer workshops at the library: Heidi Bohlmann, James Olm, Dominic P. Papatola, Nancy Fitzgerald and Joe Kelly in an amount not to exceed \$1,200, payable out of General Fund 100, Dept./Agency 300, Organization 2120, Object 5319.

Resolution 95-0540 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettnner, Wheeler and President Keenan -- 6

Nays: None -- 0

Abstention: Councilor Bohlmann -- 1

Absent: Councilors Hardesty and Talarico -- 2

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Cool Air Mechanical, Inc., be and hereby is awarded a contract for modification to the Duluth Entertainment Convention Center (DECC) ice rink equipment in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

accordance with specifications on its low specification bid of \$90,060, terms net 30, FOB job site, payable out of DECC Improvements Fund 470, Dept./Agency 030, Object 5520.

Resolution 95-0556 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Thomas & Vecchi Associates, for the sum of not to exceed \$20,000, from Capital Fund 450, Obj. C420, for providing certain architectural services to the city of Duluth in connection with Enger & Lester Park golf clubhouse replacements (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0626-35.

Resolution 95-0558 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the city of Duluth hereby agrees to indemnify N.C. Companies, in consideration for N.C. Companies granting the city of Duluth and its agents the right to occupy and utilize real and personal property in preparation for the fireworks display scheduled for July 4, 1995.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute a hold harmless agreement in favor of N.C. Companies, in consideration of grant of permission.

Resolution 95-0580 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Resolution 94-1048, which set the 1995 golf course rates for the Enger Park and Lester Park golf courses, be amended to add the following paragraph to page 3 of the resolution:

Green fees shall be waived for members of the LPGA, PGA and members of the Minnesota Golf Course Superintendents Association upon showing of appropriate valid membership cards to these organizations.

Resolution 95-0591 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with Georganne Hunter and Klaus Jankofsky to provide programs for The Many Realms of King Arthur travelling exhibit at the library in an amount not to exceed \$400, payable from Library Special Gifts Fund 740.

Resolution 95-0592 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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Resolution 95-0617, by President Keenan, authorizing a consultant agreement with David Braslau Associates, Inc., for providing certain acoustical engineering services to the city of Duluth in connection with the noise attenuation of the Duluth harbor entry lighthouse foghorn, in an amount not to exceed \$4,500, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

John Ringsred briefly outlined the history of the return of the foghorn, stating that extensive hearings were held and there was strong support for return of the foghorn. He noted that an effective baffle would have to be very large, and stated concern about how that would affect the foghorn building, which is on historical record. He pointed out that the foghorn is a safety device, and is the only one of its type being operated in the United States. Regarding the proposed agreement, he felt that citizen complaints regarding noise could be evaluated and the noise level could be tested, but he didn't feel that other elements of the agreement are worthwhile.

In response to Councilor Atkins, Mr. Nollenberger said the administration had hoped that baffles would be in place and the foghorn would be back in operation on July 1.

Councilors Atkins and Wheeler strongly urged that the foghorn be operating again by July 1, suggesting the use of temporary baffles if necessary.

Councilor Bohlmann said she supports the return of the foghorn and did not feel the mayor should have ordered that the foghorn be turned off.

Resolution 95-0617 failed upon a unanimous vote (Public Document No. 95-0626-36).

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept \$170,538 in funds from the Minnesota department of economic security to operate the Minnesota Youth Program for the period July 1, 1995, through June 30, 1996. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 95-0626-37.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited to Fund #268, Budget Item 6246.

Resolution 95-0542 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the federal bureau of prisons, which is filed with the city clerk as Public Document No. 95-0626-38, for the furnishing of fire protection by the Duluth fire department for the Duluth Federal Prison Camp.

RESOLVED FURTHER, that all payments made to the city under this agreement shall be credited to the general fund.

Resolution 95-0562 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to amend City Contract #17068 with Lutheran Social Services/Bethany Crisis Shelter by extending the contract end date to July

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

31, 1995, to allow for the transfer to funds between line items. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0626-39.

FURTHER RESOLVED, that costs incurred under this modification shall continue to be payable out of Fund #275, Budget Item 6003.

Resolution 95-0563 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, \$94,427 from the Minnesota department of economic security to operate the Title V Senior Community Service Employment Program from July 1, 1995, through June 30, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0626-40.

FURTHER RESOLVED, that amounts received will be deposited in Fund #271, Budget Item #6320.

Resolution 95-0566 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, that proper city officials are hereby authorized to enter into an agreement with the St. Louis County Board of Commissioners to provide public assistance eligibility specialist services for an amount not to exceed \$11,909.08. Services will be provided by one full-time equivalent, fully trained, and qualified eligibility specialist to the city's job training programs division. Contract will run from October 1, 1994, through June 30, 1995. A copy of this modification shall be on file in the city clerk's office as Public Document No. 95-0626-41.

FURTHER RESOLVED, that costs incurred shall be payable from Fund #269, Budget Item #6269 (\$9,909.08) and Fund #268, Budget Item #6229 (\$2,000).

Resolution 95-0594 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the United States Navy has for a number of years engaged in a Great Lakes cruise with a Twin Ports visit being a part of this annual activity; and

WHEREAS, these visits to the city have been a real asset to the tourism industry and have helped the city focus interest of its waterfront activities and have been a very popular and well patronized event by both citizens and visitors to our area; and

WHEREAS, the visit to the Twin Ports of the U.S.S. Samuel Elliot Morrison FFG13 scheduled for late July has been cancelled;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council expresses its support for the annual U.S. Navy Great Lakes cruise and for the Twin Ports visit as a part thereof.

BE IT FURTHER RESOLVED, that the Duluth City Council requests that the United States Navy reconsider its decision to cancel its Twin Ports visit as a part of the 1995 Great Lakes cruise, and the council further requests that local governmental agencies involved cooperate with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the United States Navy to assure that the annual Twin Ports visits continue as a part of the annual Great Lakes cruise.

Resolution 95-0619 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, the city of Duluth has a need for miscellaneous professional engineering services; and

WHEREAS, the city desires to hire several consulting engineers companies to provide the services required to repair or modify the steam plant and distribution system; and

WHEREAS, L.H.B. Engineers & Architects (\$2,000), Foster, Jacobs & Johnson (\$2,500) and Continental Engineering (\$500), has submitted a proposal for on call engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers & Architects (\$2,000), Foster, Jacobs & Johnson (\$2,500) and Continental Engineering (\$500), to provide the city with such on call engineering services as needed.

BE IT FURTHER RESOLVED, that the cost of said engineering services as needed, estimated at a total of \$5,000, will be payable from the Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5310.

Resolution 95-0600 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, it appears that it may be necessary to improve 13th Street from Central Entrance to First Avenue East (City Job No. 8916RS95).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0471 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with St. Louis County relating to the reconstruction of Boundary Avenue (CSAH No. 14) between Interstate 35 and Highway No. 2; said agreement to be substantially in the form of Public Document No. 95-0626-42 on file with the city clerk.

Resolution 95-0561 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0565, by Councilor Downs, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, was introduced for discussion.

Councilor Downs moved to table the resolution until after the upcoming public hearing, which motion was seconded and unanimously carried.

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BY COUNCILOR DOWNS:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Marble Street from vacated Robin Avenue to 200 feet westerly to serve: (1) Plat 900 Parcel 160; Lot 10 Ex W'ly 50 feet and all Lot 11, Blk 2, Duluth Heights Garden Tract, and (2) Plat 900 Parcel 180; Lot 12 and 13 including part of vacated avenue adjacent to Lot 13, Blk 2, Duluth Heights Garden Tract (City Job No. 8917SA95).

Resolution 95-0567 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for matching funds not to exceed ½ of the nonfederal share of construction costs for S.P. 118-080-12, Federal Project IX PAVE (005); and

WHEREAS, the project has been approved by the Arrowhead regional development council for funding with interstate substitution funds; and

WHEREAS, the amount of the grant has been determined to be \$42,058.72;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby affirm that any construction costs qualified for Minnesota state transportation funds in excess of the grant will be appropriated for construction costs but not required, based on the final audit shall be returned to the Minnesota state transportation fund.

BE IT FURTHER RESOLVED, that whereas federal monies are being used to participate in the cost of the project, grant monies as matching funds shall be transferred directly to the agency account and records of the city of Duluth shall so state.

Resolution 95-0568 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Knish Construction Company, Inc., be and hereby is awarded a contract for the 1995 city wide sidewalk repairs for the engineering division in accordance with specifications on its low specification bid of \$322,410, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5279, Object 5530.

Resolution 95-0571 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute Agreement No. 73627 (city clerk's Public Document No. 95-0626-43) with the Minnesota department of transportation providing for the payment of a lump sum of \$67,500 (or 50 percent, whichever is

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

smaller) to the city of Duluth for shared construction costs and related engineering to correct and stabilize erosion in Kingsbury Creek along Trunk Highway No. 2 west of Trunk Highway No. 35; said sum to be deposited in the P.I. fund.

Resolution 95-0575 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to execute a right of entry agreement with Zenith Terrace Associates relating to erosion control construction along Kingsbury Creek (City Job No. 8852MS94); said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-0626-44.

Resolution 95-0576 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire a consulting firm to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, American Engineering Testing, Inc., has submitted a proposal for field and laboratory testing services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with American Engineering Testing, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, estimated at \$48,000, will be payable from the various fund, dept./agency various, organization various, object various.

Resolution 95-0589 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the city of Duluth desires field and laboratory testing; and

WHEREAS, the city desires to hire a consulting firm to provide the services required for support of construction, operation and maintenance of city system; and

WHEREAS, Twin Ports Testing, Inc., has submitted a proposal for field and laboratory testing services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Twin Ports Testing, Inc., to provide the city with such field and laboratory testing services.

BE IT FURTHER RESOLVED, that the cost of said field and laboratory testing services, estimated at \$33,000, will be payable from the various fund, dept./agency various, organization various, object various.

Resolution 95-0590 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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BY COUNCILOR DOWNS:

RESOLVED, that Salo Engineering, Inc., be and hereby is awarded a contract for providing construction surveying, layout and inspection services of Rice Lake sanitary sewer project for the engineering division in accordance with their proposal of \$19,996.20, terms net, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5257, Object 5530.

Resolution 95-0595 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that South St. Paul Steel Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering a minimum of 108,200 pounds of steel counterweights for the public works department in accordance with specifications on its low specification bid of \$24,402.38, terms 2% 10 net 30, FOB Minnesota Slip Bridge, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5404.

Resolution 95-0599 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Seaway Engineering be and hereby is awarded a contract for providing construction engineering services for street improvement project to the engineering division in accordance with their proposal of \$161,930, terms net, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9501, Object 5303.

Resolution 95-0601 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that R.R.E.M., Inc., be and hereby is awarded a contract for providing construction engineering services for street improvement project to the engineering division in accordance with their proposal of \$59,860, terms net, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9505, Object 5303.

Resolution 95-0602 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that L.H.B. Engineers & Architects be and hereby is awarded a contract for providing construction engineering services for street improvement project for the engineering division in accordance with their proposal of \$54,156, terms net, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9503, Object 5303.

Resolution 95-0603 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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Resolution 95-0610, by Councilor Downs, closing approximately 200 feet of 59th Avenue West immediately north of Waseca Street, was introduced for discussion.

Councilor Downs moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that in accordance with the provisions of Section 33-99.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby rescinded:

- One stall in front of 25 East Goodhue Street;
- One stall in front of 417 Michigan Avenue;
- One stall in front of 1608 East Superior Street;
- One stall in front of 5202 Colorado Street;
- One stall in front of 1825 Greysolon Road;
- One stall in front of 1903 Kent Road;
- One stall in front of 1019 North Eighth Avenue East.

Resolution 95-0546 was unanimously adopted.

Approved June 26, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-036 - AN ORDINANCE AUTHORIZING THE ISSUANCE OF ON SALE WINE LICENSES TO BED AND BREAKFAST ESTABLISHMENTS; AMENDING SECTION 8-13, 8-44 AND 8-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR PRETTNER

95-031 - AN ORDINANCE AMENDING CITY ORDINANCE NO. 9174 PERTAINING TO SPECIAL SERVICE DISTRICT #1 AUTHORIZING AN ASSESSMENT AS A PERCENTAGE OF GROSS SALES OF ALL GOODS.

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BY COUNCILOR PRETTNER

95-032 - AN ORDINANCE DESIGNATING THE FORMER MINNESOTA POINT LIGHT AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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BY COUNCILOR PRETTNER

95-033 - AN ORDINANCE DESIGNATING THE DULUTH CIVIC CENTER AS A DULUTH HERITAGE PRESERVATION DISTRICT.

- - -

BY COUNCILOR PRETTNER

95-034 - AN ORDINANCE DESIGNATING THE FORMER SACRED HEART CATHEDRAL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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BY COUNCILOR PRETTNER

95-035 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LAND IN THE FREMONT POINT AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

The meeting was adjourned at 10:45 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Wednesday, July 5, 1995, 4:45 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Dahlberg -- 1

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 1995, subject to departmental approvals, and the payment of sales and property taxes:

Duluth Airport Authority (Afterburner), 4701 Airport Drive, transferred from Consolidated Realty Corporation (Airport Food & Beverage), same address, with John Grinden, executive director.

Resolution 95-0634 was unanimously adopted.

Approved July 5, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0624, awarding contract to Nels Nelson and Sons, Inc., for construction of 1995 SIP in the Duluth Heights area in accordance with specifications on its low specification bid of \$863,671.95, and Resolution 95-0625, awarding contract to Northland Constructors of Duluth, Inc., for construction of 1995 SIP in the Lester Park area in accordance with specifications on its low specification bid of \$1,230,142.15, by Councilor Talarico, were introduced for discussion.

Councilor Bohlmann said she will not support these resolutions because she does not agree with the average cost assessment policy, and that she feels there has not been adequate explanation of that concept.

In response to Councilor Wheeler, Ken Larson, city engineer, said construction will begin on these projects about a week after council approval, and should be completed this construction season.

In response to Councilor Downs, Mr. Larson said he believes the cost to homeowners will be between \$24 and \$29 per linear foot.

Resolutions 95-0624 and 95-0625 were adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of the 1995 street improvement plan in the Duluth Heights area for the engineering division in accordance with specifications on its low specification bid of \$863,671.95, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9505, Object 5530.

Resolution 95-0624 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved July 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of the 1995 street improvement plan in the Lester Park area for the engineering division in accordance with specifications on its low specification bid of \$1,230,142.15, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9501, Object 5530.

Resolution 95-0625 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

Approved July 5, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Bernick's Pepsi-Cola of Duluth, Minnesota, Inc., relating to the construction of an addition to the existing structure at 4301 West Michigan Street over an in-place 54-inch storm sewer line; said agreement to be substantially in the form of that certain document on file with the city clerk as Public Document No. 95-0705-01.

Resolution 95-0628 was unanimously adopted.

Approved July 5, 1995
GARY L. DOTY, Mayor

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The meeting was adjourned at 5:10 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 10, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Dahlberg -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0710-01 Thomas and Susan Marinac petitioning for construction of one inch PEHP gas main on the east side of 14th Avenue East from East Eighth Street to 150 feet southerly. -- Assessor

95-0710-12 Kevin Owens, et al. (eight signatures) petitioning for reclassification from C-2 and R-1-c to R-3 properties at 1919 and 1921 Minnesota Avenue. -- Assessor

95-0710-02 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Linda Pugliese for September 20, 1995. -- Received

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REPORTS OF OFFICERS

95-0710-03 Assessor submitting letters of:

(a) Affidavit of mailing of notice of informational meeting on July 19, 1995, at 7:00 p.m. and city council committee meeting on July 24, 1995, at 5:00 p.m. regarding the ordering of the proposed 1996 street improvement program (Upper Woodland West, Lower Lester Park, Lower Hunters Park, Lochaire/Parkville). -- Clerk

(b) Sufficiency regarding petitions for:

(1) Construction of a sanitary sewer in easements in Skyline Parkway from 13th to 14th Avenues East to serve Lots 1 through 6 in Boulevard Terrace, First Addition and construct a permanent alley in Skyline Parkway Alley from 13th to 14th Avenues East;

(2) Vacation of 30 foot road easement along Skyline Drive adjacent to Lots 1-5 of Boulevard Terrace, First Addition, and restore the Skyline right-of-way line to its original position, assuming that the property lines of the lots would extend to the new/original line. -- Received

95-0710-13 Purchasing agent submitting emergency purchase order awarded to L.H.B. Engineers and Architects for design of retaining wall along Congdon Boulevard. -- Received

95-0710-04 Treasurer submitting notification of contributions from Fraternal Building Association, dba Owl's Club, and Hermantown Amateur Hockey Association for Duluth school crossing guards. -- Received

95-0710-05 Water and gas office engineer submitting:

(a) Letter of sufficiency for petition for construction of a six inch ductile water main in East Skyline Boulevard from Boulevard Terrace Addition southerly 130 feet and easterly 475 feet and construction of a two inch PEHP gas main in East Skyline Boulevard Alley from 14th Ave. East to 570 feet westerly;

(b) Letter of sufficiency for petition for construction of a one inch PEHP gas main on the east side of 14th Avenue East from East Eighth Street to 150 feet southerly. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0710-06 Board of zoning appeals minutes of May 23, 1995 meeting. -- Received

95-0710-07 Building appeal board minutes of June 14, 1995 meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- 95-0710-08 Civil service board minutes of May 2, 1995 meeting. -- Received
95-0710-09 Duluth airport authority: (a) Minutes of May 16, 1995 meeting; (b) Unaudited balance sheets for: (1) April 30; (2) May 31, 1995. -- Received
95-0710-10 Duluth SRO housing commission minutes of May 10, 1995 meeting. -- Received
95-0710-11 Seaway Port authority of Duluth submitting annual disclosure report as of March 31, 1995, for the Rices Point Tax Increment Financing District and the Airpark Tax Increment Financing District. -- Received

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At this time, 8:00 p.m., President Keenan called the public hearing regarding Ordinance 95-036, authorizing the issuance of on sale wine licenses to bed and breakfast establishments; amending Sections 8-13, 8-44 and 8-56 of the Duluth City Code, 1959, as amended, to order (Public Document No. 95-0710-27) .

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At this time, 8:20 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price spoke with regard to the barrels in Lake Superior and a recent announcement that barrels would be checked on site for radioactivity and offered the following concerns: (a) testing only does not comply with Councilor Atkins' resolution; (b) only three barrel dumping sites of seven are known; (c) if there was a conspiracy to dump dangerous elements in Lake Superior, it is logical the worst contents would be dumped in the deepest, most inaccessible location; (d) if this testing plan goes unchallenged, it may be the last opportunity to address this issue; (e) all areas that surround Lake Superior should have input into this matter; (f) the Duluth News-Tribune agreed that only ten percent of the barrels should be tested without the knowledge that only three of the seven sites are available to be tested; (g) it is believed by some that the proposed testing is for the media and is intended to put the issue to rest; and (h) this proposed final action is not in keeping with the Save Lake Superior Association's resolution.

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Davy Jones criticized the appointment process for boards, namely the Western Lake Superior Sanitary District, whose decisions will result in higher costs to local residents.

Gary Glass, former board member of the Western Lake Superior Sanitary District, noted a number of issues the administration of the WLSSD has brought to the board for resolution and encouraged the city council to keep in close contact with the Duluth representatives to ensure that the needs of Duluth are adequately represented. He advised the council of some problems that exist because of the makeup of board membership by representatives of other communities who utilize the WLSSD system.

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RESOLUTION TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0559, confirming appointments of Vernon Amundson and Riki McManus to Duluth state convention center administrative board replacing Charles Andresen and Kurt Soderberg; and Resolution 95-0560, confirming appointment of George Gerogeorge to sanitary sewer board of Western Lake Superior Sanitary District replacing Gary Glass, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolutions 95-0559 and 95-0560 were adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Vernon L. Amundson for a term expiring June 30, 1998, replacing Charles Andresen.

Riki McManus for a term expiring June 30, 1998, replacing Kurt Soderberg.

Resolution 95-0559 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

George J. GeroGeorge for a term expiring July 1, 1998, replacing Gary Glass.

Resolution 95-0560 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between city of Duluth and International Association of Firefighters, Local 101; said agreement to be in substantially the same form and contain the same terms and conditions as Public Document No. 95-0710-14, on file with the city clerk.

Resolution 95-0621 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city has permitted certain vendors to set up carts on city property in the Canal Park area during the summer months in exchange for payment to the city of ten percent of their revenues; and

WHEREAS, these vendors provide competition for the Canal Park merchants during the most important months of the business cycle in that area; and

WHEREAS, the Canal Park Merchants Association has requested that the city donate the revenues it derives from the Canal Park vendors who use city property to the association to help fund Canal Park promotional activities such as Winter Red Flannel Days and the Waterfront Festival, which are held during the commercial off-season for this area; and

WHEREAS, the city council believes that it is appropriate to use public funds generated by the Canal Park vendors during the tourist season to help maintain the commercial viability of that area during the remainder of the year;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the donation of the revenues received from the Canal Park vendors during the 1995 to the Canal Park Merchants Association, which funds shall be used to assist with funding of events and activities in the Canal Park area that promote the area during the tourist off-season.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

RESOLVED FURTHER, that such donation shall be paid from the General Fund 015-1514-2070 - aid to other agencies.

Resolution 95-0632 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth approves the temporary expansion of the "designated serving areas" of the following on sale intoxicating liquor licenses and on sale nonintoxicating malt liquor licenses, with any specific restrictions:

Lyric Block Development Corporation (Porter, Sneakers, Greenery), 200 West First Street, for August 12, 1995, with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

S S & P of Duluth, Inc. (Western Tavern), 2801 West Superior Street, for August 26, 1995, with the music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: September 2, 1995).

___Joel Baker (Curly's), 2013 West Superior Street, for July 29, 1995, with the music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: August 19, 1995).

Roby's Bar & Lounge, Inc. (Roby's Bar & Lounge), 2023 West Superior Street, for July 29, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: August 19, 1995).

L W Duluth, Inc. (Pioneer Bar), 323 West First Street, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

Wizner Company (Norman's Bar), 113 West First Street, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

Alpine Bar & Lounge, Inc., 1308 Commonwealth Avenue, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

Balkan Inn Corp. (Balkan Inn), 1321 Commonwealth Avenue, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

Chel, Inc. (Congress Bar), 1334 Commonwealth Avenue, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

Dzuck, Ltd. (The Limit), 1426 Commonwealth Avenue, for July 21, 1995, with music ceasing at 11:00 p.m. and serving ceasing at midnight (rain date: July 22, 1995).

D & D Enterprises of Cloquet, Inc. (Mr. D's Spirit Valley Lounge), 5622 Grand Avenue, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

Dwayne & Kimberly, Inc. (Kom-On-Inn), 332 North 57th Avenue West, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

Rustic Bar, Inc. 401 North Central Avenue, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

LGJ, Inc. (Sam's Pizza), 403 North Central Avenue, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

American Legion West Duluth Post 71, 5814 Grand Avenue, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

Robert V. Evenson (Godfather's Pizza), 5515 Ramsey Street, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Modern Hotel (Twin's Bar), 501 East Fourth Street, for July 28, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: July 29, 1995).

Resolution 95-0606 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor licenses, subject to departmental approvals:

Mr. D's Softball Teams (Mr. D's Miller Genuine Draft Coed Softball Tournament), Wheeler Field, for July 15 & 16, 1995, with Darrell Eckenberg, manager.

Copasetic Softball Team, Wheeler Field, for July 29 & 30, 1995, with Paul King, manager.

Duluth Softball Players Association, Wheeler Field, for July 22 & 23, 1995, and August 18 - 20, 1995, with John Vaydich, manager.

Gary-New Duluth Centennial Committee, 101st Avenue & Carterette Street, for July 22, 1995, with Richard A. Richie, manager.

Resolution 95-0608 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in the area stated below, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups, and that all outside drinking cease at 12:30 a.m.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Western Riverfront Business Association, for the Riverfront Festival, on Commonwealth Avenue between Reis Street and Gary Street on July 21, 1995, with a rain date of July 22, 1995.

Greater Downtown Council, for the Downtown Sidewalk Days, on Superior Street between Third and Fourth Avenue West and First and Second Avenue West, on July 21, 1995, with a rain date of July 22, 1995.

Western Area Business and Civic Club Association, for Spirit Valley Days, on portions on Ramsey Street and 58th Avenue West between Grand Avenue and Central Avenue, on August 4, 1995, with a rain date of August 5, 1995.

Resolution 95-0609 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering six police package sedans for the fleet services division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

specifications on its low specification bid of \$104,382, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0643 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

ANIMAL HUMANE BOARD

Patricia Wheeler for a term expiring October 31, 1999, replacing Eugene Shabatura.

Resolution 95-0631 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: None -- 0

Absent: Councilor Dahlberg -- 1

Abstention: Councilor Wheeler -- 1

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

WOMEN'S COMMISSION

Sharon Finch for a term expiring September 17, 1997, replacing Susan Coultrap-McQuinn who resigned.

Resolution 95-0635 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, street and park maintenance, which were approved by the civil service board on May 2, 1995, and which are filed with the city clerk as Public Document No. 95-0710-15, are approved. This classification remains represented by the supervisory unit and compensated at Range 1110, \$3,777 to \$4,606 per month.

Resolution 95-0636 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the new specifications for the civil service classification of corrosion technician, which were approved by the civil service board on June 6, 1995, and which are filed with the city clerk as Public Document No. 95-0710-16, are approved. This classification will be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

represented by the basic unit and compensated at Range 32, \$2,704 to \$3,216 per month (1994 rates).

Resolution 95-0637 was unanimously adopted.
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0620, by Councilor Prettner, amending Resolution 94-0157 increasing the amount to be paid under the Team Duluth economic coordinator agreement by \$80,000, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Mike McNamara summarized 1994-95 activities of Team Duluth. He reported involvement in four major projects, and stated that 25 serious companies were brought to Duluth for specific site evaluations. He said 1,400 businesses were surveyed, and that as a result of the surveys returned, 120 struggling businesses considering leaving have been counseled and helped by the Chamber of Commerce and approximately 20 businesses are considering expansion. He said that many of the businesses surveyed were not aware of programs offered by Team Duluth.

Marc Mansfield, executive director, Duluth Area Chamber of Commerce, spoke of the business retention program and why it is the one of the most important efforts accomplished during the year.

Resolution 95-0620 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that Resolution 94-0157 is hereby amended by increasing the amount payable thereunder pursuant to the TEAM DULUTH economic development coordinator agreement (City Contract #17050) by an additional \$80,000, payable from the General Fund 100, Agency 020, Organization 1202, Object 5319.

Resolution 95-0620 was unanimously adopted.
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 94-0915, on the 17th day of October, 1994, established the North Star Community Development Corporation project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with North Star Community Development Corporation (NSCDC) of Duluth, Minnesota. Payment for the agreement, on file with the city clerk as Public Document No. 95-0710-17, shall not exceed \$100,000 payable out of the 1995 Federal Program Fund 263 - community development - North Star CDC Account No. 6366.

Resolution 95-0622 was unanimously adopted.
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

Resolutions 95-0629 and 95-0630, by Councilor Prettner, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to relax the area requirement from twice the wall length to four times the wall length for the installation of a four foot back-lighted canopy type wall sign on the front and side wall on property located at 4505-07 East Superior Street (Falk's Lakeside Pharmacy), were introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Prettner reported that a committee meeting was held on this issue and there was a split decision among the committee members. She reported that her minority recommendation is to affirm the board of zoning appeals denial. She stated it is her belief that the entire sign ordinance needs to be revisited, which is being done at this time by the planning commission, and that she feels it is appropriate to uphold the board of zoning appeals at this time rather than to approve requests piece meal and allow an inconsistent process for approvals. She continued that it makes more sense to allow the applicant to come back to the council with another request after recommendations from the planning commission and permanent decisions by the council are made regarding any new regulations.

Councilor Atkins stated support for Resolution 95-0630, reversing the board of zoning appeals decision regarding the sign. He felt that the fact that the planning commission is studying the sign ordinance is a good reason for the council to deviate from strict adherence to regulations that are old and obsolete. He stated that by approving this appeal, the council is giving direction to the planning commission on how to proceed.

President Keenan also supported Resolution 95-0630, stating that his reasons for support are similar to Councilor Atkins', but he also noted that he has not had a single opposing comment from constituents in his district regarding this issue.

Councilor Wheeler felt that since the planning commission has been asked to study this, any council action on issues of this type before recommendations are made would be premature. He moved to table the resolutions, which motion was seconded and carried upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico and Wheeler -- 5

Nays: Councilors Atkins, Bohlmann and President Keenan -- 3

Absent: Councilor Dahlberg -- 1

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that pursuant to Minnesota Statutes 280.385(1), the Duluth City Council hereby consents to the conveyance to the state of Minnesota by the current owners of the following described property:

westerly 47 feet of Lot 1, Block 34, Endion Division.

Resolution 95-0638 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that Johnson-Wilson Constructors, Inc., be and hereby is awarded a contract for construction of Tacan Building for the business development division in accordance with specifications on its low specification bid of \$103,000, terms net, FOB job site, payable out of Airbus Construction Project Fund 420, Dept./Agency 020, Organization 4240, Object 5520.

Resolution 95-0644 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the MCPP application-commitment agreement with the Minnesota housing finance agency related to the allocation and sale of qualified mortgage bonds for the benefit of low- and moderate-income home buyers in the city, which agreement is on file in the office of the city clerk as Public Document No. 95-0710-18.

FURTHER RESOLVED, that said officials are authorized to issue a check in the amount of \$18,015.90 to said agency, said funds to be payable from the General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 95-0645 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Agreement No. 17019 with the Duluth state convention center administrative board, under which agreement the DECC will arrange and promote July 4, 1995, appearances of the Everly Brothers and the Nitty Gritty Dirt Band, and other groups at Bayfront Festival Park; said amendment to be substantially in the form of Public Document No. 95-0710-19, on file in the office of the city clerk; the costs not to exceed \$20,000, payable thereunder to be paid from Special Projects and Events Account 100-015-2030.

Resolution 95-0640 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept on behalf of the city of Duluth, pursuant to the Laws of Minnesota, 1967, Chapter 374, a national council of senior citizens grant in the amount of \$197,288 for the period July 1, 1995, through June 30, 1996. A copy of this modification shall be on file in the city clerk's office as Public Document No. 95-0710-20.

FURTHER RESOLVED, that monies received shall be deposited in Fund #271, Budget Item 6321.

Resolution 95-0613 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District #709 to provide six teachers to Summer Youth Employment Training Program clients for the Summer Youth Employment Program's Academic Enrichment component for the period June 1, 1995, through August 11, 1995, at costs not to exceed \$35,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0710-21.

FURTHER RESOLVED, that costs incurred shall be charged to Fund #268, Budget Item 6246.

Resolution 95-0616 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement Independent School District #709 for period July 1, 1995, to June 30, 1996, to provide dropout recovery services to Minnesota youth program eligible clients at costs not to exceed \$38,631 payable from Fund #268, Budget Item #6246. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0710-22.

Resolution 95-0633 was unanimously adopted.

Approved July 10, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to accept \$747,875 in Job Training Partnership Act funds from the Minnesota department of economic security to provide employment and training programs to economically disadvantaged Duluth residents. A copy of this agreement modification shall be on file in the city clerk's office as Public Document No. 95-0710-23.

FURTHER RESOLVED, that monies received shall be deposited in Funds #268 as follows:

Budget Item 6240 (II-A)	\$253,719;
Budget Item 6241 (II-C)	175,983;
Budget Item 6239 (II-B)	280,100;
Budget Item 6233 (5% older workers)	13,822;
Budget Item 6243 (5% capacity bldg.)	4,731;
Budget Item 6244 (5% incentive)	19,520.

Resolution 95-0646 was unanimously adopted.

Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Tenyer Coatings, Inc., be and hereby is awarded a contract for furnishing and delivering painting the elevated Highland storage tanks for the water and gas department in accordance with specifications on its low specification bid of \$87,840, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0626 was unanimously adopted.

Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Reuben Johnson & Son, Inc., be and hereby is awarded a contract for furnishing and delivering a watermain in Congdon Boulevard for the water department in accordance with specifications on its low specification bid of \$134,877, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 95-0642 was unanimously adopted.

Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Ray Risberg, Inc., be and hereby is awarded a contract for renovation of the London Road Armory for the architect division in accordance with specifications on its low specification bid of \$151,987, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C428.

Resolution 95-0623 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of sanitary sewer in Rice Lake Road for the engineering division in accordance with specifications on its low specification bid of \$198,051.20, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5257, Object 5530.

Resolution 95-0627 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement from Robert H. Ramfjord and Alma Ramfjord at a cost of \$1,250, payable from the Special Assessment Fund 810; said easement being described as follows:

All that part of Lots 1, 3 and 5, in Block 9, Clague and Prindles Addition to Duluth, lying northerly of the following described line:

A straight line beginning at the midpoint of the east line of said Lot 5 and ending at the midpoint of the west line of said Lot 1.

Resolution 95-0639 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for upgrades of lift stations 10, 11, 12 and the construction of lift station 18 for the sewer division in accordance with specifications on its low specification bid of \$365,600, terms net 30, FOB job site, payable out of Sewer Fund 530, Dept./Agency 500, Object 5532.

Resolution 95-0641 was unanimously adopted.

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-039 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS (LAKE SUPERIOR CENTER PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE

CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR DOWNS

95-037 - AN ORDINANCE PERTAINING TO RECORDS REQUIRED TO BE KEPT BY PAWN-BROKERS; AUTHORIZING THE CHIEF OF POLICE TO REQUIRE THE COMPUTERIZATION OF THESE RECORDS; AMENDING SECTION 36-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR DOWNS

95-038 - AN ORDINANCE ELIMINATING THE SURETY BOND REQUIREMENT FOR ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 8-47, 8-48, 8-50, 8-58, 8-59 AND 8-62 AND REPEALING SECTION 8-60 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

95-036 (9259) - AN ORDINANCE AUTHORIZING THE ISSUANCE OF ON SALE WINE LICENSES TO BED AND BREAKFAST ESTABLISHMENTS; AMENDING SECTIONS 8-13, 8-44 AND 8-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR PRETTNER

95-031 (9260) - AN ORDINANCE AMENDING CITY ORDINANCE 9174 PERTAINING TO SPECIAL SERVICE DISTRICT #1 AUTHORIZING AN ASSESSMENT AS A PERCENTAGE OF GROSS SALES OF ALL GOODS.

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

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins and Bohlmann -- 2

Absent: Councilor Dahlberg -- 1

- - -

BY COUNCILOR PRETTNER

95-032 (9261) - AN ORDINANCE DESIGNATING THE FORMER MINNESOTA POINT LIGHT AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

- - -

BY COUNCILOR PRETTNER

95-033 (9262) - AN ORDINANCE DESIGNATING THE DULUTH CIVIC CENTER AS A DULUTH HERITAGE PRESERVATION DISTRICT.

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

- - -

BY COUNCILOR PRETTNER

95-034 (9263) - AN ORDINANCE DESIGNATING THE FORMER SACRED HEART

CATHEDRAL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

- - -

BY COUNCILOR PRETTNER

95-035 (9264) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN LAND IN THE FREMONT POINT AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

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

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

- - -

The meeting was adjourned at 9:25 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9259

BY COUNCILOR WHEELER:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF ON SALE WINE LICENSES TO BED AND BREAKFAST ESTABLISHMENTS; AMENDING SECTIONS 8-13, 8-44 AND 8-56 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-13 of the Duluth City Code, 1995, as amended, be amended to read as follows:

Sec. 8-13. Definitions.

For the purposes of this Division, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Alcoholic beverages. Distilled, fermented, spirituous, vinous, and malt beverages containing .5% or more of ethyl alcohol by weight which are potable for consumption by human beings.

At retail. Such term means for use or consumption by the purchaser and not for resale.

Bed and breakfast establishment. Any bed and breakfast inn authorized by Section 50-35 of this Code or other residential, owner occupied, historically or architecturally unique, overnight lodging facility that serves meals to its guests and which is authorized or allowed by local law and is found by the alcoholic beverage board to be the functional equivalent of a bed and breakfast inn.

Club. Any corporation duly organized under the laws of the state for civic, fraternal, social or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization which shall have more than 50 members and which shall, for more than a year, have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate

for the reasonable and comfortable accommodation of its members, whose affairs and management are conducted by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees is paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Exclusive liquor store. An establishment used exclusively for the sale of intoxicating liquor for consumption off or away from the licensed premises where sold, and the sale of ice, soft drinks, and cigarettes.

Hotel. Any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains not less than 50 guest rooms with bedding and other suitable and necessary furnishings in each room, which is provided with a suitable lobby, desk and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and the usual service and which maintains, under the same management and control as the rest of the establishment and has as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time and where the general public is, in consideration of payment therefor, served with meals at tables.

Intoxicating liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Manufacturer. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces intoxicating liquors for sale.

Nonintoxicating malt liquor or nonintoxicating liquor. Any liquid, potable as a beverage, containing not more than 3.2 percent alcohol by weight nor less than ½ of one percent of alcohol by volume.

Off sale. The sale of alcoholic beverages in original packages in retail stores for consumption off or away from the premises where sold.

On sale. The sale of alcoholic beverages by the glass for consumption on the premises only.

Package or original package. Any container or receptacle holding alcoholic beverages, which container or receptacle is corked or sealed.

Public space. Any place that the general public can occupy as a matter of right or any place that is open to the general public by invitation, either for business purposes or otherwise.

Restaurant. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals and for seating not less than 50 guests at one time and where, in consideration of payment therefor, meals are regularly served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests and a principal part of the business of which is the serving of foods. One or more bowling alleys may be included in the licensed premises of a restaurant if table service is available throughout the licensed premises.

Sale, sell, dispense or sold. All barter and all manners or means of furnishing alcoholic beverages for a consideration. Such term shall include all transactions,

whether for cash, credit or other consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a "donation" or used to purchase any ticket, token, or other object redeemable for alcoholic beverages.

Wholesaler. Any person engaged in the business of selling alcoholic beverages to retail dealers.

Section 2. That Section 8-44 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-44. To whom licenses issued--intoxicating liquor.

On sale intoxicating liquor licenses shall be granted only to establishments which are used exclusively for the sale of intoxicating liquor, cigars, cigarettes, ice, all forms of tobacco, nonintoxicating malt liquor and soft drinks at retail and to hotels, clubs, restaurants and bowling alleys.

On sale club licenses shall be granted, subject to the approval of the commissioner of public safety, only to clubs or to congressionally chartered veterans organizations which have been in existence for three years or more. Such license shall authorize the sale of intoxicating liquors only to members of the licensed organization and their bona fide guests.

On sale wine licenses shall be granted only to restaurants or bed and breakfast establishments and shall authorize licensees on every day of the week to sell wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A bed and breakfast establishment may furnish wine only to registered guests of the establishment. Sunday hours of sale shall be from Noon to 1 a.m. Monday. No on sale wine license shall be in effect until it is approved by the liquor control commissioner of the state of Minnesota. For the purposes of this Section wine shall mean wine as defined by Title 27, the Code of Federal Regulations on May 1, 1975.

Off sale intoxicating liquor licenses shall be granted only to exclusive liquor stores.

Section 3. That Section 8-56 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-56. Fees.

The license fee for off sale and on sale nonintoxicating malt liquor licenses shall be paid to the city clerk not later than March 15 of each year. The license fee for off sale intoxicating liquor licenses shall be paid to the city clerk not later than July 15 of each year. The license fee for on sale intoxicating liquor licenses may, at the option of the licensed applicant, be paid to the city clerk either in one lump sum not later than July 15 in each year, or in four equal installments, which shall be paid not later than July 15, October 15, January 15 and April 15, respectively. In any case where any payment for any alcoholic beverage license is not made when due, a ten percent penalty shall be added to the fee. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

Payment for license fees shall be made by certified check payable to the city treasurer of the city or in lawful money of the United States of America and when such fees are received by the city clerk they shall be transmitted to the city treasurer. Upon the granting of a license as provided in this Article the amount of fee for such license shall be paid into the general fund.

(a) The annual fees for on sale intoxicating liquor licenses are as follows:

(1) On sale licenses -- \$2,450 for the 1993 license year; \$2,550 for the 1994 license year; \$2,650 thereafter;

(2) Wine licenses issued to restaurants -- \$700; wine licenses issued to bed and breakfast establishments -- \$350;

(3) Club licenses -- for a club with under 200 members -- \$300; for a club with between 201 and 500 members -- \$500; for a club with between 501 and 1,000 members -- \$650; for a club with between 1,001 and 2,000 members -- \$800; for a club with between 2,001 and 4,000 members -- \$1,000; for a club with between 4,001 and 6,000 members -- \$2,000; for a club with over 6,000 members -- \$3,000.

Whenever any licensee holding an on sale intoxicating liquor license shall at any time for any purpose operate more than one permanent bar, such licensee shall pay an additional annual license fee of \$500 for each such additional permanent bar. A so-called service bar which is used solely by employees of the licensee shall not be considered a bar for purposes of this Section;

(b) The annual fee for an off sale intoxicating liquor license shall be \$1,000;

(c) The annual fee for an on sale nonintoxicating malt liquor license shall be \$350;

(d) The annual fee for an off sale nonintoxicating malt liquor license shall be \$100.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 27, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Dahlberg -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 10, 1995

Approved July 10, 1995

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9260

BY COUNCILOR PRETTNER:

ORDINANCE AMENDING CITY ORDINANCE #9174 PERTAINING TO SPECIAL SERVICE DISTRICT #1 AUTHORIZING AN ASSESSMENT AS A PERCENTAGE OF GROSS SALES OF ALL GOODS.

The city of Duluth does ordain:

Section 1. That Section (e) of city of Duluth Ordinance #9174 is hereby amended to read as follows:

(e) Assessment of district costs.

Because of the nature of the improvements to be constructed and maintained and because of the benefits which will be conferred upon the property to be assessed hereunder, the city council hereby deems it to be fair and equitable that the cost of constructing and maintaining the special services described in paragraph (d) of this ordinance be paid for by assessing the same as a percentage of gross sales of goods or upon the net tax capacity of the taxable property in the district or both. For the purpose of this ordinance, the "gross sales of goods" means the gross sales of all goods and services, except sales of intoxicating liquor, food or lodging unless imposition of service charges on such sales is permitted by Minnesota Statutes Chapter 428A, by any owner, occupant or merchant selling goods at retail within the district. The

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

city council is hereby authorized to establish by resolution an annual assessment on the gross sales of goods within the district or on the net tax capacity of the taxable property in the district or both in amounts sufficient to amortize the cost of construction and maintenance of the special services described in paragraph (d) above in accordance with the provisions and procedures established pursuant to Minnesota Statutes (1993), Chapter 428A.

Section 2. That the provisions of this amendment to said ordinance shall be deemed to be governed by the delegation of authority contained in city of Duluth Resolution 93-0943.

Section 3. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 27, 1995)

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

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins and Bohlmann -- 2

Absent: Councilor Dahlberg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 10, 1995
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9261

BY COUNCILOR PRETTNER:

AN ORDINANCE DESIGNATING THE FORMER MINNESOTA POINT LIGHT
AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the Minnesota Point Light (commonly called Minnesota Point Lighthouse) as a Duluth Heritage Preservation Landmark; said landmark is described in Public Document No. 95-0710-24 on file with the city clerk and is described as follows:

ruins of the Minnesota Point Lighthouse on Lands in the city of Duluth in Park Point, that part of Sec. 20, Twp. 49, Rg. 13 W, lying on the Minnesota side of the Superior Harbor entry, also called St. Louis River Military Reservation.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 27, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Dahlberg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 10, 1995
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9262

BY COUNCILOR PRETTNER:

AN ORDINANCE DESIGNATING THE DULUTH CIVIC CENTER AS A
DULUTH HERITAGE PRESERVATION DISTRICT.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the Duluth Civic Center as a Duluth Heritage Preservation Landmark; said landmark is described in Public Document No. 95-0710-25 on file with the city clerk and is described as follows:

the St. Louis County Courthouse, Federal Building, City Hall, St. Louis County Jail and associated grounds and monuments located at Fifth Avenue West and First Street; Duluth Proper First Division West First Street, odd-numbered Lots 65-87, including part of vacated alley; and Duluth Proper First Division West Second Street even-numbered Lots 66-80, including part of vacated alley, odd-numbered Lots 81-95, except part taken for Mesaba Avenue; and Duluth Proper Third Division Block 29, odd-numbered Lots 75-79.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 27, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Dahlberg -- 1

Passed July 10, 1995

Approved July 10, 1995

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9263

BY COUNCILOR PRETTNER:

AN ORDINANCE DESIGNATING THE FORMER SACRED HEART
CATHEDRAL AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the former Sacred Heart Cathedral (now the Sacred Heart Music Center) as a Duluth Heritage Preservation Landmark; said landmark is described in Public Document No. 95-0710-26 on file with the city clerk and is described as follows:

the exterior structure, the interior nave, apse and windows, and the Felgemaker Tracker Organ all of which are components of the former Sacred Heart Cathedral located 205 West Fourth Street; Duluth Proper First Division West Fourth Street, all of Lots 33 and 35 except that part lying westerly of a line commencing at the southwest corner of lot thence easterly along southerly line 7.2 feet to point of beginning thence left 90 degrees northerly parallel to west line 11 feet thence right 90 degrees easterly 4.32 feet thence left 90 degrees northerly 129 feet to north line of lot.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 27, 1995)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8
Nays: None -- 0
Absent: Councilor Dahlberg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 10, 1995
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9264

BY COUNCILOR PRETTNER:

ORDINANCE AUTHORIZING SALE OF CERTAIN LAND IN THE FREMONT
POINT AREA TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey, by quitclaim deed, that certain property in St. Louis County, Minnesota, legally described below to the Duluth economic development authority, an economic development authority under Minnesota Statutes (1989), Chapter 469, at no cost to the authority:

Lots Twenty (20) to Twenty-four (24), inclusive, Block Seven (7), Hunter's Grassy Point Addition to Duluth, Second Division.

Section 2. That this ordinance shall take effect 30 days from after its passage and publication. (Effective date: August 27, 1995)

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

Yeas: Councilors Atkins, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Dahlberg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 10, 1995
Approved July 10, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 24, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 8

Absent: Councilor Wheeler -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0724-18 Lyric Block Development Corporation, by Neal J. Hessen, attorney, petitioning to vacate a portion of the skywalk in the Holiday Center. -- Assessor

95-0724-01 Melody Matteen and Richard Dietzman, et al. (29 signatures) petitioning for reclassification from C-1 to C-2 Lots 93 and 95, East Fifth Street, Duluth Proper, First Division. -- Assessor

95-0724-02 Zenith Duluth, Inc., and Gerald Plaistad, by J. Kent Richards, attorney, petitioning to vacate that portion of West Second Street adjacent to Lots 10 and 11, Block 1, Oneota Industrial Park. -- Assessor

95-0724-03 Minnesota state auditor submitting management and compliance report of the Duluth economic development authority for the year ended December 31, 1994. -- Received

95-0724-19 John F. Berglund submitting copy of a letter to alcoholic beverage board supporting the proposed elimination for surety bond requirement (95-038-O). -- Received

95-0724-20 Dr. Lee and Bonnie Nelson, by David J. Malban, attorney, appealing planning commission denial of a lease agreement involving residential property at 1 Lakeside Court and adjacent city park property. -- Committee 2 (planning)

95-0724-04 North Shore Scenic Railroad submitting withdrawal of its request for \$10,000 for track maintenance (95-0569R). -- Received

95-0724-22 Northern Communities Land Trust submitting letter from city assessor regarding land forfeitures. -- Received

95-0724-21 William Opien submitting letter opposing the North Shore Scenic Railroad's request for \$10,000 for track maintenance (95-0569R). -- Received

95--0724-05 St. Louis County Heritage and Art Center submitting applications for rental during which alcoholic beverages will be served from:

(a) Duluth Central Class Reunion of 1985 for August 19, 1995;

(b) Jodi Hanson for August 12, 1995;

(c) Sister Cities Commission for August 4, 1995. -- Received

95-0724-06 The following submitting letters regarding the 1996 street improvement program (95-0565R): (a) Chris Vizanko; (b) Douglas E. and Eleanor R. Ellingsen; (c) Cathy and David Nevanen; (d) Terry Wiens (supported by 24 signatures). -- Received

95-0724-14 The following submitting letters supporting Northern Communities Land Trust (95-0658R): (a) Mary Atwood; (b) Jan Dowell; (c) Mary Dragich; (d) Stephanie Kolari; (e) Ellen Quinn, Lisa and Dan Ekberg, Chris Unger; (f) John Reid; (g) Roger L. Schwietz; (h) Ann Niedringhaus; (i) Sr. Mary Stephen, Sr. Theresa Spinler, Sr. Mary Charles; (j) Greg Baron; (k) Salvation Army; (l) Low-income Housing Consortium; (m) Earl Rosenwinkel. -- Received

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REPORTS OF OFFICERS

95-0724-15 Assessor submitting:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

(a) Affidavit of mailing of notice of public hearing to levy to defray in full the expense of solid waste collection during the period March 1, 1994, through June 1, 1995, for which the licensed collector has not been reimbursed;

(b) Assessment roll to levy to defray in full the expense of solid waste collection during the period March 1, 1994 through June 1, 1995, for which the licensed collector has not been reimbursed. -- Clerk

(c) Letter of sufficiency regarding petition to reclassify from C-1 commercial district to C-3\2 commercial district the following described property: Lots 93 and 95, East Fifth Street, Duluth Proper, First Division. -- Received

95-0724-07 Community development and housing division manager submitting HRA report for the HUD CD funded housing rehabilitation program for May 1995. -- Received

95-0724-17 Property manager submitting space use agreement for a neighborhood police station with Twin Ports Cycle, pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

95-0724-08 Building appeal board minutes of July 12, 1995 meeting. -- Received

95-0724-09 Citywide citizen advisory committee minutes of June 27, 1995 meeting. -- Received

95-0724-10 Duluth housing trust fund board minutes of June 8, 1995 meeting. --- Received

95-0724-11 Duluth SRO housing commission minutes of June 14, 1995 meeting. -- Received

95-0724-12 Lawful gambling commission minutes of : (a) April 11; (b) May 9; (c) June 2; (d) June 13, 1995 meetings. -- Received

95-0724-13 Sister city commission minutes of June 20, 1995 meeting. -- Received

95-0724-16 Special assessment board minutes, findings, and recommendations regarding proposed improvement of Seventh Street from 37-1/2 to 39th Avenues West. -- Received

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RESOLUTIONS TABLED

Councilor Talarico moved to remove from the table Resolution 95-0569, by Councilor Wheeler, authorizing the city to contribute \$10,000 to the St. Louis and Lake Counties Regional Railroad Authority, which motion was seconded and unanimously carried.

Councilor Talarico moved to refer the resolution back to the administration at the request of the railroad authority, which motion was seconded and unanimously carried.

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Councilor Prettner moved to remove from the table Resolutions 95-0629 and 95-0630, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to relax the area requirement from twice the wall length to four times the wall length for the installation of a four foot backlighted canopy type wall sign on the front and side wall on property located at 4505-07 East Superior Street (Falk's Lakeside Pharmacy), which motion was seconded and unanimously carried.

Councilor Prettner reviewed that the resolutions were tabled to hear recommendations from the planning commission with regard to proposed changes to the sign ordinance. She stated that in her discussions with the planning division she has learned that the recommendations are unlikely to accommodate this type of signage and she felt it would be best to vote the resolutions

up or down on its merits rather than to wait for the ordinance to change. She noted that the parties involved have not been notified of possible action at this meeting and asked whether it would be appropriate to vote on it at this time. She said she felt it would be best to dispose of the issue as quickly as possible to enable the applicant to get on with planning. Councilor Prettner reviewed the proposal and stated that the planning committee met on this issue and that there was a split recommendation. She stated that her recommendation is to affirm the decision of the board of zoning appeals.

Councilor Atkins stated that delay in resolving this issue will prevent the applicant from moving forward with this project. He urged voting on the resolutions at this meeting and supported Resolution 95-0630, noting that he feels the sign is in good taste and that the city should work with business to develop the signage of their wishes.

President Keenan supported Resolution 95-0630, stating he feels the city's sign ordinance is far too restrictive.

Councilor Prettner stated that in exploring regulations of other communities, the planning division is finding that the present sign ordinance is fairly consistent with other communities. She said she does not feel it is terribly restrictive, and said she believes that in granting variances some businesses are being given unfair advantage over others. She stated her opinion that this sign will not fit in the neighborhood.

Resolution 95-0630 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Steven Preston of Falk's Woodland Pharmacy, Inc., has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the area requirement from twice the wall length to four times the wall length for the installation of a four foot backlighted canopy type wall sign on the front and side wall on property located at 4505-07 East Superior Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow a four foot wall sign the full length of the front and side wall of the building can be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals decision of May 23, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0630 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty and President Keenan -- 5

Nays: Councilors Downs, Prettner and Talarico -- 3

Absent: Councilor Wheeler -- 1

Approved July 24, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

BE IT RESOLVED, by the City Council (the "Council") of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Purpose and Authorization.

1.01 The City is authorized by Minnesota Statutes, Section 465.71, as amended, and its home rule charter to acquire property by lease or purchase.

1.02 The Council has determined that it is necessary and expedient to construct and equip five little league baseball fields (the "Project").

1.03 The City has solicited proposals for the provision of financing for the Project through a Lease-Purchase Agreement, and an offer has been received from Western National Bank of Duluth, a national banking association (the "Purchaser"), to enter into such an agreement and provide such financing payable at the annual interest rates, in principal installments and at the times shown on Exhibit A hereto. The Council finds this offer reasonable and proper and hereby accepts the offer.

1.04 Forms of the following documents relating to the Bonds and the Project have been submitted to the City Council and are now on file in the office of the City Clerk:

(a) A Ground Lease to be dated as of the date of delivery thereof (the "Ground Lease"), by and between the Purchaser and the City pursuant to which the City will transfer a leasehold interest in the premises on which the Project is to be constructed to the Purchaser; and

(b) A Lease-Purchase Agreement to be dated as of the date of delivery thereof (the "Lease"), by and between the Purchaser and City which, among other things, provides for the acquisition, construction and installation of the Project and the leasing of the Project by the Purchaser to the City and pursuant to which the City is required to construct and equip the Project.

1.05 It is determined that no official statement or prospectus has been prepared or circulated by the City in connection with the Lease and that the Purchaser has made its own investigation concerning the City as set forth in an investment letter of even date herewith, receipt of which is hereby acknowledged.

Section 2. Approval of Documents; Execution; Other Proceedings.

2.01 The terms of the Lease and the Ground Lease are hereby approved. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Ground Lease and the Lease in substantially the forms on file with the City Clerk, subject to modification as provided in Section 2.02 of this resolution. All of the provisions of the Ground Lease and the Lease when executed and delivered as authorized herein shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated herein and shall be in full force and effect from the date of execution and delivery thereof.

2.02 The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the City attorney and the City officials authorized herein to execute said documents. Said City officials are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

2.03 The officers, attorneys, engineers and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution and the Lease for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Lease and this resolution.

2.04 (a) The Mayor and the City Clerk and other officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the legality of the Lease and Ground Lease, certified copies of all proceedings and records of the City relating to the Lease, and such other affidavits and certificates as may be required to show the facts relating to the legality of the lease as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies,

certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

(b) In the event of the absence or disability of the Mayor or the City Clerk, such officers or members of the Council as in the opinion of the City attorney may act in their behalf, shall without further act or authorization, execute and deliver the Lease, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Section 3. Funds and Accounts.

3.01 Designation of Accounts. There are hereby created two special accounts to be administered and maintained by the Treasurer of the City. The accounts shall be maintained in the manner herein specified until all of the Rents, as defined in the Lease, have been fully paid.

(a) Construction Account. The City hereby creates a separate Construction Account within the capital Improvement Fund to which there shall be credited the portion of the proceeds of the Lease used to pay costs of construction of the Project, together with any additional funds which may be available and are appropriated for the Project or which may be advanced to such account on condition that such amounts be reimbursed from Lease proceeds.

(b) Debt Service Account. There is hereby created a separate Debt Service Account for payment of Rent under the Lease, which shall be a separate segregated account within the City's general fund. The monies in the Debt Service Account shall be used for no purpose other than the payment of the Rent under the Lease. The Treasurer is authorized and directed to transfer monies of the City to the Debt Service Account at the times and in an amount sufficient to ensure that Rent under the Lease is paid when due. The City will pay promptly when due, all of the Rent and other amounts required by the Lease from the sources at the times and in the amounts specified herein and in the Lease. There are hereby irrevocably appropriated and pledged to, and there shall be credited to the Debt Service Account: (i) funds of the City appropriated for the payment of the Rent due under the Lease; (ii) all investment earnings on monies held in the Debt Service Account; and (iii) any and all other monies which are properly available and are appropriated by the Council to the Debt Service Account. The Debt Service Account shall be used solely to pay the Rent due under the Lease and to pay any other obligations of the City hereafter issued by the City and made payable from the Debt Service Account as provided by law.

3.02 Monies on deposit in the Construction Account and the Debt Service Account may, at the discretion of the City, be invested in securities permitted by Minnesota Statutes, Section 475.66; and provided, that any such investments shall mature at such times and in such amounts as will permit for payment of Rent when due.

3.03 Pursuant to the requirements of Minnesota Statutes, Section 465.71, the City hereby retains the right to terminate the Lease at the end of any fiscal year during its term.

Section 4. Federal Tax Covenants. The City represents that all proceeds of the Lease will be expended within six months of the date of the Lease, and no rebate of arbitrage will be required.

Section 5. Miscellaneous.

5.01 The City Clerk is hereby authorized and directed to file a certified copy of this resolution in the office of the St. Louis County Auditor, together with such other information as the Auditor shall require, and to certify that the Lease as an obligation of the City has been entered into the Auditor's bond register.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

5.02 The City Administrative Assistant is hereby designated and authorized to act on behalf of the City as the City Representative, as defined in the Lease.

5.03 If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

5.04 Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

Resolution 95-0679 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

	<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1.	Congdon Park Recreation Association	Bellows Twins Bar	June 30, 1995
2.	Lester Park Hockey Association	O'Gilby's Bar RT Quinlan Saloon	June 28, 1995
3.	Merritt Youth Hockey Association	Roby's Grandstand	June 28, 1995

Resolution 95-0651 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the Duluth Playhouse has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth city council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth Playhouse, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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

Resolution 95-0653 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Falk Paper Company be and hereby is awarded a contract for furnishing and delivering 400 cases of copier paper for the various departments in accordance with specifications on its low specification bid of \$13,206, terms 2%/tenth of month, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS25.

Resolution 95-0664 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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Resolution 95-0668, by Councilor Downs, awarding contract to Duluth Superior Erection, Inc., for Hartley Nature Center Phase 1 in accordance with specifications on its low bid of \$114,987, was introduced for discussion.

Councilor Bohlmann stated the city is not able to afford regular maintenance of the parks it does have, therefore, she doesn't believe the city can afford to maintain a nature trail as proposed for Hartley Field. She said she views this project as a want and not a need and opposed the resolution.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Responding to Councilor Dahlberg, Mary Evans stated the preparation of plans involved city planning and engineering and all environmental issues were addressed at that time, so that all regulations would be adhered to and no runoff from the proposed parking lot will reach Tischer Creek. She added that the parking lot will be surfaced with gravel instead of pavement, allowing the water to soak into the ground. She said that the road in from Woodland Avenue will be paved because it will be too expensive to maintain without paving, but there are no plans at the present time to pave the parking lot.

Responding to Councilor Dahlberg, Richard Larson, director of public works, stated he wasn't made aware of any reason to request an environmental impact statement regarding the issue of the parking lot because of the temperature of the water runoff.

Councilor Dahlberg moved to table the resolution until the next meeting to ascertain whether a request for an environmental impact statement would be in the best interest of the area proposed for the nature trail, which motion was not seconded.

Responding to Councilor Dahlberg, Ms. Evans stated that if approval of the resolution is delayed until the next meeting, and if the weather turns bad and heavy equipment cannot be used, the project may not be completed until next year.

Responding to Councilor Bohlmann's concerns regarding park maintenance, Ms. Evans stated that the Hartley nature field project is backed by a number of very strong volunteers and that maintenance of the trail is not an issue. Responding to Councilor Bohlmann regarding funding from other sources, she stated that St. Louis County has donated land and gravel, but no money because it was not certain what the ramifications of the federal funding would be. She noted funding was requested from the legislative commission on Minnesota resources, but that funds appropriated were cut on the last day before approval was granted. She said that more

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

funding will be requested in the future but that additional funding will be used primarily for the proposed building.

Responding to Councilor Talarico, Ms. Evans agreed that Hartley Park has been in Duluth's park system for many years and is presently utilized by cross-country skiers and hikers and that the parking area will provide for alternate parking which otherwise occurs on residential streets and generates a number of resident complaints. She also agreed that construction of the paved roadway will alleviate erosion and sediment problems that the current park access has. She said it is desirable that this project be environmentally sound and that if given authority, the board overseeing this project will not hesitate to stop construction if it is determined necessary to perform an environmental assessment study to resolve the issue of thermal pollution.

Councilor Hardesty noted that this project is not just a neighborhood park, but an environmental learning center and is a resource utilized by a number of schools in Duluth as well as families. She stated that this project has been budgeted for through casino profits in the capital improvement fund.

Responding to Councilor Atkins, Ms. Evans stated the overall projected cost of the project is about \$3 million, which includes all the trail work, the buildings, an outdoor open-air pond orientation area, which the Rotary has agreed to help with, and other amenities. She said that besides the \$114,987 that the city is being asked to spend, other sources for funding are being looked into. She said federal funds have not been applied for because a source is not known.

Councilor Dahlberg moved to table the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettner, Talarico and President

Keenan -- 5

Absent: Councilor Wheeler -- 1

Responding to Councilor Bohlmann, Ms. Evans stated that presently the city does some plowing for maintenance. She said there is no grass to mow and clearing the ski trails is done by volunteers and high school students which is expected to continue.

Councilor Prettner reminded councilors that this money is not technically taxpayer dollars but casino revenue funds that have already been dedicated.

Resolution 95-0668 was adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of Hartley Nature Center Phase 1 in accordance with specifications on its low specification bid of \$114,987, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C411.

Resolution 95-0668 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President

Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Wheeler -- 1

Approved July 24, 1995

GARY L. DOTY, Mayor

BY COUNCILOR DOWNS:

RESOLVED, that Banks Roofing and General Contracting, Inc., be and hereby is awarded a contract for reroofing Fire Hall No. 6 for the fire department in accordance with specifications

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

on its low specification bid of \$15,650, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C424.

Resolution 95-0670 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Saginaw Construction, Inc., be and hereby is awarded a contract for resurfacing three tennis courts at Endion and one tennis court at Fond-du-Lac for the public works department in accordance with specifications on its low specification bid of \$36,915, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C402.

Resolution 95-0671 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Beerhunters Softball Tournament, Wheeler Field, for August 5 & 6, 1995, with Ronald Herung, manager.

Resolution 95-0674 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor license for the period ending April 30, 1996, and approving the transfer of the off sale nonintoxicating malt liquor license for the period ending April 30, 1996, respectively, subject to departmental approvals and the payment of sales and property taxes:

D & C Letourneau, Ent. (D & C Woodland Milkhouse), 4001 Woodland Avenue, with Donald Letourneau, 50 percent stockholder, and Catherine Letourneau, 50 percent stockholder.

D & C Letourneau, Ent. (D & C Milkhouse), 5402 East Superior Street, transferred from Como Petroleum Marketing, Inc. (Milk House Convenience), same address, with Donald Letourneau, 50 percent stockholder, and Catherine Letourneau, 50 percent stockholder.

Resolution 95-0675 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale intoxicating wine license, for the period ending August 31, 1995, and approving the transfer of the on sale nonintoxicating malt liquor license, for the period ending April 30, 1996, subject to departmental approvals, and further subject to approval of the liquor control commissioner:

Jeffrey Thomas Conito (Linebacker Lounge & Pizza), 5515 Ramsey Street, transferred from Robert V. Evenson (Godfather's Pizza), same address.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0676 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth approves the temporary expansion of the "designated serving area" of the following on sale intoxicating liquor license and on sale nonintoxicating malt liquor license, with any specific restrictions:

Red Inc., of Duluth (Park Inn International), 250 Canal Park Drive, for August 11, 12 & 13, 1995, with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

Jeffrey Thomas Conito (Linebacker Lounge & Pizza), 5515 Ramsey Street, for August 4, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight (rain date: August 5, 1995).

Resolution 95-0684 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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Resolution 95-0689, by Councilor Downs, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license from P B of Duluth, Inc. (Buena Vista Lounge and Restaurant), 1144 Mesaba Avenue, transferred to Nylen, Magie & Strum Properties (Buena Vista Lounge and Restaurant), same address, was introduced for discussion.

Councilor Downs moved to amend the resolution by inserting the words "beginning July 31, 1995 and" after the word "period" in the third line, which motion was seconded and unanimously carried.

Resolution 95-0689, as amended, was adopted as follows:

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the following transfer of the on sale intoxicating liquor license and on sale Sunday license for the period beginning July 31, 1995 and ending August 31, 1995, subject to departmental approvals and the payment of sales and property taxes:

Nylen, Magie, & Strum Properties (Buena Vista Lounge and Restaurant), 1144 Mesaba Avenue, transferred from PB of Duluth (Buena Vista Lounge and Restaurant), same address, with Robert Nylen, Robert Magie and Gerald Strum, 1/3 shareholders.

Resolution 95-0689, as amended, was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments and reappointment by Mayor Doty be and the same is hereby confirmed:

NEIGHBORHOOD ADVISORY COUNCIL

Roger Johnson (East Hillside) for a term expiring June 1, 1996, replacing Jon Bakke who resigned.

Jill Harstad (West End) for a term expiring June 1, 1997, replacing Daniel Good who resigned.

CITYWIDE CITIZEN ADVISORY COMMITTEE

Joan Hackner Barrett (East Hillside) for a term expiring June 1, 1996, replacing Jon Bakke.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Steven Ratte for a term expiring March 1, 1998.
Resolution 95-0672 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide training and development services to the city at a cost of \$1,800, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0687 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to city of Duluth Contract No. 17050, a copy of which is on file in the office of the city clerk as Public Document No. 95-0724-23, with the Duluth economic development authority, the Duluth Area Chamber of Commerce, the Duluth airport authority, Minnesota Power & Light Company and the Seaway Port authority of Duluth.

Resolution 95-0612 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 95-0449, passed on June 5, 1995, entered into an agreement with Neighborhood Housing Services (NHS), Inc., Duluth, Minnesota, hereinafter referred to as the "agency," whereby the agency agreed to operate and administer the HUD-funded Central Hillside homeownership project to be paid for out of 1994 Federal Program Fund 263 - community development - Central Hillside Homeownership Project Account No. 6256; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute Amendment No. 1 (on file with the city clerk as Public Document No. 95-0724-24) to the HUD-funded Central Hillside homeownership program agreement which expands the project service area at no change in compensation under the agreement.

Resolution 95-0648 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth has the legal authority to apply for financial assistance from the state of Minnesota pursuant to the border city enterprise zone tax credit program, and the institutional, managerial and financial capacity to ensure adequate project administration; and

WHEREAS, the city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practices.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT 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. 95-0724-26 with the state of Minnesota authorizing the application and allocation of Duluth border city enterprise zone tax credits as authorized by law.

FURTHER RESOLVED, that upon approval of said agreement by the state, said officials are authorized to apply for, allocate and enter into agreements with applicants for the use of said tax credits which shall comply in all respects with all applicable laws and regulations.

FURTHER RESOLVED, that said officials are authorized to execute such agreements as are necessary to implement said projects on behalf of any such applicants.

Resolution 95-0654 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of a utility easement adjacent to Lot 442, Block 46, Duluth Proper, Second Division legally described as:

An easement for utilities located in the first alley lying easterly of 28th Avenue West and more particularly described as follows to wit: from the point of intersection of the centerline of the vacated alley and southwesterly line of lot 442, Block 46, Duluth Proper, Second Division, thence northwesterly along the southwesterly line of said lot 442 a distance of ten feet to the northwesterly right-of-way boundary line of the existing utility easement; thence northeasterly along the northwesterly right-of-way boundary of said existing utility easement, a distance of 18 feet to the point of beginning; thence continuing northeasterly along said boundary line of the existing utility easement, a distance of seven feet, more or less, to the northeasterly end of said existing utility easement; thence southeasterly along said northeasterly boundary line of the said existing utility easement, a distance of six feet; thence southwesterly along a line parallel to the northwesterly boundary of said utility easement, a distance of seven feet; thence northwesterly on a line parallel to the northeasterly boundary line of said right-of-way easement, a distance of six feet, more or less, to the point of beginning; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its July 11, 1995 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of that portion of the utility easement described above, and as more particularly described on Public Document No. 95-0724-25.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easement to be vacated.

Resolution 95-0655 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0656, by Councilor Prettner, vacating a 30 foot driveway easement along lower side of Skyline Parkway in the plat of Boulevard Terrace, First Addition, was introduced for discussion.

Councilor Prettner said it is her intention to table this resolution in order to hold a committee meeting on this issue.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

George Hovland explained that this vacation would bring the property back to its original position before the easement. He said he would like to build homes on this property, but the restrictions in place currently make it difficult to market the land and will also penalize future owners. He said he understand the neighbors' concerns, and has offered to restrict the height and also the access. He felt his proposal is fair to all concerned.

Sibyl Norris stated concerns about safety if vehicles are allowed to exit from the proposed sites onto Skyline Parkway and about her loss of view.

Cecelia Taylor also felt that the proposal would be unsafe. She said that this issue has been brought to the council many times in the past and has always been denied, and requested that the council address what has changed in this proposal.

Al Gartner also did not support allowing vehicles to exit onto Skyline Parkway.

Don Solem addressed concerns regarding water and sewer assessments for his daughter's property adjacent to this proposed development. He said he does not favor improvement of the alley, but that if there are improvements, he feels the developer should pay for them.

Paul Kilgore, attorney representing the neighbors, said this easement was established in 1977 by the property owner in order to prohibit development on Skyline Parkway as close as it would occur otherwise. He said if development does occur, it calls for a driveway to minimize the entrances onto Skyline Parkway. He noted that this is the third attempt to have the easement vacated. He said the current planning commission considered this matter without knowledge of the previous petitions, and urged that this issue be sent back to the planning commission for their consideration with knowledge of the previous petitions, specifically the 1991 proceedings.

Charlie Jones opposed this development, stating he feels Skyline Parkway should be preserved.

Councilor Prettner moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER:

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 parcel now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95096	St. Louis County	Lot 13, Block 119 West Duluth, Second Division (10-4480-4920)	West side of 57th Avenue West between Roosevelt and Nicollet Streets (Irving)

Resolution 95-0657 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0658, by Councilor Prettner, reserving \$205,775 in fiscal year 1995 home investment partnership program funds for Women's Transitional Housing Coalition, Center City Housing Corp., Northern Communities Land Trust, and Life House, Inc., was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Marcia Hales stated that the Northern Communities Land Trust has not filed its 1994 financial report with the IRS, and urged the council to table the resolution until such documentation is received.

Nicole Hales requested that this resolution be tabled and that the council request a full accounting of all Northern Communities Land Trust properties.

Patty Martin requested that the council not award funds to the Northern Communities Land Trust until the council is sure that they are fiscally responsible. She noted a property on Lake Avenue owned by the land trust was recently destroyed by fire and the land trust received an insurance settlement, but has not yet paid the taxes owing on the property.

Jon Dacken, director of Northern Communities Land Trust, disputed problems referred to by previous speakers with the land trust. He urged the council to support the resolution.

In response to Councilor Dahlberg, Mr. Dacken said the land trust is still working with Nicole Hales to resolve her issues. He further replied that the land trust is in full compliance with all IRS regulations, and that an audit of the organization is currently being conducted by an outside agency and should be complete in August.

Liz Carlson, Northern Communities Land Trust, addressed the property earlier referred to by Ms. Martin. She stated that the property in question was allowed to go tax forfeit because the value of the property is less than the taxes and razing costs. She provided documentation from the city assessor that this is a common business practice.

Patty Martin responded that there is a problem in the Central Hillside with tax forfeit properties, noting that the properties usually do not sell at auctions because the purchaser is required to pay back taxes.

Steve O'Neill, land trust board member, said he has spoken with the county assessor, and that taxes on that piece of property will be forgiven and the neighbors will be able to purchase the property at a reasonable price. He spoke of the accomplishments of the land trust since its inception.

Greg Gilbert, attorney for the land trust, said tax exempt status has been filed with and will be granted by the IRS for the land trust. Regarding the Lake Avenue property, he pointed out that the property had accumulated taxes when it was donated to the land trust, and while the land trust owned the property it paid the current taxes.

In response to Councilor Dahlberg, Mr. Gilbert said the insurance settlement on the property was not a windfall for the land trust, and emphasized that the property had been donated to the land trust.

Pam Kramer, community development and housing division manager, clarified that they have done fiscal monitoring on this project and said mechanisms are in place to make sure federal regulations are being complied with.

Councilor Dahlberg felt there are questions to be answered regarding the land trust, and said he would like to postpone the vote on this organization until after their audit is complete.

In response to Councilor Bohlmann, Ms. Kramer said these reserved funds cannot be borrowed or used by the organizations and they cannot get a letter of credit from a bank to borrow against the funds. Ms. Kramer further stated that the purpose of reserving the funds is to begin the setup in the federal draw down system and to give the organizations that are still

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

trying to raise funds for their projects the go-ahead. She said contracts will need to come back to the council to disperse these funds.

Councilor Prettner recommended the resolution in its entirety, stating the land trust has stood the test of one allegation after another, which have been unfounded. She moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Downs, Hardesty, Prettner, Talarico and President Keenan -- 6

Nays: Councilors Atkins and Dahlberg -- 2

Absent: Councilor Wheeler -- 1

Resolution 95-0658 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, pursuant to 42 U.S.C. 3539(d) and 42 U.S.C. 12701-12839, the U.S. department of housing and urban development (HUD) has established the HOME investment partnerships program (HOME program) and the regulations governing said program as set forth in 24 CFR Part 92; and

WHEREAS, pursuant to said regulations, HUD requires the city of Duluth to set aside 15 percent of its HOME program allocation for the use of community housing development organizations (CHDOs), and to reserve said funds for CHDOs; and

WHEREAS, as a part of the city's consolidated plan which was approved by the city council on October 6, 1994, \$228,000 was set-aside for CHDO program and operating expenses.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby reserve the following portions of the city's fiscal year 1995 allocation of HOME program funds for the use of each of the following qualifying organizations:

Project Funds:

1) Women's Transitional Housing Coalition	\$ 54,275
2) Center City Housing Corp.	\$ 73,500
3) Northern Communities Land Trust	<u>\$ 50,000</u>
	\$177,775

Operating Funds:

1) Life House, Inc.	\$ 10,305
2) Center City Housing Corp.	\$ 12,546
3) Northern Communities Land Trust	<u>\$ 5,149</u>
	\$ 28,000

Resolution 95-0658 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico and President Keenan -- 5

Nays: Councilors Atkins, Bohlmann and Dahlberg -- 3

Absent: Councilor Wheeler -- 1

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0682, by Councilor Prettner, awarding contract to Lakehead Constructors, Inc., for Fifth Avenue West skywalk extension in accordance with specifications on its low specification bid of \$2,318,553.40, was introduced for discussion.

In response to councilors, Mr. Larson said the low bidder requested that their bid be withdrawn, so this contract was awarded to the second low bid. He noted that Lakehead Constructors is a local company and the first low bid was not.

Councilor Bohlmann felt it is a bad policy to use municipal state aid funds for downtown skywalks instead of for streets.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0682 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that Lakehead Constructors, Inc., be and hereby is awarded a contract for construction of the Fifth Avenue West skywalk extension for the business development division in accordance with specifications on its low specification bid of \$2,318,553.40, terms net 30, FOB job site, payable out of Downtown Development Special Fund 430, Dept./Agency 020, Object 5520; to be reimbursed from MSA and DEDA.

RESOLVED FURTHER, that this award of contract is subject to approval of Minnesota department of transportation.

Resolution 95-0682 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Wheeler -- 1

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth has entered into an agreement dated February 22, 1994, as a participant in TEAM Duluth; and

WHEREAS, the agreement provides in amended Section 6E that:

“E. Repayments.

With thirty (30) days of the first anniversary of the signing of this agreement and annually thereafter during the term of this agreement, chamber agrees to repay each participant a sum equal to the difference, if any, between each such participant's annual contribution to the program, as described in subparagraph A above, and such participant's actual proportionate share of the expenses of administering the program which shall be set forth in the annual report provided for in subparagraph C of paragraph 8 below or, at its sole option, any participant may direct the chamber to retain said amount. Each participant, at its sole option, shall direct the chamber whether the amounts retained as described in this section shall or shall not reduce the participant's annual contribution to the program for the subsequent program”; and

WHEREAS, TEAM Duluth now requests that the amount of approximately \$23,000, of which the city of Duluth's proportionate share would be \$7,607, be carried over from budget year 1994 to budget year 1995.

RESOLVED, that the proper city officials are hereby authorized to direct the Duluth Area Chamber of Commerce, as administrator of the TEAM Duluth program, to retain \$7,607 of the unspent contribution of the city of Duluth for budget year 1994-1995, and to carry over that amount for budget year 1995-1996.

Resolution 95-0686 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of the business requesting a state challenge grant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Leonard, Inc., d/b/a Eutopian Images; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, RESOLVED, that the city of Duluth supports this application for funding on behalf of Leonard, Inc., d/b/a Eutopian Images.

Resolution 95-0688 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, lacking the elements of human habitation, and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1 - 720 East Fifth Street, also known as Lot 10, Block 107, Portland Division Town of Duluth, by certified mail on Alton Reff, 722 East Fifth Street, Duluth, Minnesota 55805, signed by Reah Hampton on March 16, 1995, and by certified mail on Dean Effinger, 125 West Ideal Street, Duluth, Minnesota 55811, signed by Dean Effinger on March 17, 1995;

Parcel 2 - 722 East Fifth Street, also known as Lot 11, Block 107, Portland Division Town of Duluth, by certified mail on Alton Reff, 722 East Fifth Street, Duluth, Minnesota 55805, signed by Alton Reff on September 12, 1990, and by certified mail on Dean Effinger, 125 West Ideal Street, Duluth, Minnesota 55811, signed by Dean Effinger on March 12, 1990.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate or cause the abatement of the nuisance now existing on the above-named properties, and to make prompt report in writing to the city council with respect to the abatement and removal of such nuisances, together with cost if any thereof, to the city of Duluth.

Resolution 95-0690 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0660, by President Keenan, authorizing the acquisition of approximately 100 acres of real estate in the east 1/2 of Section 25-51-14 from the Regents of the University of Minnesota for a consideration of \$44,900, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Ken Hogg stated concern about the city spending money to buy more land that won't be on the tax rolls. He requested a report on the 60 acres designated for the tree farm.

Resolution 95-0660 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to acquire the following described parcels of land for the consideration indicated from the regents of the University of Minnesota; said sums to be payable from the General Fund 100-500-1950-5510 (\$22,700), Fund 450-015-1994-C440 (\$11,100), and Fund 100-700-2726-I505 (\$11,100):

Parcel I: The east 683.00 feet of the northeast quarter of the southeast quarter of Section

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- 25, Township 51 North, Range 14 west of the fourth principal meridian, St. Louis County, Minnesota. \$11,100.
- Parcel II: That part of the northeast quarter of the southeast quarter of Section 25, Township 51 North, Range 14 west of the fourth principal meridian, St. Louis County, Minnesota, lying west of the east 683 feet thereof. \$11,100.
- Parcel V: The west half of the southeast quarter of the northeast quarter and the east Half of the southwest quarter of the northeast quarter of Section 25, Township 51 North, Range 14 West of the fourth principal meridian, St. Louis County, Minnesota. \$11,600.
- Parcel VI: The west half of the southwest quarter of the northeast quarter of Section 25, Township 51 North, Range 14 West of the fourth principal meridian, St. Louis County, Minnesota. \$11,100.

Resolution 95-0660 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

BE IT RESOLVED, that the proper city officials are authorized to pay to Stacy Marunich, Phylis Marunich, individually and as guardian of Stacy Marunich, and James P. Carey, their attorney, the amount of \$50,000 as full and final settlement of all claims arising out of an accident that occurred December 27, 1982, at the Gary-New Duluth skating rink where Stacy Marunich lost an eye; payment to be from self insurance fund.

Resolution 95-0661 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Seaway Engineering, for the sum of not to exceed \$30,000, from Capital Fund 450, Agency 015, Org. 1994, Obj. C404, for providing certain engineering services to the city of Duluth in connection with the city of Duluth soccer field complex, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-0724-27.

Resolution 95-0677 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the city of Duluth hereby accepts the gift of \$720 from Gary Zerwas and friends to pay for a park bench located on the Duluth Downtown Lakewalk to be dedicated in memory of Patty Handlos.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to Gary Zerwas as a message of thanks.

Resolution 95-0685 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to acquire a utility easement from George Swor over the following described property for a consideration of \$2,000, payable from the Public Utility Water Fund 510:

The northwesterly 30 feet of Lots 78 and 80, Block 159, Duluth Proper, Third Division.

Resolution 95-0652 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to extend Agreement No. 16134 with Independent School District No. 709 through December 31, 1995; said extension to be substantially in the form of Public Document No. 95-0724-28 on file with the city clerk.

Resolution 95-0659 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Dresser Rand Company, Inc., be and hereby is awarded a contract for furnishing and delivering a turbine and gear set for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$41,004.35, terms net 30, FOB shipping point, payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 95-0666 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Mueller Company be and hereby is awarded a contract for furnishing and delivering a ten inch fire protection meter with a six inch compound bypass meter for the water and gas department in accordance with specifications on its low specification bid of \$14,355.13, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 95-0667 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering two 36 inch butterfly valves for the water and gas department in accordance with specifications on its low specification bid of \$12,838.58, terms net 10 approximately, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0680 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DAHLBERG:

RESOLVED, that Air Improvement Resources Corporation be and hereby is awarded a contract for furnishing and delivering a C.N.G. fueling station for the gas department in accordance with specifications on its low specification bid of \$101,087.67, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0681 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Graybar Electric Company be and hereby is awarded a contract for furnishing and delivering panasonic telephones and equipment for the water and gas department and property management division in accordance with specifications on its low specification bid of \$6,517.62, terms net 30, FOB shipping point, \$5,466.13 payable out of Water and Gas Fund 510 and 520, Dept./Agency 900, Organization 0575 and 0500, Object 5219 and 5241 and \$1,051.49 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5321.

Resolution 95-0683 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute agreements for engineering services with LHB Engineers covering Phase 2 Supplement No. 1 and Phase 3 design services and construction engineering services for the Kingsbury Creek erosion control project; said agreements to be in the form of Public Document Nos. 95-0724-29(a) and 95-0724-29(b) on file with the city clerk; the \$10,016 payable thereunder to be paid from the P.I. Fund 411-035-2118-5303.

Resolution 95-0647 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in easements south of Skyline Parkway, 13th to 14th Avenue East to serve Lots 1 through 6 in Boulevard Terrace First Addition and to construct a permanent alley in Skyline Parkway Alley, 13th to 14th Avenue East.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0649 was unanimously adopted.
Approved July 24, 1995
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR TALARICO:

WHEREAS, by application and Permit No. 159, the city engineer granted Viele Construction permission to construct a sanitary sewer in Elinor Street from 264 feet easterly of 64th Avenue West to 63rd Avenue West to serve the property at 6222 Elinor Street (City Job No. 8857SA94); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 95-0650 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 94-0067 the council did request the administration to prepare plans and specifications for the permanent improvement including excavation, gravel base, storm sewers, permanent street, improvement on Seventh Street from 39th Avenue West to 37-1/2 Avenue West (City Job No. 8858RS94); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the special assessment board has submitted its report to this council, pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$132,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5281, Object 5530, and reimbursed as follows: \$50,000 P.I. share and \$5,000 water fund share, \$5,000 sanitary utility fund, and \$72,000 assessable and that \$72,000 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board and Public Document No. 95-0724-16, which report is on file in the office of the city clerk and which description is hereby incorporated herein by reference to said Public Document No. 95-0724-16; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter, and that said improvement is hereby ordered.

Resolution 95-0662 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Buchen S.I.S., Inc., be and hereby is awarded a contract for furnishing and delivering one demo pan and tilt camera for the sewer division in accordance with specifications on their proposal of \$5,665.80, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0665 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Goodin Company, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous plumbing parts for the property management division in accordance with specifications on its low specification bid of \$12,637.43, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 95-0669 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay \$8,982.03 to LSS/Bethany Crisis Shelter in settlement of all claims arising out of a sewer failure on May 14, 1995; payment to be from self insurance fund.

Resolution 95-0673 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED that the proper city officials are authorized to pay to Kevin and Debra Boleman the sum of \$14,840.79 in full settlement of all claims arising out of a sewer backup on March 5, 1995, causing damage to their property at 2876 Hutchinson Road; payment to be from self insurance fund.

Resolution 95-0678 was unanimously adopted.

Approved July 24, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR DOWNS

95-042 - AN ORDINANCE PROHIBITING THE FEEDING OF SEAGULLS, AMENDING SECTION 6-61 OF THE CITY CODE.

The rules were suspended upon a unanimous vote to hear a speaker on this ordinance.

Richard Occhino spoke in opposition to the ordinance, stating that feeding the seagulls is a popular tourist attraction and he does not agree with fining tourists for that.

Councilor Downs said many people have contacted him about damage, disease and loss of songbirds resulting from seagulls. He suggested posting signs recommending that tourists do not feed the seagulls.

Councilor Hardesty requested that a committee meeting be held to inform councilors of the problems associated with seagulls.

- - -

BY COUNCILOR PRETTNER

95-041 - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY ADJACENT TO THE FOURTH AVENUE WEST PARKING RAMP TO DEDA WITH RESERVATIONS.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR DOWNS (introduced by Councilor Wheeler)

95-039 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS (LAKE SUPERIOR CENTER PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR DOWNS

95-037 (9265) - AN ORDINANCE PERTAINING TO RECORDS REQUIRED TO BE KEPT BY PAWNBROKERS; AUTHORIZING THE CHIEF OF POLICE TO REQUIRE THE COMPUTERIZATION OF THESE RECORDS; AMENDING SECTION 36-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR DOWNS

95-038 (9266) - AN ORDINANCE ELIMINATING THE SURETY BOND REQUIREMENT FOR ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 8-47, 8-48, 8-50, 8-58, 8-59 AND 8-62 AND REPEALING SECTION 8-60 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 10:15 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9265

BY COUNCILOR DOWNS:

AN ORDINANCE PERTAINING TO RECORDS REQUIRED TO BE KEPT BY PAWNBROKERS; AUTHORIZING THE CHIEF OF POLICE TO REQUIRE THE COMPUTERIZATION OF THESE RECORDS; AMENDING SECTION 36-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 36-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 36-6. Records to be kept; right of inspection.

(a) Each person licensed hereunder shall keep a record of each transaction made in the course of his business. Such record shall include all outright purchases of property made on the premises, even though the seller has no right of repurchase, and shall also include pledges or purchases of property made off the licensed premises but stored or held for sale on the licensed premises. Such records shall be in a form prescribed by the chief of police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:

- (1) The name, address and date of birth of the person pledging or selling the item;
- (2) The time and date of the transaction;
- (3) A complete description of the item pledged or sold, including all identifying numbers and identifying marks;
- (4) The identification presented as required by Section 36-13 of this Chapter;
- (5) A description of the person pledging or selling the item;
- (6) The amount of money paid or loaned for the item;
- (7) The signature of the person pledging or selling the item;
- (8) Any other information the chief of police shall require;

(b) The records required herein shall be kept available for police inspection at any reasonable time at the licensee's place of business;

(c) The chief of police may require that all records and information required to be kept by this Section be kept by computer. The chief of police may establish specifications and standards for the computerized keeping of pawnbrokers records and may require them to be kept in a designated format. If the chief of police elects to computerize pawnbroker recordkeeping, the chief shall send each licensed pawnbroker a written notice of this decision at least 60 days before implementing the change. The notice shall state all specifications, standards, and formats for the computerized system and shall also state the date computerized recordkeeping will begin. The chief of police may also require that the computerized records of the pawnbrokers be electronically transmitted to police headquarters on a periodic basis.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 3, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Wheeler -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 24, 1995
Approved July 24, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9266

BY COUNCILOR DOWNS:

AN ORDINANCE ELIMINATING THE SURETY BOND REQUIREMENT FOR ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 8-47, 8-48, 8-50, 8-58, 8-59, AND 8-62 AND REPEALING SECTION 8-60 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-47 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-47. Same--same--Duluth international airport.

(a) That license issued under authority of Laws 1973, Chapter 324, shall be issued for use on the premises of the Duluth International Airport and shall not be transferable

from said premises, provided that the foregoing shall not limit additional bars and service bars as are provided for in this Chapter;

(b) Such license may be issued to the Duluth airport authority, or to any other person, persons or corporation, at the discretion of the Duluth City Council;

(c) If such license is issued to the Duluth airport authority, said authority shall maintain a liquor liability insurance policy with coverages as required by Minnesota Statutes, Chapter 340A, naming said authority and the city of Duluth as insured parties under such policy;

(d) The fee for such license shall be that fee established by Section 8-56 of this Chapter;

(e) Such license shall be treated as an on sale intoxicating liquor license under the provisions of this Chapter;

(f) All other provisions of this Chapter shall apply to such license and any person, persons, corporation or body holding said license except as they are inconsistent with the provisions of this Section.

Section 2. That Section 8-48 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-48. Same--same--Spirit mountain recreation area.

(a) That license issued under authority of Laws 1974, Chapter 345, shall be issued for use at one or more locations within the boundaries of the Spirit Mountain Recreation Area, provided that whenever said license is used at an area other than the chalet - swimming pool area, the premises affected be segregated with a fence, ropes or other barrier and any alcoholic beverages served shall be served by Spirit Mountain employees only;

(b) Such license shall be issued only to the Spirit Mountain recreation area authority. Notwithstanding any provision of this Code to the contrary, the Spirit Mountain recreation area authority may lease the food and beverage operations to an independent contractor, provided, however, that said authority shall be responsible for the actions of any such independent contractor as provided in Sections 8-34 and 8-35 of this Chapter;

(c) The Spirit Mountain recreation area authority, when holding said license, shall maintain a liquor liability insurance policy as required by Minnesota Statutes, Chapter 340A, which names said authority and the city of Duluth as insured parties under such policy. Such policy shall be kept on file by said authority in the office of the city clerk of the city of Duluth and shall contain a provision requiring that written notice be delivered to the city of Duluth not less than ten days prior to the termination of such policy;

(d) The fee for such license shall be that fee established by Section 8-56 of this Chapter;

(e) Said license shall be treated as an on sale intoxicating liquor license under the provision of this Chapter;

(f) All other provisions of this Chapter shall be applicable to said license and to said authority except as they are inconsistent with the provisions of this Section.

Section 3. That Section 8-50 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-50. To whom licenses issued--temporary nonintoxicating malt liquor.

(a) For purposes of this Section, the following words and phrases shall have the following meanings:

Charitable organization. An organization which engages in solicitation of funds, on a permanent basis, for any charitable, benevolent, philanthropic, patriotic or eleemosynary purposes.

Religious organization. An organization which is affiliated with a national or regional religious denomination and which maintains an established church and congregation.

Nonprofit organization. An organization which is neither designed for nor results in any private pecuniary gain, either directly or indirectly, for any of its members;

(b) Notwithstanding any provisions of the Duluth City Code to the contrary, temporary on sale nonintoxicating malt liquor licenses may be issued to clubs, charitable organizations, religious organizations and other nonprofit organizations permitting such club or organization to sell nonintoxicating malt beverage on sale;

(c) Such license shall be issued for a limited length of time, not to exceed 14 days, and such license shall state on its face the specific dates on which it is valid. The application for such license and the license itself shall specifically state the precise premises where such nonintoxicating malt liquor is to be sold. The license application shall be accompanied by insurance if insurance is required under the provisions of Minnesota Statutes Chapter 340A. The fee for such license shall be \$75 plus \$15 for each day the license is effective. Said fee and cash deposit shall be paid to the city clerk at the time of application. All applications for such licenses shall be made to and filed with the city clerk on forms provided by the city clerk. Such license shall not be transferable. No license shall be issued under this Section if it appears that the issuance of such license will endanger the health, safety or morals of the public. Licensed premises outside of buildings shall be clearly indicated;

(d) The chief of police shall designate or approve one or more security personnel to police premises licensed pursuant to this Section at times when nonintoxicating malt liquor is sold on such premises. The fees and expenses for such personnel shall be paid by the licensee.

Section 4. That Section 8-58 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-58. Applications for intoxicating liquor licenses.

Applications for intoxicating liquor licenses shall be made to and filed with the city clerk. On sale applications shall be made on forms prescribed by the city council. Off sale applications shall be made on forms prescribed by the liquor control commissioner. All forms shall be supplied by the city clerk. The council or alcoholic beverage board may require applicants to furnish information in addition to that contained in the written forms. If required under the provisions of Minnesota Statutes Chapter 340A, a liability insurance policy shall accompany each application for a license.

The application for an off sale intoxicating liquor license is subject to approval by the state department of public safety. Before such off sale license shall become effective, the application therefor, together with the required insurance policy, shall be approved by the liquor control commissioner.

Section 5. That Section 8-59 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-59. Same--Nonintoxicating malt liquor licenses.

Every person desiring a nonintoxicating malt liquor license shall file a verified application therefor, in writing, with the city clerk, in the form to be prescribed by the city council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Such application shall be accompanied by a liability insurance policy if one is required under the provisions of Minnesota Statutes, Chapter 340A.

Section 6. That Section 8-62 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-62. Issuance--generally.

The city clerk shall not issue any license under this Division unless directed to do so by resolution duly adopted by the city council. No application for a license to sell intoxicating liquor shall be received or filed by the city clerk before June 15 nor after July 15. No application for a license to sell nonintoxicating malt liquor shall be received or filed by the city clerk before February 15 nor after March 15. Where a license is made available by revocation, abandonment, surrender, cancellation or for some other cause, such available license may, upon application to the city council, be reissued by the city council as determined by a resolution adopted for such purpose. Any resolution granting a license may be conditioned on final departmental approvals, payment of taxes or any other condition the council deems appropriate. The city clerk shall not issue any license until all such conditions are met.

The alcoholic beverage board shall cause an investigation to be made of all of the representations set forth in the applications. Opportunity shall be given at a regular or special meeting of the alcoholic beverage board to any person to be heard for or against the granting of any license. After such investigation, the city council shall grant or refuse such license in its discretion; provided, that no off sale intoxicating liquor license shall become effective until it, together with any required insurance policy, has the approval of the liquor control commissioner of the state.

The licensed premises shall have the license posted in a conspicuous place.

Section 7. That Section 8-60 of the Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 8. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 3, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Wheeler -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 24, 1995
Approved July 24, 1995
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 14, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Downs -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

94-0814-01 Simon Property Group L.P., M.S. Management Associates, Inc., and Sears Roebuck and Company, by Robert S. Eaton, attorney, submitting petition (three signatures) for reclassification from R-1-B to C-5 of certain property adjacent to the Miller Hill Mall. -- Assessor

95-0814-02 Minnesota pollution control agency submitting correspondence regarding Permit Nos. 19487, 19494, 19596 and 19563. -- Sewer division

95-0814-03 Minnesota state auditor submitting its annual audit of Western Lake Superior Sanitary District for the year ended December 31, 1994. -- Received

95-0814-20 Douglas E. Ellingsen submitting letter regarding the proposed improvement of Claymore Street, Belaire Avenue and Heather Avenue (95-0565R). -- Received

95-0814-04 Etor Properties appealing the decision of the technical design advisory committee for the DWMX-D regarding construction of a parking lot behind the 525 Lake Avenue South building which was approved contingent on Etor Properties providing a ten foot pedestrian walkway easement along the western edge of the property. -- Committee 2 (planning)

95-0814-06 Mark Levang submitting letter opposing prohibiting the feeding of seagulls (95-042-O). -- Received

95-0814-08 McGladrey and Pullen, LLP, submitting independent auditor's report on legal compliance for Miller-Dwan Hospital and Medical Center. -- Received

95-0814-05 Bill Meierhoff, by Patrick M. Spott, attorney, appealing the decision of the technical design advisory committee for the DWMX-D the requirement that Mr. Meierhoff dedicate to the city a ten foot wide by approximately 450 foot long pedestrian easement adjacent to Minnesota Slip and temporary construction easements ten feet on either side of the pedestrian easement prior to issuance of a certificate of appropriateness. -- Committee 2 (planning)

95-0814-07 Dennis O'Hara submitting acceptance of terms and conditions of concurrent use permit granted by Ordinance No. 9254 on June 5, 1995. -- Received

95-0814-09 Scott Vesterstein submitting acceptance of concurrent use permit conditions granted by Ordinance No. 9255 on June 5, 1995. -- Received

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REPORTS OF OFFICERS

95-0814-10 Assessor submitting:

(a) Letter of insufficiency regarding petition to reclassify lower Duluth, Lots 7, 9, 11, 13, Minnesota Avenue and lower Duluth, Lots 8, 10, 12, 14, St. Louis Avenue from C-2 and R-1-C to R-3;

(b) Letter of sufficiency regarding petition to vacate a portion of the skywalk in the Holiday Center;

(c) Letter of sufficiency regarding petition to vacate that portion of West Second Street adjacent to Lots 10 and 11, Block 1, Oneota Industrial Park;

(d) Amended notice of confirmation of assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1994, through June 1, 1995, for which the licensed collector has not been reimbursed. -- Received

95-0814-11 Building official submitting appeals by:

(a) Karen D. Rogalla and Thomas E. Cheetham appealing decision of the board of zoning appeals to deny a request to relax the rule requiring accessory buildings to be located on the same lot as the main building (dwelling) located across the alley from 215 - 101st Avenue West;

(b) Kevin Skomars to reverse the board of zoning appeals denial of a request to allow a third story on property located at 2215 West 12th Street. -- Committee 2 (planning)

95-0814-12 Community development and housing division manager submitting HUD community development status report for April through June, 1995. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0814-13 Alcoholic beverage board minutes of: (a) May 17; (b) June 5; (c) June 21; (d) June 30; (e) July 6, 1995 meetings. -- Received

95-0814-14 Board of zoning appeals minutes of June 27, 1995 meeting. -- Received

95-0814-26 Charter commission secretary submitting notification of the commission's decision to take no further action regarding the proposed establishment of term limits for local elected officials. -- Received

95-0814-15 Civil service board minutes of June 6, 1995 meeting. -- Received

95-0814-16 Duluth airport authority minutes of June 20, 1995 meeting. -- Received

95-0814-17 Duluth housing trust fund board submitting correspondence regarding low income housing providers. -- Received

95-0814-18 Duluth transit authority: (a) Minutes of June 28, 1995 meeting; (b) May 1995 income statement; (c) June 1995 income statement. -- Received

95-0814-19 Neighborhood advisory council minutes of June 13, 1995 meeting. -- Received

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RESOLUTION TABLED

Councilor Talarico moved to remove from the table Resolution 95-0565, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Doug Ellingsen read a letter that he previously submitted to the council (Public Document No. 95-0814-20). He further commented that streets in his area have been poorly maintained, and said that heavy equipment being used for development in the area has caused some of the damage to the streets. He felt that residents should be given more detail regarding planned improvements before they are asked to pay for them.

Councilor Talarico moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 95-0814-10(d), which is levied to defray in full the expense of solid waste collection during

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the period of March 1, 1994 - June 1, 1995, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 95-0698 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Waltman Tessier Memorial Tournament, Wheeler Field, for August 25, 26 & 27, 1995, with John McAdamis, manager.

Resolution 95-0692 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license, for the period ending August 31, 1995, subject to department approvals:

MKR Limited, Bennett's Bar & Grill, 319 West Superior Street, transferred from MKR, Inc., (Bennett's Bar & Grill), same address, with Robert Bennett, president/vice president, and 25 percent stockholder, Kathleen Bennett, secretary/treasurer, and 25 percent stockholder, Richard Freeman, 25 percent stockholder, and Jamie Freeman, 25 percent stockholder.

Resolution 95-0693 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the municipal and school board primary election on September 12, 1995, as listed in Public Document No. 95-0814-21.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judge chairmen shall be compensated at the rate of \$6 per hour and nonchairman election judges shall be compensated at the rate of \$5.25 per hour. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.30 per mile, payable from General Fund 015-1512-5441.

Resolution 95-0694 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 12, 1995, municipal and school board primary election and November 7, 1995, for the municipal and school board general election:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

POLLING PLACE LIST

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. Street Michael's Catholic Church (lower level)	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd (lower level)	45th Avenue East & Colorado
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church (fellowship hall)	2105 Woodland Avenue
9. Duluth Congregational Church (lower level)	3833 East Superior Street
10. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
11. Pilgrim Congregational Church (lower level)	2310 East Fourth Street
12. Woodland Junior High School (auditorium)	Clover & Eighth Street
13. U.M.D. (ballroom)	10 University Drive
14. Kenwood School (gym)	Kenwood & Maryland Avenues
15. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
16. Prince of Peace Fellowship Church	1824 East First Street
17. United Baptist Church (lower level)	830 East First Street
18. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
19. Trinity Lutheran Church (avenue entrance)	1108 East Eighth Street
20. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
21. First United Methodist Church (lakeview social hall)	230 East Skyline Parkway
22. Nettleton School (gym)	First Avenue East & Sixth Street
23. Senior Citizen Community Center (auditorium)	211 North Third Avenue East
24. Duluth Public Library (green room)	520 West Superior Street
25. Lafayette Square (upper level)	3026 Minnesota Avenue
26. Street Peter's Catholic Church (lower level)	818 West Third Street
27. Duluth Heights Community Club	33 West Mulberry Street
28. West End Senior Center (lower level)	2014 West Third Street
29. Lincoln Park School (gym)	2427 West Fourth Street
30. Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
31. Street Lawrence Church	2410 Morris Thomas Road
32. Harrison Community Club	3002 West Third Street
33. Lutheran Church of Christ the King (alley entrance)	4219 Grand Avenue
34. Faith Haven (recreation room)	4901 Grand Avenue
35. Elim Lutheran Church (social hall)	6101 Cody Street
36. Irving Recreation Center	20 South 57th Avenue West
37. Bethany Baptist Church (social hall)	6700 Grand Avenue
38. Bayview Heights School (gym)	8702 Vinland Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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|---|--------------------------------|
| 39. Riverside Community Club | Cato Avenue & Manitou Street |
| 40. Goodfellowship Community Center
(warming area) | 1242-88th Avenue West |
| 41. Gary-New Duluth Recreation Center | 717-101st Avenue West |
| 42. Fond du Lac Recreation Center | 131st Avenue West & Highway 23 |

Resolution 95-0695 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Genex Minnesota be and hereby is awarded an annual contract for furnishing welding and industrial gas for the various departments in accordance with unit prices as specifications on its low bid of \$8,000, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0702 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Stamm Manufacturing, Inc., be and hereby is awarded a contract for furnishing and delivering a signalier lift and platform for the traffic operations division in accordance with specifications on its low specification bid of \$37,434, terms net 30, FOB job site, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E525.

Resolution 95-0706 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Stamm Manufacturing Company, Inc., be and hereby is awarded a contract for furnishing and delivering a cab and chassis for the traffic operations division in accordance with specifications on its low specification bid of \$23,780, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E525.

Resolution 95-0708 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Donald Holm Construction Company be and hereby is awarded a contract for construction of a hockey/soccer building at Glen Avon recreation area for the city architect division in accordance with specifications on its low specification bid of \$152,200, terms net, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C407.

Resolution 95-0712 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR WHEELER:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. Multiple Sclerosis Society	Norman's Bar	July 24, 1995
2. Pequaywan Area Trail Blazers	Incline Station	August 1, 1995
3. Lower Chester	Casa De Roma	July 21, 1995
4. Irving Youth Hockey	North Pole Bar	August 7, 1995
	Line Backer Lounge	August 7, 1995
5. Duluth Amateur Hockey Association	Duluth Entertainment Convention Center-one day off site for raffle to be held 1/27/96	August 7, 1995

Resolution 95-0715 was unanimously adopted.
Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals:

600 East Superior Street, Inc. (Fitger's Augustino's), 600 East Superior Street.

Resolution 95-0716 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale nonintoxicating malt liquor license for the period ending April 30, 1996, subject to departmental approvals:

Nylen, Magie & Strum Properties (Buena Vista Lounge and Restaurant), 1144 Mesaba Avenue.

Resolution 95-0717 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating liquor license, subject to departmental approvals with any specific restrictions:

Duluth Jaycees (MRP Racing), Park Point beach, for August 26 & 27, 1995, with Daniel Williams, manager.

Resolution 95-0729 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the Minnesota housing finance agency, state of Minnesota, has been authorized to undertake a program to provide loans to property owners for the purpose of housing rehabilitation; and

WHEREAS, the housing and redevelopment authority of Duluth, Minnesota, has developed an application as an administering entity for the Minnesota housing finance agency rehabilitation loan programs, which is on file with the city clerk as Public Document No. 95-0814-22; and

WHEREAS, the housing and redevelopment authority of Duluth has demonstrated the ability to perform the required activities of the Minnesota housing finance agency rehabilitation loan programs.

NOW, THEREFORE, BE IT RESOLVED, that the housing and redevelopment authority of Duluth, Minnesota, is hereby authorized to make application to the Minnesota housing finance agency for a grant of funds pursuant to the MHFA rehabilitation loan programs.

BE IT FURTHER RESOLVED, that the housing and redevelopment authority of Duluth is hereby authorized as an entity to be charged with the administration of funds made available through the Minnesota housing finance agency rehabilitation loan program, in the city of Duluth, Minnesota.

Resolution 95-0699 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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Resolution 95-0705, by Councilor Prettner, authorizing home program and CDBG grant agreement with Women's Transitional Housing Coalition for rehabilitation of property at 1431 East First Street into a triplex apartment unit, in the amount of \$163,275, was introduced for discussion.

Councilor Bohlmann opposed this resolution, stating the cost per housing unit is far too costly.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Nancy Burns, Women's Transitional Housing Coalition, reviewed the budget for the proposal, noting costs other than construction costs increased the cost per unit. She noted that these apartments are large, with the intent to serve large families leaving transitional housing. She explained that this is a rehabilitation of an abandoned, gutted house, so it is essentially a new construction except for the foundation, walls and roof.

Councilor Dahlberg also felt that costs are too high for this project, and said there are other houses in the area that could be rehabilitated at a lesser cost.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

In response to Councilor Atkins, Ms. Burns said that families who will be occupying this housing will be families that have been in the transitional housing program for 12 to 18 months and are now moving into permanent housing. She said this will provide a continuum of housing for families that are homeless. She added that this housing is located near the transitional housing, where services and staff are available, and said the neighborhood is in favor of the rehabilitation.

In response to Councilor Bohlmann, Ms. Burns said her expectation is that it is likely that the families who will occupy this housing will have a Section 8 type subsidy, and if not, the rents will be affordable. She further responded that the apartments are owned by Women's Transitional Housing, a nonprofit organization, and that rents should cover the operating costs of the building.

Councilor Hardesty noted that the purchase price of the building is very low, and said that part of the value of the project is the revitalization of a vacant building in a family neighborhood. She added that the cost of this project is shared by the private sector.

Councilor Talarico said he is satisfied with the explanation regarding the higher cost per unit for the project, noting that the cost is less per square foot than the cost for new units recently built. He applauded the efforts of the Women's Transitional Housing Coalition and this proposal, saying that it is a comprehensive project that takes people from early displacement through permanent housing. He agreed that the renovation will be an improvement in the neighborhood.

Councilor Dahlberg felt the dollars could be spent more wisely and serve more individuals.

Councilor Wheeler felt this is an outstanding project and an opportunity to make an investment in people.

Councilor Atkins said there are many buildings available throughout the community, and that more housing could be provided at a lesser cost. He said he would like to have the resolution tabled for further information.

Councilor Prettner felt this is a worthy project that addresses special needs and circumstances of individuals, and said this type of programming and housing is not provided in the private community. She moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins and Bohlmann -- 2

Absent: Councilor Downs -- 1

Resolution 95-0705 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of that agreement which is on file with the city clerk as Public Document No. 95-0814-23, with Women's Transitional Housing Coalition for the rehabilitation of property at 1431 East First Street into a triplex apartment building, in the amount of \$163,275, payable as follows: Fund 260, \$50,000 from 1994 HOME program funds; and \$54,275 from 1995 HOME program funds; and \$59,000 from 1995 Federal Community Development Block Grant Program Fund 263-WTHC Project Account No. 6356, and with the housing and redevelopment authority for disbursement agent services and related services.

Resolution 95-0705 was adopted upon the following vote:

Yeas: Councilors Atkins, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Bohlmann and Dahlberg -- 2

Absent: Councilor Downs -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved August 14, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, Dr. Timothy Smith has submitted to the city council a request for a special use permit for a medical and dental clinic in a residential zone for property at 1630 Kenwood Avenue; and

WHEREAS, said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Dr. Timothy Smith to allow for the operation of a dental clinic and four unit apartment at 1630 Kenwood Avenue, on the condition that the project be constructed and maintained in accordance with plans submitted by Alan Adams Architect, as identified as Public Document No. 95-0814-24.

BE IT FURTHER RESOLVED, that the term of this special use permit shall be for a period of 40 years from the date of this action.

Resolution 95-0720 was unanimously adopted.

Approved August 14, 1995
GARY L. DOTY, Mayor

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Resolution 95-0721, by Councilor Prettnner, certifying a use permit to Duluth Seaway Port authority and Como Lube and Supply, Inc., for a petroleum recycling facility to be located at the Arthur M. Clure municipal marine terminal, was introduced for discussion.

Councilor Prettnner moved to amend the resolution to add the following final paragraph:

"FURTHER RESOLVED, that the applicant shall submit to the city verification from appropriate state and federal agencies that all environmental regulations have been satisfied and the applicant is currently in compliance. The initial verifications shall be submitted prior to commencement of operations and every two years thereafter. Failure to submit these verifications shall result in revocation of the use permit," which motion was seconded and unanimously carried.

Resolution 95-0721, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Seaway Port authority and Como Lube and Supplies, Inc., has submitted to the city council a request for a use certification of a waterfront location in a W-1, waterfront zone, for a facility for the receipt and refining (cleaning) of used oil, grease, cleaning fluids, filters and containers on property described as the Arthur M. Clure Municipal Marine Terminal located at Garfield Avenue and Port Terminal Drive; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that the location is appropriate in a W-1, waterfront zone, because a majority of the services to be provided will be utilized by and be necessary for, the maritime industry, and that safeguards will exist to protect the comprehensive plan and to conserve and to protect property values if the conditions are observed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that a use certification is hereby granted to Seaway Port authority and Como Lube and Supplies, Inc., to allow for the operation of a facility for the receipt and refining (cleaning) of used oil, grease, cleaning fluids, filters and containers on property described as the Arthur M. Clure Municipal Marine Terminal located at Garfield Avenue and Port Terminal Drive on the condition that the facility be approved and maintained in perpetual compliance with all state and federal pollution control and environmental protection agency rules and regulations.

FURTHER RESOLVED, that the applicant submit to the city verification from appropriate state and federal agencies that all environmental regulations have been satisfied and the applicant is currently in compliance. The initial verifications shall be submitted prior to commencement of operations and every two years thereafter. Failure to submit these verifications shall result in revocation of the use permit.

Resolution 95-0721, as amended, was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Western Lake Superior Sanitary District covering reimbursement to the city for costs incurred in the reconstruction of a portion of the Woodland interceptor sewer as a part of the street improvement program (City Job Nos. 8874XA94 and 8874XE94); said agreement to be substantially in the form of Public Document No. 95-0814-25 on file with the city clerk; the estimated \$250,000 receivable thereunder to be deposited in the Street Improvement Fund 440.

Resolution 95-0718 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, it appears that it may be necessary that a gas main be constructed as follows: a one inch P.E. high pressure gas main on the east side of 14th Avenue East from East Ninth Street to 150 feet southerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said gas main, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said gas project, the mayor shall cause to be prepared plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 95-0691 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, it appears that it may be necessary that a gas main be constructed as follows: a two inch P.E.H.P. gas main in East Skyline Boulevard Alley from 15th Avenue East to 570 feet westerly.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said gas main, provided that further investigation demonstrates that such action be taken; and

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said gas project, the mayor shall cause to be prepared plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 95-0696 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, it appears that it may be necessary that a water main be constructed as follows: a six inch water main in East Skyline Parkway from Boulevard Terrace Addition southerly 130 feet and easterly 430 feet.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said watermain, provided that further investigation demonstrates that such action be taken.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said water project, the mayor shall cause to be prepared plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 95-0697 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Resolution 94-0124 to R & P Industrial Chimney Company, Inc., for modification to the 240 foot stack at Duluth Steam District 1, be amended to increase the amount by \$52,420 for a new total of \$210,567.01, payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 95-0701 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that various vendors (Capp, Inc., \$9,500.31; Dey Distributing, \$37,615.68; Duluth Plumbing Supplies, \$4,322.38; Pameco Corporation, \$13,675.15; Sid Harvey Midwest, Inc., \$5,147.43; Westburne Supply Company, \$4,096.03) be and hereby are awarded a contract for furnishing and delivering 1995/1996 furnace repair parts for the gas service division in accordance with specifications on its low specification bid of \$74,356.98, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 95-0703 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Christies be and hereby is awarded a contract for furnishing and delivering a copier machine with sorter and one year of maintenance for the water and gas department in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

accordance with specifications on its low specification bid of \$14,094.98, terms net 30, FOB destination, \$7,047.49 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$7,047.49 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 95-0707 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Computer's Don't Byte be and hereby is awarded a contract to provide computer training for the sewer division in accordance with specifications on their proposal of \$6,500, terms net 30, FOB training site, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5334.

Resolution 95-0663 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0480 to Billington Contracting, Inc., for furnishing and delivering annual requirements of class 5 gravel, bedding sand, crushed rock and pit run gravel, be amended to increase the amount by \$14,108.96 for a new total of \$34,005.02, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 95-0704 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that M & S Painting, Inc., be and hereby is awarded a contract for the painting of traffic signals and street light poles for the traffic operations division in accordance with specifications on its low specification bid of \$8,235, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1930, Object 5401.

Resolution 95-0709 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Bituminous, Inc., be and hereby is awarded a contract for surfacing and shouldering Congdon Boulevard for the engineering division in accordance with specifications on its low specification bid of \$846,443.77, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2159, Object 5530.

Resolution 95-0713 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to enter into an agreement with St. Louis County, Lake County, Cook County, the city of Grand Marais, the city

of Silver Bay, the city of Two Harbors, the city of Proctor, the city of Hermantown, Rice Lake Township, and the University of Minnesota-Duluth providing for the participation by the city of Duluth and the other above-named governmental agencies in the Lake Superior drug task force in the year of 1996.

Resolution 95-0700 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that C. Anderson Demolition, Inc., be and hereby is awarded a contract for demolition of dwellings located at 720 and 722 East Fifth Street, Duluth, Minnesota, for the building inspection division in accordance with specifications on its low specification bid of \$9,200, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 95-0710 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with the state of Minnesota, department of public safety, for the purpose of receiving from the state of Minnesota, department of public safety, hazardous materials emergency response equipment on a loan basis for use by its emergency response personnel to assist in the training of such personnel and for use during hazardous materials incidents to which such personnel may respond, which agreement is on file in the office of the city clerk as Public Document No. 95-0814-27.

Resolution 95-0711 was unanimously adopted.

Approved August 14, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-043 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE NORTHWEST CORNER OF SIXTH AVENUE EAST AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY COMMERCIAL (DIETZMAN).

The rules were suspended upon a unanimous vote to hear a speaker on this ordinance.

Melody Matteen urged the council to support this ordinance, and briefly reviewed plans for the use of the property for their business.

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The following entitled ordinances were read for the second time:

BY COUNCILOR DAHLBERG (introduced by Councilor Downs)

95-042 - AN ORDINANCE PROHIBITING THE FEEDING OF SEAGULLS, AMENDING SECTION 6-61 OF THE CITY CODE.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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

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BY COUNCILOR PRETTNER

95-041 (9267) - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY ADJACENT TO THE FOURTH AVENUE WEST PARKING RAMP TO DEDA WITH RESERVATIONS.

Councilor Bohlmann stated she will oppose this ordinance because she will not vote in favor of conveying any more land of any kind to DEDA.

In response to Councilor Atkins, Councilor Prettner said DEDA is working with Oneida Realty to develop parking ramps and parking spaces and the city's purpose is to expand public parking.

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

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

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The meeting was adjourned at 8:45 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9267

BY COUNCILOR PRETTNER:

ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY ADJACENT TO THE FOURTH AVENUE WEST PARKING RAMP TO DEDA WITH RESERVATIONS.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey all right, title and interest of the city of Duluth in the property described on Exhibit A (Public Document No. 95-0814-28) to the Duluth economic development authority at no cost, subject to the reservation of the right in the city to construct, operate, maintain and retain revenue from the operations of surface parking facilities on said property provided that said construction, operation and maintenance shall not unreasonably interfere with the construction, operation and maintenance by said authority of a parking ramp structure on and over said property.

Section 2. That this ordinance shall be effective 30 days from and after its passage and publication or upon completion of conveyance of the property described on said Exhibit A from the state of Minnesota to the city, whichever shall occur later. (Effective date: September 24, 1995)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 14, 1995

Approved August 14, 1995

GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 28, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0828-01 Elizabeth R. Howard petitioning for a concurrent use permit for placement of underground drain field to extend into public access of 129th Street. -- Planning commission

95-0828-02 Michael and Penny LaBerge, et al. (four signatures) petitioning for vacation of an easement located between Northland Estates, Lots 8 and 9. -- Assessor

95-0828-03 Kevin Owens submitting additional signatures (nine) for a petition for the reclassification from C-2 and R-1-C to R-3 properties at 1919 and 1921 Minnesota Avenue. -- Assessor

95-0828-04 John Schweiger petitioning for the construction of a six inch ductile iron watermain, a two inch P.E.H.P. gas main and an eight inch sanitary sewer in East Superior Street, from 63rd Avenue East to approximately 350 feet easterly. -- Assessor

95-0828-05 Minnesota health department submitting reports on the: (a) St. Louis River/Interlake-Duluth Tar; (b) U.S. Steel superfund sites. -- Received

95-0828-06 Minnesota pollution control agency submitting: (a) Correspondence regarding Permit No. 19881; (b) Permit No. 19926 for the construction and operation of a sanitary extension system for the Kaake Dental Clinic. -- Sewer division

95-0828-07 Six Judicial District Chief Judge Donovan W. Frank submitting order appointing Hamilton Monroe Smith to the charter commission to fill an unexpired vacancy through May 30, 1988, replacing Genevieve James. -- Received

95-0828-44 (a) Rodney G. Brodin; (b) Andrew Sternberg submitting letters regarding planning commission appeal for property located at 1 Lakeside Court. -- Received

95-0828-45 (a) Dean A. Casperson; (b) Damberg Scott Peck Booker, Inc.; (c) Deborah Tveit submitting correspondence regarding the Women's Transitional Housing triplex (95-0705R). -- Received

95-0828-09 Harvey Hengel submitting correspondence supporting a proposed ordinance prohibiting feeding seagulls (95-042-O). -- Received

95-0828-10 Ann Klefstad, Jeffrey Kalstrom and Arlene Lodahl submitting: (a) Letter appealing decision of the technical design advisory committee for the DWMX-D limiting Estuary Park installation to 90 days; (b) Withdrawal of same filed August 28, 1995. -- Received

95-0828-08 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Steve Chilton and Kate Pearson on October 14, 1995. -- Received

95-0828-12 Paul Steklenski and Linda Kalweit submitting letter opposing the proposed vacation of a 30 foot easement along the lower side of Skyline Parkway (95-0656R). -- Received

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REPORTS OF OFFICERS

95-0828-11 Assessor submitting:

(a) Letter of sufficiency regarding petition to reclassify property adjacent to the Miller Hill Mall to C-5;

(b) Letter of insufficiency regarding petition to reclassify Lower Duluth, Lots 7, 9, 11 and 13, Minnesota Avenue and Lower Duluth, Lots 8, 10, 12 and 14, St. Louis Avenue from C-2 and R-1-C to R-3;

(c) Supplemental notice of confirmation of assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1994, through June 1, 1995, for which the licensed collector has not been reimbursed;

(d) Letter of sufficiency regarding petition to vacate an easement located between Lots 8 and 9, Block 1, Northland Estates. -- Received

95-0828-13 Engineering division submitting monthly project status report of August 1, 1995. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0828-14 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of June 15, 1995 meeting. -- Received

95-0828-15 Board of zoning appeals minutes of July 25, 1995 meeting. -- Received

95-0828-17 Citywide Citizens advisory committee minutes of July 25, 1995 meeting. -- Received

95-0828-18 Duluth airport authority: (a) Minutes of July 18, 1995 meeting; (b) Unaudited balance sheet of June 30, 1995. -- Received

95-0828-22 Duluth economic development authority submitting correspondence regarding Bayfront Landing project. -- Received

95-0828-16 Planning commission submitting minutes of June 13, 1995 meeting. -- Received

95-0828-19 Seaway Port authority of Duluth: (a) Minutes of: (1) May 24; (2) July 7, 1995 meetings; (b) April and May, 1995, combined financial statements. -- Received

95-0828-20 Technical design advisory committee for the Downtown waterfront mixed-use design review district minutes of July 18, 1995 meeting. -- Received

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REPORTS OF COUNCILORS

95-0828-21 Councilor Prettner submitting correspondence from State Representative Oberstar regarding H.R. 1555, the Communications Act of 1995. -- Received

- - -

Administrative Assistant Nollenberger reviewed at length his communication (Public Document No. 95-0828-22) regarding recent developments at the Bayfront landing project. He discussed the aspects of tax increment financing bonds, special service district bonds, design review, cost allocation and issues before the Minnesota historical society.

Councilors Bohlmann and Atkins expressed their concern of not being aware of the difficulties of securing the Minnesota historical society approval. Mr. Nollenberger responded that there has been negotiations and the administration feels it will be resolved successfully.

Councilor Bohlmann voiced her concern of citizens possibly being liable for paying bonds that aren't paid within the special service district. She questioned if the Minnesota historical society issue is just a stall by staff to serve as a delay tactic.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Haney reviewed that at a recent citizens meeting, the issues of high taxes, street maintenance, accountability of city council spending and honesty of the administration were the most important issues addressed by the citizens.

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RESOLUTION FOR RECONSIDERATION

Councilor Atkins moved to reconsider Resolution 95-0705, authorizing HOME program and CDBG grant agreement with Women's Transitional Housing Coalition for rehabilitation of property at 1431 East First Street into a triplex apartment unit, in the amount of \$163,275, which motion was seconded and discussed.

Councilor Atkins stated that more information has come forth and he would like to discuss the issue again. He elaborated that if more existing units in a neighborhood can be purchased with less dollars, more living space could be made available for needed housing. He felt the issue of rehabilitation and what is allowed should be reviewed.

Responding to Councilor Prettner, City Attorney Dinan noted that a motion is reconsiderable in that the contracts have not been delivered to the contractor yet.

Councilor Prettner voiced her concern that this particular project has become a scapegoat and she feels that it is no different than any other new housing project.

Councilor Dahlberg said he is not opposed to the organization that is involved, but that he feels there is a need to see if services are provided at a reasonable cost.

Councilor Hardesty expressed her concern that by bringing this up again there might be a perception of a form of organization bashing that might surface and said that she feels this organization is providing a necessary service. In conclusion, Councilor Hardesty questioned whether development of old housing stock should be stopped and asked if the neighbors would rather see a vacant house.

To the concerns voiced, Councilor Atkins stated that similar housing units are selling in that neighborhood for a substantially less amount. He felt it would make more economic sense to purchase those units and said that he felt this house would never sell for \$275,000 after it's been refurbished.

Councilor Wheeler stated the organization has an outstanding national record, the new housing stock is needed and that the building is not useful as it is.

Councilor Bohlmann voiced her concern that asking questions about whether the project is economically practical is mistakenly interpreted as being against the program or organization. She stated that with other options suggested, more people can be served with less dollars. She also felt that there are unanswered questions regarding liens and taxes on this property.

Councilor Downs moved to suspend the rules to hear speakers, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Wheeler and President Keenan -- 6

Nays: Councilors Hardesty, Prettner and Talarico -- 3

(Suspension of the rules requires a 7/9 vote)

Councilor Prettner stated that she will be happy to hear from speakers at a committee meeting to discuss the policy for public housing, but that this particular project shouldn't be singled out.

Responding to Councilor Bohlmann's questions, Pam Kramer stated there are no IRS liens on the property and if there were any, they would not be able to fund the project. Ms. Kramer stated that the title has been cleared.

The motion to reconsider Resolution 95-0705 failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

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RESOLUTIONS TABLED

Councilor Prettner moved to remove from the table Resolution 96-0656, vacating a 30' driveway easement along lower side of Skyline Parkway in the Plat of Boulevard Terrace, First Addition, from the table, which motion was seconded and unanimously carried.

Councilor Prettner reviewed that there had been a committee meeting on this and that the committee recommends this resolution.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Al Gartner reviewed his concern that 1,143 cars cross Skyline Parkway each day and questioned why the driveway for this new development needs to enter this busy road.

Resolution 95-0656 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 30 foot right-of-way along lower side of Skyline Parkway, approximately 580 feet in length, in the plat of Boulevard Terrace, First Addition, legally described as:

The extended right-of-way of Skyline Parkway adjacent to Lots 1-5, Boulevard Terrace, First Addition; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its July 11, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the extended right-of-way of Skyline Parkway adjacent to Lots 1-5, Boulevard Terrace, First Addition described above, and as more particularly described on Public Document No. 95-0828-24.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the easement to be vacated.

Resolution 95-0656 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to remove from the table Resolution 95-0565, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, from the table, which motion was seconded and unanimously carried.

Councilor Hardesty moved to divide the resolution to separate out the project of Lower Hunters Park 1, which motion was seconded and unanimously carried.

Councilor Bohlmann voiced her concern that the assessment is being averaged out based on only front and side yard calculations and that a house with a \$200,000 valuation or a house with a \$50,000 valuation on the same piece of property is going to be assessed in the same fashion. She felt there should be a better way to share the cost based on the valuation of the house that is on the property. She also noted her concern that there is no guarantee that the final costs will be the same as the estimate and that this will create a financial hardship on some individuals.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Talarico supported the concept of treating everyone the same and noted that everyone gets the same benefit for the same improvement of the street and even though other forms of assessment were reviewed, this is the fairest form.

Resolutions 95-0565(a) and 95-0565(b) were adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues, and parkways set forth in Public Document No. 95-0828-23(a) on file with the office of the city clerk; that the costs of said improvement shall be paid from the street improvement fund (Fund 440) and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvement projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and staffs from public works, planning and communications will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways, curbing, traffic patterns, and vehicular design speeds.

Resolution 95-0565(a) was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved August 28, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth, the city council hereby orders the improvement, to city of Duluth standards, of those streets, avenues, and parkways set forth in Public Document No. 95-0828-23(b) on file with the office of the city clerk; that the costs of said improvement shall be paid from the street improvement fund (Fund 440) and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvement projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and staffs from public works, planning and communications will be established to permit early involvement and public input on various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways, curbing, traffic patterns, and vehicular design speeds.

Resolution 95-0565(b) was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Hardesty -- 1

Approved August 28, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following, on file in the city clerk's office as Public Document No. 95-0626-06(c), be and the same is hereby confirmed:

watermain in Yosemite Avenue from existing main 114 feet south of south line of Walnut Street to 345 feet southerly (Contract No. 1194031) (assessable portion: \$19,886.62).

Resolution 95-0618 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of site work at the Leif Erikson Park and the Rose Garden restroom facility for the city architect division in accordance with specifications on its low specification bid of \$164,617, terms net 30, FOB job site, \$46,000 payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C408; \$116,342 payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C419 and \$2,275 payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I428.

Resolution 95-0744 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that MacQueen Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering a three wheel street sweeper for the fleet services division in accordance with specifications on its low specification bid of \$96,978.35, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E516.

Resolution 95-0745 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0747, by Councilor Downs, awarding contract to Duluth Paper and Specialties for annual requirements of trash can liners in accordance with specifications on its low specification bid of \$7,000, was introduced for discussion.

Councilor Dahlberg stated he will abstain from voting on this resolution because he is employed by this firm.

Resolution 95-0747 was adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Duluth Paper and Specialties be and hereby is awarded a contract for furnishing and delivering annual requirements of trash can liners for the various departments/divisions in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 95-0747 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Nays: None -- 1
Abstention: Councilor Dahlberg -- 1
Approved August 28, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that North Country Equipment Company be and hereby is awarded a contract for furnishing and delivering urethane cutting edges for the fleet services division in accordance with specifications on its low specification bid of \$8,988.60, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0751 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Streicher's, Inc., be and hereby is awarded a contract for furnishing and delivering police squad car accessories for the fleet services in accordance with specifications on its low specification bid of \$5,295.55, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E506.

Resolution 95-0752 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 68 on sale intoxicating liquor renewal licenses, 65 on sale Sunday intoxicating liquor renewal licenses, 19 on sale dancing renewal licenses, and eight additional bar renewal licenses for the period beginning September 1, 1995, and ending August 31, 1996, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, as listed on Public Document No. 95-0828-25.

Resolution 95-0759 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 13 on sale wine licenses for the period beginning September 1, 1995, and ending August 31, 1996, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 95-0828-26.

Resolution 95-0760 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves 20 off sale intoxicating liquor licenses for the period beginning September 1, 1995, and ending August 31,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1996, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 95-0828-27.

Resolution 95-0761 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves two on sale club liquor licenses for the period beginning September 1, 1995, and ending August 31, 1996, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 95-0828-28.

Resolution 95-0762 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the Duluth City Council issues on sale intoxicating liquor licenses subject to departmental approvals and the payment of sales and property taxes; and

FURTHER WHEREAS, Section 8-65 of the Duluth City Code, 1959, as amended provides that:

In the event the applicant does not own the real estate where the licensed business is to be located and there are delinquent taxes of record against such real estate, the city council may nevertheless, by affirmative vote of five members of the council, authorize and direct the issuance of such license or the transfer thereof, but only in the event that the applicant shall file with the city clerk proof that the owner of said real estate and the applicant have entered into a written rental agreement or lease providing that rent paid shall be first applied to such delinquent real estate taxes; and

FURTHER WHEREAS, subject to such licensee, Silver Hammer, Inc. (R.T. Quinlan's Saloon), and the land owner, by August 31, 1995, have entered into such agreement (Public Document No. 95-0828-29).

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby issues an on sale intoxicating liquor license, Sunday license, and on sale dancing license, to the Silver Hammer, Inc. (R.T. Quinlan's Saloon), 220 West Superior Street, for the period beginning September 1, 1995, and ending August 31, 1996, subject to departmental approvals, the payment of sales and property taxes, as per the aforementioned agreement.

Resolution 95-0763 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 23, 1995, to determine whether or not there is good cause to grant the Moose Lodge #1478 an on sale intoxicating liquor license, notwithstanding delinquent real estate taxes; and

WHEREAS, the alcoholic beverage board found that good cause to issue such license does exist.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale intoxicating liquor license and on sale Sunday license shall be granted to the Moose Lodge #1478, 411 North 57th Avenue West, provided that all delinquent real estate taxes be paid in accordance with the agreement with the St. Louis County auditor.

Resolution 95-0771 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of meter reader, which were approved by the civil service board on May 2, 1995, and which are filed with the city clerk as Public Document No. 95-0828-30, are approved.

Resolution 95-0755 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local governing units are required to issue a sponsoring resolution on behalf of a business requesting a state challenge grant loan through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of NorStar Products International, Inc., d/b/a NorStar-Reach All; and

WHEREAS, this is consistent with the purpose of this governing unit to encourage employment and increase tax base.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of NorStar Products International, Inc., d/b/a NorStar-Reach All, in the amount of \$100,000.

Resolution 95-0724 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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Resolution 95-0726, authorizing 1995 HOME program grant agreement with Northern Communities Land Trust for new construction of two single family homes on 14th Street in the amount of \$50,000; and Resolution 95-0727, authorizing the 1995 HOME program operating fund grants in the amount of \$28,000, by Councilor Prettner, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolutions.

Steve Shepherd voiced his concern of Center City Housing management of the HOME program. Mr. Shepherd stated his concerns that the overseeing of operations is done by those doing the work and there needs to be outside review. He felt concern on the overall operation of the Gardner and Modern hotels.

Tom Haney voiced his concern regarding Northern Community Land Trust and felt that individuals would not want to invest in housing if they are not going to ever own it. He felt that the regulations need to be changed to allow for the property owners to acquire the property.

Tim White, representing Lake Superior College, stated that Lake Superior College is supplying the carpentry services to Northern Community Land Trust and supported this resolution. Mr. White stated that this allows students to have a real hands on project that contributes to the community.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Bernadine Martin voiced her support for Resolution 95-0726, noting that this organization has been working on housing since the 1970s. She noted that SRO commission members abstain from voting on projects from their agencies.

Marcia Hales voiced her concern over Resolution 95-0726 and informed the council of a legal complaint that has been brought against this agency.

Pam Kramer clarified that the Duluth SRO housing commission does not review the HOME program and that the Duluth housing trust fund does that. Ms. Kramer also noted the SRO housing commission members have adopted the city conflict of interest policies and thus do not vote on issues that affect them.

Councilor Bohlmann voiced her support for a committee meeting regarding housing policies, and moved to table the resolutions, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann and Dahlberg -- 3

Nays: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

6

Resolutions 95-0726 and 95-0727 were adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a grant agreement substantially in the form of that agreement which is on file with the city clerk as Public Document No. 95-0828-31, with Northern Communities Land Trust for new construction of two single family three bedroom homes on 14th Street, in the amount of \$50,000, payable from 1995 HOME funds--Fund 260, Agency 020, Organization 2642, Object H001, and with the housing and redevelopment authority of Duluth for disbursement and related services to said grant agreement.

Resolution 95-0726 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper City officials are hereby authorized to enter into three 1995 HOME program CHDO operating fund grant agreements, copies of which are on file in the office of the city clerk as Public Document Nos. 95-0828-32(a) (Life House), 95-0828-32(b) (Center City Housing Corporation) and 95-0828-32(c) (Northern Communities Land Trust), for a combined total of \$28,000, all payable from Fund 260, Agency 020, Organization 2642, Object H009, as follows:

Life House, Inc. - \$10,305

Center City Housing Corp. - \$12,546

Northern Communities Land Trust - \$5,149

Resolution 95-0727 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance adding a new Section 54(e) to the City Charter; and

WHEREAS, said Section 410.12, Subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks' published notice of the text of the proposed ordinance;

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendment to the City Charter is hereby called for September 18, 1995, at 8:00 p.m. in the council chambers at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News-Tribune a notice of such hearing as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, notice is hereby given by the city of Duluth that on September 18, 1995, at 8:00 p.m., in the council chambers at the Duluth City Hall, the city council of the city of Duluth will conduct a public hearing on the question of the adoption of an ordinance adding a new Section 54(e) to the City Charter to read as follows:

[text of proposed Ordinance No. 95-044-O]

Resolution 95-0731 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of West Second Street adjacent to Lots 10 and 11, Block 1, Oneota Industrial Park, legally described as:

That portion of West Second Street adjacent to Lots 10 and 11, Oneota Industrial Park; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved, unanimously, the vacation petition, subject to the retention of easements, at its August 8, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of that portion of West Second Street adjacent to Lots 10 and 11, Block 1, Oneota Industrial Park described above, subject to the retention of easements for utilities and the railroad spur trackage serving Lot 3, Block 2, Oneota Industrial Park, as more particularly described on Exhibit A and filed as Public Document No. 95-0828-33.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

this resolution together with a plat showing the portion of the street to be vacated and the easements to be retained.

Resolution 95-0742 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements with the organization grantees listed below, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0828-34, for the following amounts and projects listed:

<u>Round II, 1995 Neighborhood Matching Grants Fund</u>		
<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 1,135	Central Hillside sport court project	Central Hillside Community Club
16,196	Playground improvement project	Duluth Heights Community Club
18,995	Playground improvement project	Grant School PTA
4,900	Playground improvement project	Morley Heights Neighborhood Association
10,540	Bike locker project	Old Downtown Committee, Greater Downtown Council
<u>7,290</u>	Playground improvement project	Piedmont PTA
<u>\$59,056</u>	Total grants	

FURTHER RESOLVED, that the administrative assistant is authorized to increase the amount payable under any of the individual neighborhood matching grants fund agreements, upon proof of unanticipated cost overruns beyond the control of the grantee, provided, however, that the total amount (including cost overruns), of neighborhood matching grants funds authorized by this resolution, as well as approved by the city inter-departmental team for Tier I projects of less than \$3,000, shall not exceed \$80,000.

Resolution 95-0749 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for the construction of streets and utilities with Derrick Investment No. 91 for a community unit plan development to be situated on Lot 1, Block 3, Miller Creek Division; said agreement to be substantially in the form of Public Document No. 95-0828-35 on file in the office of the city clerk; the estimated \$33,153 payable thereunder to be paid from the public utility water fund.

Resolution 95-0757 was unanimously adopted.
Approved August 28, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Morse Street from Lake Avenue to 100 feet west legally described as:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Morse Street, adjacent to Lots 280 and 282, Lake Avenue, Upper Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its November 8, 1994, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of Morse Street described above retaining for utility purposes the south 1/2 of the east 50 feet, and as more particularly described on Public Document No. 95-0828-36.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated.

Resolution 95-0766 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the east 1/2 of 12th Avenue West legally described as:

the east 1/2 of 12th Avenue West adjacent to Blocks 19 and 20, First Rearrangement of Bayfront Division of Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved, unanimously, the vacation petition at its June 13, 1995, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth vacate the east 1/2 of 12th Avenue West adjacent to Blocks 19 and 20, First Rearrangement of Bayfront Division of Duluth described above, and retaining said right-of-ways as an easement for underground utilities as more particularly described on Public Document No. 95-0828-37.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and the easement being retained.

Resolution 95-0767 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that R & R Specialties, Inc., be and hereby is awarded a contract for furnishing and installing a hockey dasher system for the Duluth Entertainment Convention Center in accordance with specifications on its low specification bid of \$100,682, terms net 30, FOB job site, payable out of DECC Improvements Fund 470, Dept./Agency 030, Object 5520.

Resolution 95-0746 was unanimously adopted.

Approved August 28, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Lake Superior College for the period July 1, 1995, through June 30, 1996, to provide recruitment, selection, counseling and placement services at a cost not to exceed \$20,000, and vocational and training and support services at costs not to exceed \$44,054 to JTPA Title II-A eligible clients. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0828-38.

FURTHER RESOLVED, that costs shall be charged to Fund No. 268, Budget Item 6240.

Resolution 95-0732 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 17080 with Mrs. Allegra French Dengler by Bowman Corporation for office space in the Board of Trade building modifying the lease term to June 30, 1996, and increasing the total amount payable by \$35,232; \$10,232 payable out of Fund No. 269, Budget Item 6273; \$8,000 from Fund No. 269, Budget Item 6272; \$7,000 from Fund No. 268, Budget Item 6240; \$5,000 from Fund No. 268, Budget Item 6241; and \$5,000 from Fund No. 268, Budget Item 6246. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0828-39.

Resolution 95-0734 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering Waterous hydrants and parts for the water and gas department in accordance with specifications on its low specification bid of \$41,237.89, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0739 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Dowco Valve Company be and hereby is awarded a contract for furnishing and delivering four gas gate valves for the water and gas department in accordance with specifications on its low specification bid of \$13,896.12, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0740 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Tension Envelope Corporation be and hereby is awarded a contract for furnishing and delivering 500,000 envelopes with windows for the water and gas department and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

sewer division in accordance with specifications on its low specification bid of \$15,341.33, terms net 30, FOB shipping point, \$5,113.78 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5200; \$5,113.78 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5200 and \$5,113.77 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0515, Object 5200.

Resolution 95-0741 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Davies Water Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering 918 linear feet of 36 inch watermain pipe for the water and gas department in accordance with specifications on its low specification bid of \$64,506.67, terms net 10, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 95-0750 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northside Truck, Inc., be and hereby is awarded a contract for furnishing and delivering a dump truck for the sewer division in accordance with specifications on its low specification bid of \$90,661.32, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0714 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute routine maintenance Agreement No. 73188A (city clerk's Public Document No. 95-0828-40) with the Minnesota department of transportation under which the city will maintain 116.93 equivalent lane miles of trunk highway within the corporate limits of the city during the period July 1, 1995, through October 31, 1995, for the sum of \$2,911 per equivalent lane mile; said sums received to be deposited in the general fund and divided between 100-500-1920-4234 (96%) and 100-500-1930-4234.

Resolution 95-0723 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to acquire the following described utility easement from Cutler Magner Company for a consideration of \$500, payable from the permanent improvement fund:

westerly thirty-three feet (w'ly 33') of Lot 2, Block 20, Bay Front Division of Duluth.

Resolution 95-0725 was unanimously adopted.

Approved August 28, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay \$5,376.46 to Sue Wilke in settlement of all claims arising out of a sewer failure on May 15, 1995; payment to be made from self insurance fund.

Resolution 95-0728 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Thompson Electric Company, Inc., be and hereby is awarded a contract for electrical remodeling (council chambers and PACT) and audio/video systems for the city architect division in accordance with specifications on its low specification bid of \$33,069, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I504.

Resolution 95-0733 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to pay \$8,500 to Northland Constructors, Inc., in settlement of late payment claims on the Phase XI bituminous overlay project (City Job No. 8618RS91), payment to be from the self insurance fund.

Resolution 95-0736 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the housing and redevelopment authority of Duluth for acquisition and relocation services in connection with the improvement of Arrowhead Road/Kenwood Avenue/Howard Gnesen and intersections (City Job No. 8689MA92), substantially in the form of Public Document No. 95-0828-41 on file in the office of the city clerk, the estimated amount of \$90,000, payable thereunder to be paid from the P.I. fund to be substantially reimbursed by the municipal state aid fund and by county state aid funds.

Resolution 95-0737 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Excel Doors and Millwork, Inc., be and hereby is awarded a contract for construction of cable TV shelves for the council chambers in accordance with specifications on its low specification bid of \$9,073, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I504.

Resolution 95-0738 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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Resolution 95-0753, by Councilor Talarico, authorizing the execution of a municipal energy services program agreement with Johnson Controls, Inc., was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Ken Hogg reviewed that this is a good program but questioned the calculation of the savings presented and if the interest and bonding fees were included.

Mr. Hogg elaborated that the point is that the contract contains a \$30,000 minimum savings over ten years on a \$1.289 million investment, thus yielding a savings of less than two percent. Mr. Hogg noted that while Johnson Controls stated in their proposal that the quantities are very conservative, he questioned why they shouldn't state a higher guarantee.

Mark Belich, Minnesota Power, reviewed that this is an excellent program and that this is a once in a lifetime grant to accomplish this savings.

Resolution 95-0753 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, by Resolution 94-0796, adopted on September 12, 1994, the city council authorized the execution of an agreement with Johnson Controls, Inc., to determine the feasibility, scope and time frame for entering into a municipal energy services program agreement; and

WHEREAS, the administration has worked with Johnson Controls and has determined that such an agreement is feasible and will result in net savings to the city;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into a municipal energy services program agreement pursuant to Minnesota Statutes 471.345(13) with Johnson Controls, Inc., under which the city will spend \$1,289,832 on energy improvements and Johnson Controls will guarantee net savings to the city of \$30,765 over a period of not to exceed ten years, which agreement shall be substantially in the form of that certain agreement on file in the office of the city clerk as Public Document No. 95-0828-42(a), said sum to be paid from the Capital Improvement Fund 450; said award to be conditioned upon the availability of financing on terms no less favorable than those set forth in the proposal of Norwest Investment on file with the city clerk as Public Document No. 95-0828-42(b).

Resolution 95-0753 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete conceptual design engineering, surveying and mapping services for 20 of the 29 proposed street projects comprising the 1996 street improvement program; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to complete the conceptual design engineering, surveying and mapping; and

WHEREAS, L.H.B. Engineers and Architects, R.R.E.M., Inc., Salo Engineering, Inc., and Seaway Engineering Company, Inc., have submitted proposals for preliminary survey and mapping services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects (\$25,000), R.R.E.M., Inc. (\$22,750), Salo Engineering, Inc. (\$6,000) and Seaway Engineering Company, Inc. (\$8,378), to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of preliminary survey and mapping services, estimated at \$62,128, \$25,000 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9606, Object 5303; \$8,378 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9601, Object 5303; \$22,750 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9603, Object 5303; and \$6,000 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9602, Object 5303.

Resolution 95-0754 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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Resolution 95-0756, by Councilor Talarico, authorizing the execution of an agreement to petition for a permanent street improvement with James H. and Kathy Proctor, was introduced for discussion.

Councilor Talarico moved to table the resolution for further review, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officials are hereby authorized to enter into an easement agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0828-43, with ETOR Properties, for a permanent easement and construction easement for Baywalk behind the 400 and 500 blocks of Lake Avenue South.

Resolution 95-0769 was unanimously adopted.

Approved August 28, 1995

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR WHEELER

95-039 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS (LAKE SUPERIOR CENTER PROJECT) OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Wheeler moved to remove the ordinance from the table, which motion was seconded and unanimously carried. He reviewed that a finance committee meeting was held this evening regarding the issue and he moved to refer the ordinance to the administration, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the first time:

BY PRESIDENT KEENAN

95-045 - AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE KENWOOD AREA TO THE STATE OF MINNESOTA.

- - -

BY COUNCILOR TALARICO

95-046 - AN ORDINANCE AUTHORIZING THE SALE OF THE EAST HALF OF LOT 72, BLOCK 84, DULUTH PROPER, THIRD DIVISION, INCLUDING THE EAST HALF OF LOT 72,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

EAST EIGHTH STREET, DULUTH PROPER, FIRST DIVISION, TO RICKEY R. REED FOR \$2,100.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-043 (9268) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE NORTHWEST CORNER OF SIXTH AVENUE EAST AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY COMMERCIAL (DIETZMAN).

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

- - -

The meeting was adjourned at 10:33 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9268

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDED FOR THE RECLASSIFICATION OF PROPERTY LOCATED ON THE NORTHWEST CORNER OF SIXTH AVENUE EAST AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY COMMERCIAL (DIETZMAN).

The city of Duluth does ordain:

Section 1. That Plat No. 35 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(refer to page 496)

Section 2. That this ordinance shall take affect and be in force 30 days from and after its passage and publication. (Effective date: October 8, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnr, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 28, 1995
Approved August 28, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 11, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0911-01 Marcia McHenly, et al. (12 signatures) petitioning for construction of permanent alley in Fourth Street Alley from 24th Avenue East to 25th Avenue East. -- Assessor

95-0911-23 Rodney G. Brodin submitting letter regarding Lee and Bonnie Nelson appeal of the decision of the planning commission (95-0789R). -- Received

95-0911-16 Bill Meierhoff, by Patrick M. Spott, attorney, submitting information regarding the decision of the technical design advisory committee for DWMX-D requiring dedication of a pedestrian easement at 325 Lake Avenue South (95-0765R). -- Received

95-0911-02 Minnesota Power submitting request that a dedicated utility easement be granted along with an advanced right-of-entry for the immediate placement of the power line for Duluth International Airport property to serve Northwest Airbus facility. -- Attorney

95-0911-04 Opus Corporation submitting letter regarding the proposed reclassification of property at Trinity Road and Central Entrance (95-047-O). -- Received

95-0911-13 Karen D. Rogalla and Thomas E. Cheetham submitting communication (17 signatures) supporting the BZA appeal for property located across the alley from 215-101st Avenue West. -- Received

95-0911-03 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Dale Linsten and Michelle Sutton for October 7, 1995. -- Received

95-0911-14 The following submitting communications regarding the development proposed by Opus Corporation (95-047-O): (a) Michael L. Bradley; (b) Patrick H. And Lori A. Brake; (c) Joan Carlson; (d) Mike Conlon; (e) Phyllis Conlon; (f) Donald R. Holm; (g) Pamela Johnsen; (h) Ruth Lyon; (i) Miller Creek task force; (j) Michelle Moen; (k) Opus Corporation, by William M. Burns, attorney; (l) Debbie Ortman; (m) Robert C. Pearson; (n) John W. and Diane I. Powers; (o) John Riesgraf; (p) Carin Skoog; (q) Neil Vanderport (2 letters); (r) Gary B. Walton. -- Received

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REPORTS OF OFFICERS

95-0911-07 Mayor Doty submitting: (a) 1996 budget; (b) 1996 budget address. -- Received

95-0911-05 Assessor submitting:

(a) Amended assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1994, through June 1, 1995, for which the licensed collector has not been reimbursed;

(b) Letters of sufficiency regarding petitions to construct:

(1) Eight inch sanitary sewer in East Superior Street from 63rd Avenue East to approximately 350 feet easterly;

(2) Permanent alley in Fourth Street Alley from 24th Avenue East to 25th Avenue East. -- Received

95-0911-06 Community development and housing division submitting:

- (a) HUD community development funded housing rehabilitation program for June 1995;
- (b) 1996 CDBG funding requests and recommendations. -- Received

95-0911-08 Water and gas department office engineer submitting letters of sufficiency regarding petitions to construct:

- (a) Six inch ductile iron watermain in East Superior Street from 63rd Avenue East to approximately 350 feet easterly;
- (b) Two inch P.E.H.P. gas main in East Superior Street from 63rd Avenue East to approximately 350 feet easterly. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0911-09 Citywide citizens advisory committee minutes of August 22, 1995 meeting. -- Received

95-0911-10 Duluth housing trust fund board minutes of July 13, 1995 meeting. -- Received

95-0911-11 Seaway Port authority of Duluth submitting Resolution No. 17-95 regarding 1995 levy request. -- Received

95-0911-12 Special assessment board minutes of August 15, 1995 meeting. -- Received

- - -

RESOLUTION TABLED

Councilor Talarico moved to remove from the table Resolution 95-0756, authorizing the execution of an agreement to petition for a permanent street improvement with James H. and Kathy Proctor, which motion was seconded and unanimously carried.

Resolution 95-0756 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement to petition for the permanent improvement of 54th Avenue East between Ivanhoe and Idlewild Streets with James H. and Kathy Proctor; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-0911-15.

Resolution 95-0756 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was filed prior to September 11, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR ATKINS

95-0823R - RESOLUTION AMENDING RULE 17 OF THE STANDING RULES OF THE CITY COUNCIL.

- - -

BY COUNCILOR WHEELER:

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

Section 1. The sum to be raised by taxation for the year 1996 for general operations is hereby determined to be the sum of \$6,769,291, 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, viz:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 2. There will be levied for the support of the general fund the sum of -----
----- \$5,103,991

Section 3. For the payment of interest on debt, there will be levied for the interest fund the
sum of ----- \$ 189,100

Section 4. For the payment of principal on debt, there will be levied for the sinking fund the
sum of ----- \$1,244,100

Section 5. 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 ----- \$ 232,100

Resolution 95-0791 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

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

Section 1. The sum to be raised by taxation for the year 1996 for Duluth transit authority
operations is hereby determined to be the sum of \$995,000, 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, viz:

Section 2. For the payment of interest and principal on the transit bonds, there will be levied
for the transit bond fund the sum of ----- \$ 74,100

Section 3. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be
levied for transit operations the sum of a ----- \$ 920,900

Resolution 95-0792 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

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

Section 1. The sum to be raised by taxation for the year 1996 for Seaway Port authority
operations is hereby determined to be the sum of \$146,400, 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, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the
purpose of providing funds for the Seaway Port authority fund of the city of Duluth the sum of
----- \$ 146,400

Resolution 95-0793 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council
hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending
December 31, 1996:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

010	Total legislative and executive	-----	\$ 1,369,500
015	Total administration department	-----	\$ 3,890,900
020	Total planning department	-----	\$ 826,800
030	Total finance and records	-----	\$ 2,570,600
100	Total fire department	-----	\$11,913,200
200	Total police department	-----	\$10,178,800
300	Total library	-----	\$ 3,131,700
400	Total parks and recreation	-----	\$ 1,115,700
500	Total public works	-----	\$11,436,000
700	Total transfers	-----	\$ 4,780,978

PUBLIC ENTERPRISE

503	Golf fund - total	-----	\$ 1,404,000
504	Zoo fund - total	-----	\$ 1,463,100

PUBLIC UTILITIES

510	Water fund - total	-----	\$ 8,026,700
520	Gas fund - total	-----	\$26,161,500
530	Sewer fund - total	-----	\$13,022,064
540	Steam fund - total	-----	\$ 3,457,960

Resolution 95-0794 was unanimously adopted.
 Approved September 11, 1995
 GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, Subd. 6, the Duluth City Council hereby sets the following dates and times for public hearings to adopt the city's final budget of 1996 and final city property tax levy for taxes payable in 1996:

Initial hearing

December 4 at 7:00 p.m. in the Duluth City Council chambers.

Resolution 95-0795 was unanimously adopted.
 Approved September 11, 1995
 GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 95-0911-05(a), which is levied to defray in full the expense of solid waste collection during the period March 1, 1994 - April 1, 1995, for which the licensed collector has not been paid as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 95-0797 was unanimously adopted.
 Approved September 11, 1995
 GARY L. DOTY, Mayor

BY COUNCILOR WHEELER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between city of Duluth and AFSCME Council 96, Local 66, for the years 1995 and 1996; said agreement to contain the terms and conditions and be in substantially the same form as Public Document No. 95-0911-17, on file with the city clerk.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to negotiate, execute and implement an amendment to any existing contract covering year 1996; said amendment to provide to each employee a benefit of being able to choose whether an amount of employer contribution not to exceed a value of \$25/month shall be received in the form of either employer contribution to a deferred compensation plan or employer contribution to the premium cost of dependent coverage health insurance plan.

Resolution 95-0799 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city of Duluth (the "city") has previously issued its \$9,000,000 Commercial Development Revenue Bonds (Duluth Radisson Hotel project), Series 1985, dated December 1, 1985, (the "Series 1985 Bonds") pursuant to Minnesota Statutes, Chapter 474, now codified at Minnesota Statutes, Sections 469.152 through 469.165 (the "Act") to finance the acquisition, renovation and equipping of the Duluth Radisson Hotel by Duluth Hotel Limited Partnership, a Minnesota limited partnership (the "Developer"); and

WHEREAS, under and pursuant to Section 469.155, subdivision 12 of the Act, the City is authorized to issue revenue bonds to refund in whole or in part bonds previously issued under the Act and the interest on them; and

WHEREAS, the Developer has requested that the City issue its Commercial Development Revenue Refunding Bonds (Duluth Radisson Hotel Project), Series 1995 (the "Series 1995 Bonds"), pursuant to a loan agreement between the City and the Developer, to refund on December 1, 1995, the outstanding principal amount of the Series 1985 Bonds.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. The City Council hereby gives preliminary approval for the issuance of the Series 1995 Bonds in the approximate principal amount of \$8,470,000 pursuant to the Act, and to enter into a loan agreement with the Developer which will provide for loan payments by the Developer to the City sufficient to pay the principal of and interest and redemption premium, if any, on the Series 1995 Bonds as the same shall become due and payable.

2. The City Council hereby authorizes and directs City staff to work with the underwriter and bond counsel designated below to arrange for the sale of the Series 1995 Bonds.

3. The law firm of Fryberger, Buchanan, Smith & Frederick, P.A., is authorized to act as bond counsel and to assist City staff in the preparation and review of necessary documents relating to the Series 1995 Bonds. Miller & Schroeder Financial, Inc. is authorized to act as underwriter in connection with the issuance and sale of the Series 1995 Bonds.

4. The terms, conditions, form, specifications and provisions for the issuance and repayment of such Series 1995 Bonds shall be set forth in agreements and subsequent resolutions of the City Council.

Resolution 95-0824 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following bed and breakfast on sale wine licenses for the period beginning September 1, 1995, and ending August 31, 1996, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Susan and Warren Monson (The Mansion), 3600 London Road;

Kenneth and Ramona Knutson (Manor on the Creek Inn), 2215 East Second Street.

Resolution 95-0758 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

College of St. Scholastica, 1200 Kenwood Avenue, for October 4 & 6, 1995, with Debra Lovaas, manager.

Resolution 95-0778 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals and any specific restrictions:

Grandma's Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 22 & 23, 1995, with the music ceasing at midnight and the serving ceasing at 12:30 a.m.

Resolution 95-0779 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Larson Chevrolet-Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering four unmarked squad cars for the fleet division in accordance with specifications on its low specification bid of \$61,988, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object F508.

Resolution 95-0786 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Larson Chevrolet-Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a pickup truck for the fire department (fleet services) in accordance with specifications on its low specification bid of \$22,698, terms N/30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E505.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0798 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that H & L Mesabi be and hereby is awarded a contract for furnishing and delivering grader and snow blades for the fleet services division in accordance with specifications on its low specification bid of \$13,113.43, terms net/30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 95-0800 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering one each 2-3 cubic yard dump body, snow plow and sander for the public works department in accordance with specifications on its low specification bid of \$12,214, terms net, FOB Duluth, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E427.

Resolution 95-0801 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0804, by Councilor Downs, approving the issuance of a Minnesota currency exchange license to D.W.D. II, d/b/a Check Cashing of Duluth, was introduced for discussion.

Councilor Prettner related that in large cities there is a problem with this type of business charging low income people high costs for cashing checks, and said she does not want to support any service that would hurt low income people.

City Attorney Dinan responded that that problem gave birth to recent legislation that requires such businesses to post their rates with the state licensing bureau and the state has to approve the rates.

Resolution 95-0804 was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, D.W.D. II, d/b/a Check Cashing of Duluth has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 101 East Superior Street; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 101 East Superior Street to D.W.D. II, d/b/a Check Cashing of Duluth.

Resolution 95-0804 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor license, subject to departmental approvals, and any specific restrictions:

Dzuck, Ltd. (The Limit Bar), 1426 Commonwealth Avenue, for September 16, 1995, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Resolution 95-0818 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointment by Mayor Doty be and the same are hereby confirmed:

ALCOHOLIC BEVERAGE BOARD

Rosemary Christensen for a term expiring October 31, 1996, replacing Kathleen Wilson who resigned.

Craig Carlson for a term expiring October 31, 1998.

Resolution 95-0772 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby confirmed:

ANIMAL HUMANE BOARD

Julie Nielsen for a term expiring October 31, 2000.

Resolution 95-0773 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0774, by Councilor Bohlmann, confirming appointment of Kenneth Sunnarborg to Duluth airport authority replacing John Peyton, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

Resolution 95-0775, by Councilor Bohlmann, confirming reappointment of Maureen Booth to Duluth housing trust fund board, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Joyce Lusnia spoke in opposition to this resolution, saying she feels the appointee does not represent the neighborhood. She felt the council should be more receptive to homeowners and said that the housing trust fund has a lopsided composition that is more in favor of low-income people.

Roy St. George felt the appointee is not aware of the needs of the community.

Patty Martin said neighborhood voices must be heard, and noted that the Duluth housing trust fund board has ignored wishes of the community in the past. She requested that the council send the appointment back to the mayor for a more appropriate representative.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

Thomas Benson (area) and Louis Pichetti (planning commission) for terms expiring May 31, 1998.

Resolution 95-0776 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointments by Mayor Doty be and the same are hereby confirmed:

WOMEN'S COMMISSION

Janice Jader for a term expiring September 17, 1998, replacing Coral McDonald.

Molly Johnson and Cynthia Earth Wind for terms expiring September 17, 1998.

Resolution 95-0784 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0790, by Councilor Bohlmann, confirming appointment of Dena Snyder to Duluth transit authority replacing Robert LaPine, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

PARKING COMMISSION

Anthony Charles Wisocki (First District) for a term expiring July 1, 1998.

Ryan E. Mears (Second District) for a term expiring July 1, 1997.

Roger Johnson (Third District) for a term expiring July 1, 1996.

Louis P. De Rienzo (Fourth District) for a term expiring July 1, 1997.

Scott A. Welles (at large) for a term expiring July 1, 1998.

Steven G. La Flamme (at large) for a term expiring July 1, 1997.

Judith Maki (at large) for a term expiring July 1, 1996.

Resolution 95-0803 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

LIBRARY BOARD

Catherine Andree for a term expiring June 1, 2000, replacing Clyde Atwood.
Carol Bacig for a term expiring June 1, 2000, replacing Theresa Teich.
Mavis Whiteman for a term expiring June 1, 1997, replacing Barbara Main, who resigned.
Resolution 95-0815 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Jack Farley of the Management Institute to provide training and development services to the city at a cost of \$1,800, which shall be paid from the General Fund 015-1510-5446.
Resolution 95-0819 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, William Meierhoff has appealed to the city council the July 15, 1995 decision of the DWMX-D design review committee requiring the dedication of a ten feet wide by approximately 450 feet long pedestrian easement adjacent to Minnesota Slip and temporary construction easements ten feet on either side of the pedestrian easement as a condition of issuance of a certificate of appropriateness; and

WHEREAS, the city council held a public hearing to consider this appeal and has determined that the appellant should not be required to provide easements in order to obtain a certificate of appropriateness;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the decision of the DWMX-D design review committee to require dedication of the aforesaid pedestrian and temporary construction easements as a condition of issuance of a certificate of appropriateness to allow modifications to the parking lots and to the building to accommodate a 120-room Country Inn & Suites hotel is hereby reversed.

Resolution 95-0765 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0785, by Councilor Prettnner, of intent to participate in a fiscal reform project with the joint property tax advisory committee, was introduced for discussion.

Councilor Prettnner explained that the legislature created this committee and gave them the charge of coming up with a means of being more fiscally responsible and efficient in the use of the legislative budget. She said this is an opportunity to speak up on behalf of tax reform and participate in that process and to look at ways to accommodate the cuts that are coming from federal and state levels.

In response to Councilor Bohlmann, Councilor Prettnner said Twin Cities members will not dominate the decisions of the committee because all decisions are made by consensus and it must be a unanimous decision, which will force the committee to find ways of working together and coming up with compromise situations.

Councilor Bohlmann didn't feel that federal programs should become a burden of the property taxpayer, and stated concern about the proposal to eliminate the homestead tax credit.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0785 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, the joint property tax advisory committee (committee), consisting of members from the city of St. Paul, Ramsey County and the St. Paul public school system, was created by the 1993 Minnesota Legislature to, among other things, develop recommendations for the efficient and effective use of property tax dollars raised by those jurisdictions for programs, buildings and operations; and

WHEREAS, the committee has employed a consultant to assist it with its work and has been in operation for approximately one year; and

WHEREAS, the committee has determined that it will be more effective in accomplishing property tax reform if the major taxing jurisdictions in the other cities of the first class participate with it in developing reform proposals; and

WHEREAS, the committee is in the process of inviting the cities of Duluth and Minneapolis, the counties of St. Louis and Hennepin and the school districts in Duluth and Minneapolis to join it in carrying out its fiscal reform project; and

WHEREAS, the city council has reviewed the committee's proposal, including the proposed work plan and cost allocation, and believes that city participation in the committee's fiscal reform project would be worthwhile if St. Louis County and Independent School District No. 709 also agree to participate;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby indicates its intent to participate in the fiscal reform project with the joint property tax advisory committee if St. Louis County and Independent School District No. 709 also agree to participate.

Resolution 95-0785 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0789, by Councilor Prettner, authorizing the execution of a lease agreement with Lee A. and Bonnie Nelson covering real property adjacent to Lot 5, Block 1, Lakeside Court, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

David Malban, attorney representing the Nelsons, requested support for the resolution.

Resolution 95-0789 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to execute a lease agreement with Lee A. and Bonnie Nelson covering certain park property adjacent to Lot 5, Block 1, Lakeside Court; said agreement to be substantially in the form of Public Document No. 95-0911-18 on file in the office of the city clerk; the \$2,000 receivable thereunder to be deposited in the General Fund 100-400-1812-4644.

Resolution 95-0789 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth by Resolution 84-0731 on September 24, 1984, approved a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

city of Duluth community development block grant (CDBG) program citizen participation plan which has from time to time been amended by actions of the Duluth City Council; and

WHEREAS, the city of Duluth by Resolution 94-0687 on August 8, 1994, added Morgan Park as a eligible neighborhood under the Duluth CDBG plan.

NOW, THEREFORE, BE IT RESOLVED, that the bylaws of the Morgan Park Neighborhood Coalition (NC) dated August 29, 1995, and the Neighborhood Coalition Certification - Morgan Park dated August 29, 1995, which are also on file with the office of the city clerk as Public Document No. 95-0911-19 are hereby accepted and approved by the city of Duluth.

Resolution 95-0796 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolutions 95-0810 affirming, and 95-0811 reversing, the decision of the board of zoning appeals to deny a request to allow an accessory building to be located on a separate lot from the main building (dwelling) for the construction of a 28 foot x 36 foot detached garage for personal storage of vehicles on a vacant lot across the alley from the dwelling on property located at 215 - 101st Avenue West, by Councilor Prettner, were introduced for discussion.

Councilor Prettner said it is the committee's recommendation to support Resolution 95-0811. She moved to amend Resolution 95-0811 as follows:

(a) At the end of paragraph two add "subject to the applicants executing and filing documents with the titles to both of the properties concerned providing that such properties will remain in common ownership unless and until a home is constructed on the property where the new garage is supposed to be located"; and

(b) At the end of paragraph three add "subject to compliance with the condition described herein," which motion was seconded and unanimously carried.

Resolution 95-0811, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Karen D. Rogalla and Thomas E. Cheetham have appealed to the city council the decision of the board of zoning appeals to deny a request to allow an accessory building to be located on a separate lot from the main building (dwelling) for the construction of a 28' x 36' detached garage for personal storage of vehicles on a vacant lot across the alley from the dwelling on property located at 215 - 101st Avenue West (dwelling); and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a 28' x 36' detached accessory building located on a separate lot from the main building (dwelling) can be made in this case, based upon limits set forth in the zoning ordinance subject to the applicants executing and filing documents with the titles of both of the properties concerned providing that such properties will remain in common ownership unless and until a home is constructed on the property where the new garage is supposed to be located.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of July 25, 1995, is hereby reversed by the city council, and the appeal is granted subject to compliance with the condition described herein.

Resolution 95-0811, as amended, was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolutions 95-0812 affirming, and 95-0813 reversing, the decision of the board of zoning

appeals to deny a request 1) to relax the front yard setback from 25 foot to 14 foot and 2) relax the rule prohibiting three stories for construction of a third story addition (existing) to a nonconforming dwelling on property located at 2215 West 12th Street, by Councilor Prettner, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on these resolutions.

Kevin Skomars apologized for his mistake in this matter, and said he is trying to conform with the building inspection division requirements.

Resolution 95-0813 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Kevin D. and Wanda Skomars have appealed to the city council the decision of the board of zoning appeals to deny a request to relax the front yard setback from 25 feet to 14 feet and to relax the rule prohibiting three stories for construction of a third story addition (existing) to a nonconforming dwelling on property located at 2215 West 12th Street; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of a third story addition to a nonconforming dwelling can be made in this case, based upon limits set forth in the zoning ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of July 25, 1995, is hereby reversed by the city council, and the appeal is granted.

Resolution 95-0813 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohmann, Dahlberg, Downs and President Keenan -- 5

Nays: Councilors Hardesty, Prettner, Talarico and Wheeler -- 4

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0821, by Councilor Prettner, vacating an 8.5 foot x 18 foot portion of the skywalk level of the Holiday Center to provide for the expansion of the Thomson Travel offices, was introduced for discussion.

In response to Councilor Wheeler, Administrative Assistant Nollenberger said this is public space that is being vacated in order to allow the expansion of this business, noting there will be no negative impact to the city.

Councilor Wheeler stated concern about turning over property which was built with public money to private businesses.

Councilor Atkins commented that the vision for the mall regarding public space needed has changed since it was built in the 1970's.

Resolution 95-0821 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an 8.5' x 18' portion of the skywalk level of the Holiday Center legally described as located within the following description:

All of Lots Forty (40) and Forty-two (42), West First Street, Duluth Proper, First Division, and the westerly forty (40) feet of lot thirty-eight (38), West First Street, Duluth Proper First Division. All of lots Thirty-three (33), Thirty-five (35), Thirty-seven (37), Thirty-nine (39), Forty-one (41), Forty-three (43), Forty-five (45), and Forty-seven (47), West Superior Street, Duluth Proper, First Division. All of 1st Alley between the common extended west line of lot Forty-two (42), West First Street, Duluth Proper, First Division, and Lot Forty-one (41), West Superior

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Street, Duluth Proper, First Division, and the common east line extended of the westerly forty (40) feet of Lot Thirty-eight (38), West First Street, Duluth Proper, First Division, and the westerly forty (40) feet of Lot Thirty-seven (37), West Superior Street, Duluth Proper, First Division. As further described on Exhibit "A"; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 8, 1995 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of an 8.5' x 18' portion of the skywalk level of the Holiday Center to provide for the expansion of the Thomson Travel Offices on the skywalk level of the Holiday Center described above, and as more particularly described on Public Document No. 95-0911-20.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the registrar of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the skywalk to be vacated.

Resolution 95-0821 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Carlson Bros. Plumbing, Inc., be and hereby is awarded a contract for furnishing and installing an hydronic heating system in Peterson Arena in accordance with specifications on its low specification bid of \$5,897, terms N/30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C403.

Resolution 95-0802 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Ray Dahl Construction, Inc., be and hereby is awarded a contract for furnishing and delivering construction renovation of concession stand and replacement of several doors at the Duluth Entertainment Convention Center (DECC) in accordance with specifications on its low specification bid of \$292,500, terms net 30, FOB job site, payable out of DECC Improvement Fund 470, Dept./Agency 030, Organization - , Object 5520.

Resolution 95-0805 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to acquire a fee simple interest from the state of Minnesota in the following described property for the Duluth airport authority, the \$40,743.46 consideration therefore to be paid from Duluth airport authority fund 590, to be reimbursed by state and federal funds:

Parcel 1580 NW¼ of NE¼, Section 6-50-14 (H26);

Parcel 1560 NE¼ of NE¼, ex S½ of S½, Section 6-50-14 (H27);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Parcel 1570 S $\frac{1}{2}$ of S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 6-50-14 (H27).
Resolution 95-0806 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Minnesota Food Service Equipment Company in the amount of \$52,275 and St. Cloud Restaurant Supply in the amount of \$43,560 be and hereby are awarded a contract for furnishing, delivering and installation of food service equipment for the Duluth Entertainment Convention Center (DECC) in accordance with specifications on its low specification bids, FOB job site, payable out of DECC Improvement Fund 470, Dept./Agency 030, Organization - , Object 5580.

Resolution 95-0808 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Duluth housing and redevelopment authority to offer case management services to participants in its family self-sufficiency programs in an amount not to exceed \$39,686 for the period October 1, 1995, through September 30, 1996.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund #269, Budget Item 6292.

Resolution 95-0817 was unanimously adopted.
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0822, by Councilor Atkins, requesting the city's state legislative delegation to make its top legislative priority for the 1996 session the inclusion of \$3 million in the state bonding bill for finalizing construction of the Lake Superior Zoo, was introduced for discussion.

Councilor Hardesty voiced support for the zoo, but questioned the timeliness of this resolution, noting that the council's prioritization process for legislative issues has not occurred yet.

Councilor Atkins responded that this resolution is being brought up at this time because of the recent meeting of the state legislative committee dealing with this issue, and he felt it is appropriate to take a stand and try to get the zoo completed.

Councilor Talarico said he feels uncomfortable supporting this resolution until the council reviews other possible projects. He moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR DAHLBERG:

WHEREAS, it appears that it may be necessary that a watermain be constructed as follows: construct a six inch ductile iron watermain in East Superior Street from 63rd Avenue East to approximately 350 feet easterly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of the council to cause construction of said watermain, provided that further investigation demonstrates that such action be taken, and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said water project, the mayor shall cause to be prepared plans and specifications for said project and do those further things prescribed by Section 62 of the Charter.

Resolution 95-0783 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Levine and Sons, Inc., be and hereby is awarded a contract for construction of a 36 inch DI watermain in East Superior Street from 24th Avenue East to 26th Avenue East for the water division in accordance with specifications on its low specification bid of \$186,337.50, terms N/30, FOB job site, payable out of Water Fund 511, Dept./Agency 900, Organization - , Object 5532.

Resolution 95-0787 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

WHEREAS, by Resolution of Intent numbered 95-0691 approved on the 14th of August, 1995, the council did request the administration to prepare plans and specifications for the extension of a one inch P.E.H.P. gas main in 14th Avenue East from East Ninth Street to 150 feet southerly; and

WHEREAS, the party proposed to be assessed for this project has agreed to waive his rights to a hearing and to waive the 60 day waiting period as provided by Section 62 of the City Charter;

NOW, THEREFORE, BE IT RESOLVED, that the said extension be constructed; that the estimated total of said improvements as estimated by the department of water and gas is \$1,700, payable from the public utility fund; that the cost of said project be paid by special assessment against the land and premises especially benefited, which land and premises are described in the petition filed herein, and which description is hereby incorporated herein by reference to said petition; that those assessed be permitted to pay said installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment will satisfy all the requirements of Section 60 of the Charter of the city of Duluth.

Resolution 95-0814 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has a construction project in progress at 57th Avenue East in the city of Duluth (City Job No. 8871XB94); and

WHEREAS, the city of Duluth has discovered a culvert failure under T.H. 23 (Superior Street at 57th Avenue East); and

WHEREAS, the Minnesota department of transportation desires to repair the culvert failure and include this work with the city project;

NOW, THEREFORE, BE IT RESOLVED, by the council of the city of Duluth that the city shall be responsible for the preliminary engineering, project design, environmental

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

documentation, right-of-way acquisition, permitting functions and contract administration for said improvements.

BE IT FURTHER RESOLVED, that following approval by the Minnesota department of transportation of plans and specifications for said improvements, the Minnesota department of transportation shall prepare an agreement to provide for the state to pay the costs of the improvements in accordance with the latest "Procedures for Cooperative Construction Projects with Municipalities."

Resolution 95-0768 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute routine maintenance Agreement No. 73188B (city clerk's Public Document No. 95-0911-21) with the Minnesota department of transportation under which the city will maintain 53.24 equivalent lane miles of trunk highway within the corporate limits of the city during the period November 1, 1995, through June 30, 1997, for the sum of \$2,911 per equivalent lane mile, and will provide specified vegetation, landscape and sidewalk maintenance on Piedmont Avenue from Skyline Parkway to Fifth Street during that same period for the lump sum of \$3,000 per year; all sums received to be deposited in the general fund and divided between 100-500-1920-4234 (96 percent) and 100-500-1930-4234.

Resolution 95-0770 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute traffic control signal Agreement No. 73139M with the Minnesota department of transportation covering the signals and street lights at the Stone Ridge Mall entrance off Central Entrance (T.H. 194); said agreement to be in the form of Public Document No. 95-0911-22 on file with the city clerk.

Resolution 95-0807 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0816, by Councilor Talarico, requesting MSA reimbursement of \$484,085.26 from Mn/DOT for a portion of the cost of the Fifth Avenue West skywalk concourse, was introduced for discussion.

Councilor Bohlmann stated opposition to the use of MSA funds for skywalks, stating that she feels those funds should be reserved for needed street improvements.

Councilor Wheeler supported the resolution, saying the skywalk will be safer for pedestrians.

Resolution 95-0816 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth (the "city") has obtained the approval of the commissioner of the Minnesota department of transportation (the "commissioner") of the plans for Minnesota state aid street project S.A.P. No. 118-135-08, Bridge No. 69600, located under Fifth Avenue West at First Street Alley consisting of a pedestrian concourse (tunnel) under Fifth Avenue West between Superior Street and West First Street in Duluth, Minnesota; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the city is prepared to proceed with the construction of said project by providing local funds to supplement the available funds in its municipal state aid street account; and, WHEREAS, repayment of the funds so advanced by the city is desired in accordance with the provisions of Minnesota Statutes, Section 162.14, Subdivision 6.

NOW, THEREFORE, RESOLVED, that the commissioner be and is hereby requested to approve this basis for financing and constructing the project and to authorize repayments from the subsequent accruals to the construction account of municipal state aid street fund for the city within the limitations provided by law in the amount of \$484,085.26 from the 1996 allotment.

Resolution 95-0816 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking during school hours 7 a.m. to 4 p.m. zone is hereby established:

east side of 87th Avenue West from Vinland Street to Lawn Street.

Resolution 95-0781 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking during church services zone is hereby established:

the south side of Morris Thomas Road from 50 feet west of the west driveway to 50 feet east of the east driveway of the parking lot of St. Lawrence Church, 2410 Morris Thomas Road.

Resolution 95-0782 was unanimously adopted.

Approved September 11, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER

95-044 - AN ORDINANCE AMENDING THE DULUTH CITY CHARTER BY ADDING A NEW SECTION 54(E) TO THE CHARTER TO ESTABLISH A COMMUNITY INVESTMENT TRUST FUND FOR THE FINANCING OF CAPITAL IMPROVEMENT PROJECTS IN THE CITY.

- - -

BY COUNCILOR PRETTNER

95-047 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22, 23 & 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-1-B SINGLE FAMILY TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED AT THE INTERSECTION OF TRINITY ROAD (US HWY 53) AND CENTRAL ENTRANCE (TH 194) (OPUS CORP.).

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT KEENAN

95-045 (9269) - AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE KENWOOD AREA TO THE STATE OF MINNESOTA.

President Keenan moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR TALARICO

95-046 (9270) - AN ORDINANCE AUTHORIZING THE SALE OF THE EAST 1/2 OF LOT 72, BLOCK 84, DULUTH PROPER THIRD DIVISION, INCLUDING THE EAST 1/2 OF LOT 72, EAST EIGHTH STREET, DULUTH PROPER, FIRST DIVISION, TO RICKEY R. REED FOR \$2,100.

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

- - -

The meeting was adjourned at 9:00 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9269

BY PRESIDENT KEENAN:

AN ORDINANCE AUTHORIZING THE RECONVEYANCE OF CERTAIN PROPERTY IN THE KENWOOD AREA TO THE STATE OF MINNESOTA.

The city of Duluth does ordain:

Section 1. The proper city officials are hereby authorized to reconvey to the state of Minnesota all right, title and interest held by the city of Duluth in the following described properties in St. Louis County, Minnesota:

northwest one-quarter of southwest one-quarter (NW 1/4 of SW 1/4) lying west of Howard Gnesen Road, except part s'ly of n'ly 1,130 feet, Section Three (3), Township Fifty (50), Range Fourteen (14).

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 22, 1995)

President Keenan moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 11, 1995
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9270

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE SALE OF THE EAST 1/2 OF LOT 72, BLOCK 84, DULUTH PROPER THIRD DIVISION, INCLUDING THE EAST 1/2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

OF LOT 72, EAST EIGHTH STREET, DULUTH PROPER, FIRST DIVISION,
TO RICKEY R. REED FOR \$2,100.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Rickey R. Reed for a consideration of \$2,100, to be deposited in the General Fund 100-700-1418-4640:

east 1/2 of Lot 72, Block 84, Duluth Proper, Third Division, including east 1/2 of Lot 72, East Eighth Street, Duluth Proper, First Division.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: October 22, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 11, 1995
Approved September 11, 1995
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 14, 1995, 5:05 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Downs, Hardesty, Prettner, Talarico and President Keenan -- 6

Absent: Councilors Atkins, Dahlberg and Wheeler -- 3

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MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

WHEREAS, on September 12, 1995, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election districts in the city have made their returns of said election, and the city council acting as a canvassing board has duly canvassed said returns (Public Document No. 95-0914-01) at 5:00 p.m., September 14, 1995, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 19,011 cast votes, said votes having been cast in the following manner:

That the following are the results:

Mayor

Neill A. Atkins	3,977	
Jason Beckman	125	
Herb W. Bergson	5,387	
Gary L. Doty		7,845
Rick "Ricster" Neilssien	80	
Heather Odden	113	
August F. O'Meara	22	
David B. Wheeler	1,404	

Councilor at Large

Thomas W. Atchison	2,296
Richard Cihoski	815
Patricia King Edwards	5,381
Carl E. Hammergerg, Sr.	1,408
Ken Hogg	6,929
Davy Jones	1,010
Yvonne M. Prettner	11,599
Guy Sederski	2,441

Councilor - Third District

Scott C. Chida	392
Marcia Hales	904
Thomas L. Haney	630
Shanna Walker	394

Councilor - Fifth District

Allan Kehr	652
Isobel C. Rapaich	1,482
Russell Stover	1,236
Mike Tondryk	357

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, Herb W. Bergson and Gary L. Doty, having the two largest numbers of the votes cast at said election for mayor, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, Patricia King Edwards, Ken Hogg, Yvonne M. Prettner and Guy Sederski, having received the four largest numbers of the votes cast at said election for councilor at large, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, Marcia Hales and Thomas L. Haney, having the two largest numbers of the votes cast at said election for councilor third district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, Isobel C. Rapaich and Russell Stover, having received the two largest numbers of the votes cast at said election for councilor fifth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 95-0841 was unanimously adopted.

Approved September 14, 1995

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:10 p.m.

ZELDA CHERNE, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 18, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0918-01 Neal J. Hessen, et al. (five signatures) petitioning to vacate a portion of East Faribault Street. -- Assessor

95-0918-13 Mark Herman submitting letter (supported by four signatures) opposing the proposed execution of an agreement to petition for a permanent street improvement with James H. and Kathy Proctor (95-0756R). -- Received

95-0918-14 People with Disabilities for Change submitting letter regarding proposed changes in parking on Superior Street (95-0842R). -- Received

95-0918-03 The following submitting letters supporting the proposed Opus Corporation development (95-047-O): (a) Brian A. Daugherty; (b) Ralph J. Eggebrecht; (c) A. Ronald Johnson; (d) Martin LeRette; (e) Dean Minardi (f) Dale M. Race; (g) David and Pam Sorenson; (h) Roger A. Sward; (i) Jim Tomlinson. -- Received

95-0918-02 The following submitting letters opposing the proposed Opus Corporation development (95-047-O): (a) Duluth Audubon Society; (b) Michelle J. Flatan and Jeffrey L. Corey; (c) Joel Kilgor; (d) Heather Odden. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-0918-12 Alcoholic beverage board minutes of: (a) July 20; (b) August 9, 1995 meetings. -- Received

95-0918-04 Citywide citizens advisory committee minutes of August 29, 1995 meeting. -- Received

95-0918-05 Lawful gambling commission minutes of July 11, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Marcia Hales spoke with regard to housing project loans which are funded by various federal agencies. She noted that tonight two resolutions will be addressed, one authorizing a loan agreement in the amount of \$108,500 to MPA Limited Partners II Limited Partnership with repayment of a \$35,000 portion not to begin for at least 30 years, and one authorizing amendment to a repayment contract with Center City Housing Corporation extending the term of repayment by 15 years. She felt that passing the resolutions would not make good business sense, and questioned the ability of the city to collect these loans in 15 to 30 years. Ms. Hales encouraged councilors to be accountable with regard to approval and repayment of loans.

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ORDINANCE FOR RECONSIDERATION

BY COUNCILOR PRETTNER

95-047 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22, 23 & 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-1-B SINGLE FAMILY

TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED AT THE INTERSECTION OF TRINITY ROAD (US HWY 53) AND CENTRAL ENTRANCE (TH 194) (OPUS CORP.).

The rules were suspended upon a unanimous vote to consider the ordinance at this time.

Councilor Prettner reviewed the committee meeting held regarding this issue. She stated there are two unresolved issues: the traffic study, which results are not available yet, and the buffer between the project and the residential neighborhood. She recommended tabling the ordinance for referral to the planning commission for further review of those issues.

The rules were suspended upon a unanimous vote to hear speakers on the ordinance.

Marcia Hales supported tabling the ordinance for a traffic study and recommendations. She noted, however, that because the developer is working hard to accommodate the wishes of the neighbors and because the developer's private financing is at stake, the developer should not have to have to wait for unreasonable lengthy review.

Joel Sipress, a member of Duluth Greens, spoke of preservation of business in neighborhoods. He stated that all new development seems to be taking place in the Miller Mall area. He urged the council to take a realistic view of the jobs issue and noted that new jobs are not being created, they are being relocated from neighborhoods to the Miller Mall area, and that the jobs in the new developments do not boost the city's economy because they generally pay less in wages than workers employed in neighborhood businesses. He urged councilors to take their time to evaluate the overall effect this kind of development has on the city as a whole.

George Pappas, Fred Salo and George Sundstrom supported moving ahead with the development project. They expressed support for the traffic study and the jobs the development will create and stated confidence that the developer has shown sensitivity to the environmental issues.

Alden Lind spoke against the project being built on this particular site, noting that there are three wetland areas included on the site and that traffic congestion in the area is already intolerable. He suggested that the development be built in a different location that is closer to the freeway.

Councilor Prettner moved to table the ordinance, which motion was seconded and carried upon a unanimous vote.

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UNFINISHED BUSINESS

Resolution 95-0823, by Councilor Atkins, amending Rule 17 of the Standing Rules of the city council, was introduced for discussion.

Councilor Talarico opposed the resolution, stating that he feels the Standing Rules were developed to enable the council to conduct its meetings in an efficient, orderly fashion. He felt this rule change will cause meetings to become disorderly, and that the business to be taken care of will be done inefficiently and ineffectively.

Councilor Bohlmann stated that in the six years she has been on the council she has not been aware of the 7/9 rule. She said that in the past the vote to allow speakers to speak has always been unanimous, but she doesn't feel a vote should be necessary to hear from the public. She stated that if it's necessary to vote at all, a simple majority vote should be all that is required. She said she feels that when the public takes the time to come to council meetings to be heard, the council should honor those requests.

Councilor Atkins stated that he feels it is appropriate to hear from the public at any time if the council agrees by a majority vote to listen.

Councilor Dahlberg said he feels that going to a majority vote seems logical in a democratic society and that it will only make it easier for the public to speak out. He said he didn't believe

that a change to a majority vote would cause the council meetings to become disorderly. He commended Councilor Atkins for proposing the change and stated that any direction that the council goes which allows more input from the citizens is the right direction.

Councilor Wheeler stated support for this resolution because he feels the public needs to be heard from.

Councilor Hardesty agreed with Councilor Bohlmann that this mechanism has not been used often, however, she felt that it is important to have this tool available to be used appropriately for special circumstances.

Responding to Councilor Wheeler, Councilor Talarico stated he did research the issue and at the time the rule was created, one of the concerns that the parties had was that the five district representatives working together could have more control than the four at large representatives. He didn't feel that the issue is that important today, however, he stated that as a matter of principle it is important that the council have a set of rules that are adhered to. He agreed with Councilor Bohlmann that the public feels stifled, but said that the reason to prohibit the discussion was to prevent the council from filibustering an issue that was discussed and decided at another meeting.

Resolution 95-0823 (Public Document No. 95-0918-06) failed upon the following vote (requires 7/9 vote):

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Wheeler and President Keenan -- 5

Nays: Councilors Downs, Hardesty, Prettner and Talarico -- 4

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At this time, 8:15 p.m., President Keenan announced that the public hearing regarding Ordinance 95-044, amending the Duluth City Charter by adding a new Section 54(E) to the Charter to establish a community investment trust fund, would begin (Public Document No. 95-0918-15).

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At this time, 8:45 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

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ORDINANCE FOR CONSIDERATION

BY COUNCILOR PRETTNER

95-044 - AN ORDINANCE AMENDING THE DULUTH CITY CHARTER BY ADDING A NEW SECTION 54(E) TO THE CHARTER TO ESTABLISH A COMMUNITY INVESTMENT TRUST FUND FOR THE FINANCING OF CAPITAL IMPROVEMENT PROJECTS IN THE CITY.

Councilor Prettner moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

President Keenan reminded councilors that this ordinance changes the City Charter and requires a 9/0 vote. He expressed his support for the ordinance and stated that it will allow future councilors to deal with the principal and that it is a very good way to get the streets improved.

Councilor Bohlmann felt that this is not the appropriate time to make this Charter change, stating that she fears that the administration will persuade future councilors to decide, with a 7/9 vote, to spend the principal on projects that are not supported by the general public.

Councilor Prettner responded that the stringent rule of a 7/9 vote is proposed for the very reason that a simple majority could not spend down the funds. She said she would encourage amending the ordinance to require a 9/0 vote so that the funds will stay in perpetuity for the citizens until some council decides there is a greater need for the citizens than the street

improvement program and will insure that only the earned interest will be transferred into the general fund to defray the costs of infrastructure needs. She felt that this ordinance is the safeguard that provides that the principal funds stay in investment and will not allow the administration to convince a council to give up the funds frivolously.

Councilor Wheeler stated that he views this proposal to be fiscally conservative, noting that it allows the council to build a large reserve in a bank account for the future.

Councilor Hardesty felt this action is responsible in that it provides the citizens of Duluth a gift of money that will long be retained for the future of Duluth without fear of being spent by the administration. She suggested that if Councilor Bohlmann needs more time to think about the issue that the vote should be put off until another time.

Councilor Bohlmann stated she needs a guarantee that the money will never go to DEDA, be used for Bayfront property projects or be used for tax increment financing district purposes, but will be used for general purposes only. She said she is concerned that there are four councilors who sit on the DEDA board and that with only three more votes, the administration could persuade the council to spend the funds on a whim.

The rules were suspended upon a unanimous vote to hear a speaker on the ordinance.

Ken Hogg, member of the Charter commission, stated that he would personally like to see a 9/0 vote but that the Charter commission felt that a 7/9 vote is adequate protection.

Councilor Prettner moved to amend the ordinance to change the "7/9" vote to "9/0" vote.

City Attorney Dinan stated that an ordinance changing the Charter cannot be amended. He stated that if the council desires to have a more stringent vote requirement, the ordinance will have to be returned to the Charter commission with that request.

Councilor Bohlmann stated that she wants a guarantee that DEDA cannot use the money at any time even with a 9/0 vote.

Responding to Councilor Bohlmann, President Keenan stated that such a guarantee would make it impossible for the council to function.

Councilor Talarico noted that the ordinance cannot be amended to reflect Councilor Bohlmann's request because of the process of having to go back to make the request of the Charter commission. He urged Councilor Bohlmann to vote for this ordinance and that once the ordinance is passed, he will support her request for the Charter commission to review both of the issues she spoke of. He felt the city will never again be in a position like this where it can invest \$3.1 million for the future of the city. He noted that the city's streets need repair and that this action is what will finance it without raising taxes. He implored Councilor Bohlmann to not be the dissenting vote that will stop a program that will benefit the entire city. He noted that at this time the \$3.1 million can be spent with a 5/9 vote. He agreed that a 9/0 vote is most appropriate, but felt the council should accept the 7/9 vote now and go back to the Charter commission for even more stringent rules.

Councilor Prettner noted that by the end of 1995 the anticipated sum in the trust fund will be \$7.7 million, in 1996 \$10.6 million and at the end of 1997 \$13.3 million. She urged that rather than leave it where it can be spent, the council approve the creation of the trust fund that cannot be touched without a 7/9 vote.

President Keenan noted that he supports the ordinance and that the issue of more stringent language can be revisited at another time. He advised Councilor Bohlmann that this actually adds more protection than what there is at the present time.

Councilor Bohlmann pointed out that recently the council voted 8/1 to spend money on skywalks which should have been spent on streets, which she feels indicates that the council is not concerned about streets and infrastructure.

Discussion ensued to convince Councilor Bohlmann that passing this ordinance provides more protection than not passing it.

Ordinance 95-044 (Public Document No. 95-0918-07) failed upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Responding to Councilor Talarico, President Keenan called a special council meeting to be held Thursday, September 21, 1995, at 5:00 p.m. to consider a resolution placing a question on the ballot for voters to decide this issue.

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to September 18, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR PRETTNER

95-0809R - RESOLUTION AUTHORIZING LOAN AGREEMENT WITH MPA LIMITED PARTNERS II LIMITED PARTNERSHIP FOR REHABILITATION OF PROPERTY AT 605 NORTH CENTRAL AVENUE IN THE AMOUNT OF \$108,500, PAYABLE FROM FUND 260 AS FOLLOWS: \$35,000 FROM 1994 HOME PROGRAM FUNDS AND \$73,500 FROM 1995 HOME PROGRAM FUNDS.

The rules were suspended upon a unanimous vote to hear speakers on this resolution and Resolution 95-0840, authorizing an amendment to contract with Center City Housing, later in the agenda.

Ken Hogg noted that the building addressed in Resolution 95-0840 is the same building that funds are being asked for in Resolution 95-0809. He asked if the building in question will have any value in 30 years when the loan is due. He noted that MPA Limited Partners II is a for profit partnership and questioned whether the individuals involved have been required to give personal liens or guarantees to ensure that this loan will be paid back. He gave a history of what has transpired with the 1991 loan to Center City Housing, and asked councilors if they know who will be held responsible to pay this money back and what guarantees there are. He stated that the days of state and federal money are gone and that this money is the same as property tax dollars, and reminded councilors that they are responsible for making sure that loans of taxpayer dollars are repaid.

Councilor Bohlmann said that she has been told that the names of the individuals who comprise Memorial Park Investments Limited cannot be revealed. She felt these individuals need to tell the public who they are because they are asking for \$108,500 of taxpayer money.

Steve Shepherd stated that the result of this resolution will be to refinance Memorial Park Apartments and transfer ownership of the building over to a limited partnership and he felt there are questions that need to be addressed before this transfer takes place. He reminded councilors that Memorial Park Apartments was initially funded as an alcohol and drug free facility and that there is no mention of maintaining this status on the transfer documents. He noted that Center City Housing admits that the building is never going to generate enough money in rental income to cover the notes on the property and he feels that before transfer takes place some strategy needs to be made known of how the investors plan to make the project self-supporting. He noted that the majority of people who live at Memorial Park are chronically mentally ill or chemically dependent and by definition they are vulnerable adults.

Bill Burns, attorney for Center City Housing, explained that Center City Housing is a facilitator of affordable housing for low income people and that the purpose of this request is to

fund Phase II, the building of family unit dwellings within the Koino Center. He explained the concept of legislation with regard to low income housing and tax credits. He stated that the legislation requires the financing to be written as a loan to encourage private investment in low income housing and to generate tax credits, however, those associated with funding of the Koino Center project chose to commit the funds as a grant. He stated that the private investors have not been identified yet because there needs to be a change in structure which requires the council's vote before interests in the partnership can be sold. He noted that all of the covenants and restrictions that relate to the absolute requirement that this facility be operated consistent with its mission with providing affordable low income housing are maintained and imposed on any owner, that Center City Housing will be the managing general partner and that none of the limited partners have any right or power under the terms of the partnership agreement or the laws of the state to influence any decision made by the partnership. He said the facility is designed so that the operating costs will be met by the rents.

Responding to Councilor Talarico, Mr. Burns confirmed that MPA is the limited partner and that they have no management responsibilities, that they are basically like a bank loaning money and in return receiving tax credits as an inducement to invest. He further clarified that MPA is a limited partnership consisting of a group of unidentified limited partners and Center City, who has all the management responsibility and the responsibility of making sure that the covenants that the council imposes on the property are abided by.

Councilor Talarico noted that the funding being labeled a loan instead of a grant is a policy issue that the council needs to take up and noted that it is a tool so that government housing is present to fill the void that is not feasible for private industry.

Councilor Downs expressed concern that Center City Housing isn't living up to the covenants that were imposed in the first agreement and requested a written document stating that all the covenants are to be retained and adhered to with this change in structure.

Responding to Councilor Bohlmann, Mr. Burns explained the concept of how an investor collects his return in the form of a tax credit. With regard to sale of the building and how it could affect the investors' investment, he stated that sale of the building is very unlikely, but if sold, the building must retain its same use and that it will be necessary to repay all of the grants restructured as loans before disbursing any profits to the investors.

Responding to Councilor Downs, Mr. Burns stated that if these resolutions don't pass the operation will continue as it has in the past.

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BY COUNCILOR KEENAN

95-0836R - RESOLUTION AUTHORIZING THE APPROVAL OF CHANGE ORDER G-3 TO CONTRACT NO. 17241 WITH NORTHERN TIER GENERAL CONSTRUCTORS, FOR ADDITIONAL SERVICES AT THE SKATEBOARD POCKET PARK, IN THE AMOUNT OF \$5,085, PAYABLE OUT OF CAPITAL FUND 450, OBJ. C406.

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BY COUNCILOR DAHLBERG

95-0837R - RESOLUTION ACCEPTING THE DEDICATION OF A WATER MAIN UNDER DIVISION 2, ARTICLE VII, OF CHAPTER 45 OF THE DULUTH CITY CODE, AND AUTHORIZING THE PAYMENT OF \$32,500 TO TOLD DEVELOPMENT COMPANY FOR SYSTEM ENHANCEMENTS.

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BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

follows:

1. Authorization of Bonds.

1.01. Pursuant to Minnesota Statutes, Section 471.15 through 471.191, the City operates a program of public recreation, of which the Lester Park Golf Course and Enger Park Golf Course are a part.

1.02. Under and pursuant to Minnesota Statutes, Section 471.191, as amended, the City, pursuant to a Lease with Option to Purchase Agreement, dated as of May 1, 1988 (the "Lease"), between Marquette Lease Services, Inc. ("Marquette"), as lessor, and the City, as lessee, financed improvements to and equipment for Lester Park Golf Course and Enger Park Golf Course (the "Golf Courses").

1.03. \$3,565,000 Certificates of Participation, dated May 1, 1988 (the "1988 Certificates"), were issued pursuant to an Escrow Agreement dated as of May 1, 1988, among Marquette, the City and American National Bank and Trust Company; such Certificates evidence a proportionate interest in the rental payments due under the Lease.

1.04. Under the terms of the Lease, the City has the option to prepay the Rental Payments, for a Prepayment Price set forth in the Lease, to acquire Marquette's interest in the Golf Courses.

1.05. Under and pursuant to the provisions of Minnesota Statutes, Section 471.191 and Chapter 475, the City is authorized to issue and sell bonds to provide funds to prepay the Lease. The City hereby determines that it is necessary and desirable that the City issue Golf Course Revenue Refunding Bonds, Series 1995 (the "Bonds"), in the approximate amount of \$3,305,000, to prepay the Lease, purchase Marquette's interest in the Golf Courses, refinance that portion of the Lease Rental Payments evidenced by the 1988 Certificates maturing on and after November 1, 1996, at the Prepayment Price set forth in the Lease. The City shall enter into an escrow agreement to provide for the prepayment of the 1988 Certificates.

1.06. The Bonds, which shall be issued pursuant to an Indenture of Trust between the City and Norwest Bank Minnesota, National Association, will provide a reduction of debt service costs to the City.

2. Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to negotiate the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9) pursuant to the terms of the Official Terms of Offering.

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in agreements and subsequent resolutions of this City Council.

Resolution 95-0825 was unanimously adopted.

Approved September 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

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

Section 1. Under and pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 (collectively, the "Act"), and Minnesota Statutes, Chapter 475, the city is

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

authorized to issue and sell its general obligation equipment certificates of indebtedness to provide funds to purchase public safety equipment, road construction and maintenance equipment and other capital equipment having an expected useful life at least as long as the term of said certificates.

Section 2. The city council hereby determines that it is necessary and expedient to issue general obligation equipment certificates of Indebtedness, Series 1995, in an amount not to exceed \$1,955,000 of the city (the "Certificates") to provide funds to purchase capital equipment as permitted by the act, to pay certain expenses incurred in the issuance of the certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The aggregate principal amount of the certificates will not exceed 0.25 percent of the market value of taxable property in the city. The certificates shall be payable not more than five years from the date of issue thereof.

Section 3. The city council is hereby authorized and directed to work with city staff, a financial advisor and bond counsel to arrange for the sale of the certificates.

Section 4. The terms, conditions, form, specifications and provisions for repayment of the certificates shall be set forth in subsequent resolutions of the city council.

Resolution 95-0828 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that St. Joseph Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a motor grader and sale of a used motor grader for the fleet division in accordance with specifications on its low specification bid of \$119,950.95, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E514.

Resolution 95-0788 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering two police canine vehicles for the fleet services division in accordance with specifications on its low specification bid of \$45,196, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E507.

Resolution 95-0826 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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

	<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1.	American Red Cross	Congress Bar	August 31, 1995
2.	American Red Cross	Balkan Inn	August 31, 1995
3.	Elks Lodge #133	4250 Haines Road	August 30, 1995
4.	Elks Lodge #133	Country Lanes North	August 30, 1995
5.	Multiple Sclerosis	Park Inn	September 7, 1995
6.	Multiple Sclerosis	Norman's Bar	September 6, 1995
7.	Irving Community Club	Mitch's Bar	September 11, 1995
8.	Irving Community Club	Gopher Bar	September 11, 1995
9.	Hoop Club of Duluth	Sneaker's Bar & Lounge	September 12, 1995

Resolution 95-0844 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the College of St. Scholastica has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the College of St. Scholastica, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 95-0845 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Agreement No. 17300 extending the time for performance thereunder to February 1, 1996; said amendment to be substantially in the form of Public Document No. 95-0918-08 on file with the city clerk.

Resolution 95-0832 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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Resolution 95-0840, by Councilor Prettnner, authorizing amendment to contract #16262 with Center City Housing Corporation extending term of agreement and time for repayment of loan obligation, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Prettner explained that the funds included in this loan are URAP funds and that Center City Housing could have accepted the funds as a grant but felt they could pay them back at a later date.

Councilor Bohlmann opposed the resolution and stated that the city council is not being responsible to the public. She felt that if this is really a grant, then it should be presented that way and not write a 12 year interest free loan that may or may not be collected when the time for repayment comes.

Councilor Atkins moved to table the resolution to consider it with Resolution 95-0809, which motion was seconded and unanimously carried.

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Resolution 95-0843, by Councilor Prettner, granting a special use permit for a mini storage facility in a suburban zone to Steven E. Paulson for property located at 4514 Rice Lake Road and Norton Road, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Steve Paulson spoke in support of the resolution and explained how he plans to turn neglected property into a storage facility.

Resolution 95-0843 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Steven E. Paulson has submitted to the city council a request for a special use permit for a mini storage facility on property described as:

all that part of the NW 1/4 of the SW 1/4 of the SW 1/4, Section 5, Township 50 North, Range 14 West, of the Fourth Principal Meridian, lying southerly of the public highway as now graded, lying easterly and westerly across said land according to the United States Government survey thereof, situated in St. Louis County, Minnesota, containing nine acres more or less, and located at the southeast corner of Rice Lake Road and Norton Road;

and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Steven E. Paulson to allow for the operation of a mini storage facility at 4514 Rice Lake Road, on the condition that the property be improved in accordance with the plans and drawings as identified as Public Document No. 95-0918-09 and be maintained under the terms and conditions of Section 50-35(w) of the City Code.

Resolution 95-0843 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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Resolution 95-0735, by President Keenan, accepting and supporting the recommendations and design to date of the McQuade public access committee, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Alden Lind raised concerns as to whether this property is included in the Congdon Trust property, and said that if the city approves of these plans, the townships involved in building the

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project believe that the city of Duluth will be included in financial responsibilities required to construct it.

Considerable debate ensued with regard to safe harbor issues.

Councilor Atkins moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilor Atkins, Bohlmann, Dahlberg, Downs and Hardesty -- 5

Nays: Councilors Prettner, Talarico, Wheeler and President Keenan -- 4

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BY PRESIDENT KEENAN:

RESOLVED, that the city of Duluth hereby accepts the gift of a brass plaque in memory of Don Hoven's courageous effort to save a youth in the creek in Lincoln Park, donated by the boys and girls of the Park Explorers Club, to be mounted on a bridge above the pool where Don Hoven lost his life.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Park Explorers Club as a message of thanks and to the family of Don Hoven.

Resolution 95-0780 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Sign Solutions, Inc., be and hereby is awarded a contract for furnishing and installing zoo signage for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$60,179.60, terms net 30, FOB job site, \$25,089.80 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C417 and \$35,089.80 payable out of Lake Superior Zoo Fund 405, Dept./Agency 400, Object 5520.

Resolution 95-0827 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, the city of Duluth hereby accepts the cash gift of \$300 in the memory of Stewart B. Apps to be used to purchase items for the Rose Garden.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to Mr. Tim Hagley as a message of thanks.

Resolution 95-0838 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to submit an application requesting the free conveyance of the following described property to the St. Louis County Board of Commissioners; said property to be incorporated into the Arlington Avenue soccer field complex:

T50 R14 Sect. 29, described as NE $\frac{1}{4}$ -NE $\frac{1}{4}$ ex N'ly 500' all West of Road (8.1 acres more or less) (Part of 10-2710-6540); and N'ly 500' of NE $\frac{1}{4}$ -NE $\frac{1}{4}$ West of Road (7.3 acres more or less) (Part of 10-2710-6540); and NE $\frac{1}{4}$ -NE $\frac{1}{4}$ (40 acres)(10-2710-6546); and T50 R14 Sect. 20 SW $\frac{1}{4}$ -SE $\frac{1}{4}$ except 1 acre bounded as follows: commencing at the NW corner of SW $\frac{1}{4}$ of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

SE ¼ Sec. 20, T50 R14, thence East on the North line of said SW¼ of SE¼ of 16 rods to a point thence S at right angles 10 rods to a point, thence W at right angles 16 rods to a point in the W line of said SW¼ of SE¼ thence N on said W line 10 rods to place of beginning containing 39 acres more or less.(10-2710-5920) and; All that part of the SW¼ of the SE¼ of Sec.20, T50, R 14, described as follows, to-wit: Commencing at a point in the N line of said SW¼ of the SE¼ 16 rods East of the NW corner thereof; thence running W'ly on said North line of said SW¼ of SE¼, 12 rods to a point; thence running S'ly and at right angles to said last mentioned line a distance of 10 rods to a point; thence running E'ly and at right angles with said last mentioned line a distance of 12 rods to a point; thence running N'ly and at right angles with said last mentioned line a distance of 10 rods to the place of beginning containing about 0.75 acres more or less (10-2710-5940).

Resolution 95-0846 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into a non-financial agreement with Independent School District #709, starting July 1, 1995, to enhance referral processes and facilitate improved services to youth who drop out of school or who are at risk of dropping out of school. Said agreement is being implemented to establish linkages with the school district as required by the Job Training Partnership Act, as amended. A copy of this document shall be on file in the city clerk's office as Public Document No. 95-0918-10.

Resolution 95-0820 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Neumann Insulation Company, Inc., be and hereby is awarded a contract for furnishing and installing insulation for the CAB underground steamline for the Duluth steam cooperative in accordance with specifications on its low specification bid of \$9,890, terms net 30, FOB job site, payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 95-0829 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

WHEREAS, the Salvation Army has a program known as Heat Share; and

WHEREAS, Heat Share is a program that provides the opportunity for customers to voluntarily contribute monies to this program to assist qualifying, low income, elderly, disabled and others with special needs who have difficulty paying their energy related expenses;

NOW, THEREFORE, BE IT RESOLVED, the Duluth City Council directs the director of water and gas to enter into an agreement, joining other northeastern Minnesota utilities, in the Salvation Army Heat Share Program; and administering the collection of contributions from water and gas department customers, with said funds being forwarded to the Salvation Army.

Resolution 95-0830 was unanimously adopted.

Approved September 18, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a 1995 pickup truck for the sewer division in accordance with specifications on its low specification bid of \$23,204.22, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0831 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a engineering study; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for two sanitary sewer projects, Willow Street and Marble Street; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Salo Engineering, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$8,721.95, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5280, Object 5530.

Resolution 95-0833 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Morton Salt International, Inc., in the amount of \$67,968 and Cutler-Magner Company in the amount of \$7,521 be and hereby is awarded a contract for furnishing and delivering road salt for the street maintenance division, terms net 30, FOB various locations, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 95-0834 was unanimously adopted.

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, during its 1995 session the Minnesota legislature authorized the city to implement a demonstration project to develop and test methods of preventing the inflow and infiltration of storm water into the city's sanitary sewer system; and

WHEREAS, such demonstration project may include improvements to private property paid for with sewer utility funds in a total amount not to exceed \$400,000;

NOW, THEREFORE, BE IT RESOLVED, that the city is hereby authorized to implement the I & I Demonstration Project in accordance with the guidelines set forth in Public Document No. 95-0918-11 on file in the office of the city clerk, and is further authorized to expend not to exceed \$400,000 on improvements to private property pursuant to this project, payable out of Sewer Fund 530, Agency 500, Org. 1581.

Resolution 95-0835 was unanimously adopted.
Approved September 18, 1995
GARY L. DOTY, Mayor

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Resolution 95-0839, requesting that the commissioner of transportation issue a variance allowing diagonal parking on Superior Street between Fourth Avenue East and Sixth Avenue West, and Resolution 95-0842, supporting the establishment of diagonal parking on Superior Street, changing the one-way avenues to two-way and the implementation of a delivery vehicle management program, by Councilor Talarico, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolutions.

Jim Heilig, representing the DTA, stated that the DTA has worked closely with the Downtown council and city staff on this issue and feels that the plan is the best that it can be from a physical standpoint for the transit authority in terms of its operations in the downtown area. He noted that if the traffic flow in the Downtown area is slowed, there will be an impact as to how quickly the buses can get back into the Downtown, therefore, additional buses in the Downtown area may be necessary to maintain the existing levels of service. He pledged that the DTA will work with whatever plan is finalized to continue providing the same level of service, and said the DTA is hopeful that costs won't be significantly increased, but there may be an increased cost to pay for additional buses.

Responding to Councilor Talarico with regard to transportation concerns for the disabled, Mr. Heilig stated that the DTA is aware of and has been working on the issue and believes that it is manageable.

Councilor Atkins expressed support for the resolutions, but noted that the concerns he has are the issues of backing out of parking spaces into oncoming traffic and of parking meters. He supported the city taking another look at free one or two hour parking and how that could be managed. He noted that this change creates 200 more parking spaces in the Downtown area.

Responding to Councilor Talarico, Mayor Doty recommended acting on both resolutions and that if the state does not act favorably on the variance, necessary changes will be made. He stated that the administration, in supporting the Greater Downtown Council, is willing to give this new parking plan a try and noted that the meters will be ordered immediately, however, everything necessary for installation will not be available until after the first of the year which allows time for evaluation of how the plan is working. He said the Downtown council has agreed to further determine whether any form of free parking needs to continue in the downtown and how that would be paid for. The mayor stated concern that if meters are removed from the downtown, then every other area where there are meters will also want them removed. He noted there is approximately \$1,000,000 collected in meter revenues annually.

Responding to Councilor Dahlberg, Mayor Doty stated that the meters have been requisitioned and bids will be presented for council approval. He said that should the Greater Downtown Council decide not to have meters, the new meters will be stored and used as needed for replacement.

Councilor Dahlberg supported the trial parking plan and agreed that there will be various problems as the change is made, but noted that there other routes to be taken to get around the Downtown area.

Councilor Downs opposed the plan, stating that he feels it is regressive in nature, and he predicted that traffic in and out of the Downtown area will be backed up for blocks during peak hours.

Responding to Councilor Wheeler, Richard Larson, director of public works, agreed that this is only a trial period and that the first few months, which will include holiday shopping, should be a good indication whether this plan is feasible or not.

Councilor Bohlmann expressed concern with regard to the safety issue of vehicles backing out into traffic, however she said she feels that there needs to be a change in the parking arrangement that now exists and said she is willing to allow this temporarily to see how it works.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Rick Heimbach, representing the Greater Downtown Council, stated that the parking arrangement in the Downtown area has not been conducive to business for the last ten years. He said that if customer requests for visible, convenient, on street parking are continually ignored, business will only get worse. He noted the excellent traffic consultant the city hired to work with the Greater Downtown Council and commended city staff for their ability to come up with a solution that all could agree to at least try.

Responding to Councilor Downs, Mr. Larson noted, with regard to enforcement of overtime parkers, that the police department is preparing a plan for frequent monitoring for adherence to the one hour parking limit. He further stated that the Greater Downtown Council is working with the city to develop a promotion program that will ensure that the public is made aware of the changes.

Responding to President Keenan, Mr. Larson clarified that parking meters usually pay for themselves within a five month period, which includes installation costs. He further noted that costs of approximately \$55,000 include purchase and installation of meters, pavement markings and new signs. He noted that the number of parking spaces will be increased, therefore the amount of revenue will also be increased. Responding to questions regarding traffic congestion at peak hours, he felt that changing the timing of the traffic signal progression will remedy the situation. He also noted that the traffic engineer has determined that through traffic makes up about 25 percent of the traffic Downtown and that it is expected that traffic will find alternative routes in a short time.

Responding to Councilor Prettner, Mr. Larson noted that during the initial period where there will be no parking meters, additional temporary employees will be hired to monitor parking. He stated that if a decision is made in favor of meters, the additional parking monitors will probably not be necessary.

President Keenan stated that he envisions many problems with this parking plan but said he will support it for a trial period knowing that it can be changed to accommodate any problems that may arise during this trial period.

Resolutions 95-0839 and 95-0842 were adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to implement diagonal parking on portions of Superior Street between Sixth Avenue West and Fourth Avenue East; and

WHEREAS, diagonal parking may be established by a cooperative agreement between the city of Duluth and the commissioner of transportation if the street width and traffic volumes meet standards; and

WHEREAS, the street width and traffic volumes on Superior Street between Sixth Avenue West and Fourth Avenue East do not meet minimum design standards for 45 and 60 degree diagonal parking, and limitations require that diagonal parking be permitted with a variance from the stated standard of 13.2 foot for traffic aisle width, and 33 feet for 1/2 of the roadway width, requiring a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.9960.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Chapter 8820.9960 in which state aid standards for 45 degree diagonal parking will be reduced from the stated standard for present ADT 3000 and over with 25.2 traffic aisle width and 45 feet of 1/2 of the roadway width to 35 degree diagonal parking, stall width nine feet, stall depth 17.6 feet, traffic aisle width 12.4 feet, length along curb 14.7 feet, and 1/2 roadway width of 30 feet.

Resolution 95-0839 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

Approved September 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the Greater Downtown Council has studied the traffic and parking issues in Downtown Duluth, received technical support and input from the city's traffic consultant and professional staff and has recommended a plan for Superior Street that includes a combination of diagonal and parallel parking on a two lane street; and

WHEREAS, the Greater Downtown Council has also suggested changing one-way avenues to two-way and offered suggestions for the management of delivery vehicles; and

WHEREAS, the Duluth planning commission has reviewed the recommendations of the Greater Downtown Council and has recommended the implementation of the diagonal parking plan for Superior Street, the conversion of one-way avenues to two-way and the implementation of a delivery vehicle management program; and

WHEREAS, the city must receive approval of a variance to State-Aid Operations Rules, Chapter 8820, from the Minnesota commissioner of transportation to implement the recommendations of the Greater Downtown Council;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that this resolution is offered as support of the plan for diagonal parking on Superior Street, the conversion of one-way avenues to two-way and the implementation of a delivery vehicle management program.

Resolution 95-0842 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

Approved September 18, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-048 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ELIZABETH HOWARD FOR A DRAINFIELD ENCROACHMENT INTO THE EASTERLY 40 FEET OF 129TH AVENUE WEST AT 12815 WEST SEVENTH STREET IN FOND DU LAC.

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The meeting was adjourned at 11:00 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 21, 1995, 5:20 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Absent: Councilors Bohlmann and Wheeler -- 2

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MOTIONS AND RESOLUTIONS

Resolution 95-0861, by Councilor Talarico, submitting to the voters at the November 7, 1995, municipal general election the question of the adoption of an amendment to the City Charter adding a new Section 54(E) establishing a community investment trust fund, was introduced for discussion.

In response to Councilor Talarico, Assistant City Attorney Schindler said that the proposed Charter amendment is on file in the city clerk's office and is available for public review. Councilor Talarico requested that copies of the ordinance be available at the polling sites so that voters have complete information regarding this issue.

Councilor Hardesty did not feel the proposed language is sufficiently descriptive for most voters. She felt the use of casino funds should be included in the description to better inform voters.

In response to Councilor Hardesty, Mr. Schindler said the council has the power to frame the question for the ballot.

Councilor Downs also expressed concern about the proposed language, saying it does not inform voters that the city council is not able to spend the principal in this fund. He also questioned if the language adequately addresses future council restrictions with regard to this fund.

Mr. Schindler said the words "community investment trust fund" denotes a legal entity and does not allow spending of the principal.

Councilor Prettner felt the proposed question does not provide information to the voters about the purpose of the fund. She moved to amend the resolution to change the question to read: "Should a provision be added to the Duluth City Charter creating a community investment trust fund from casino revenues and providing for the deposit of certain revenues in such fund for the financing of capital improvement projects in the city?", which motion was seconded.

Councilor Downs suggested a friendly amendment that would incorporate the language in the original ordinance. He suggested changing the last phrase to read as follows: "for the financing of the street improvement program and other capital improvements," which was accepted by Councilor Prettner as a friendly amendment.

Mr. Schindler felt the amendment goes beyond the ordinance recommended to the council by the Charter commission. He recommended the resolution as proposed without amendments.

Councilor Prettner also stated concern about the violation of arbitrage laws, and withdrew her amendment.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Ken Hogg felt an explanatory section should be included on the ballot, and he suggested changing the name to "community infrastructure trust fund."

Councilor Atkins said he is fearful of putting an item on the ballot that the public does not understand, and suggested looking at other options.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Dahlberg felt that including language that referred to infrastructure or capital improvements would be more acceptable to the public.

Resolution 95-0861 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the City Charter commission has submitted to the city council a proposed amendment to the City Charter which would add a new Section 54(e) to the Charter establishing a community investment trust fund in the city treasury, which amendment is on file in the office of the city clerk as Public Document No. 95-0921-01; and

WHEREAS, the council has determined that such proposed amendment should be submitted to the electors of the city of Duluth for their ratification or rejection in the manner provided by law;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby submits such proposal to the qualified voters of the city of Duluth at the general municipal election to be held on Tuesday, November 7, 1995.

RESOLVED FURTHER, that the city clerk shall place upon the ballot at such general municipal election the proposition hereinafter set forth:

Put a cross mark "X" after the word "YES" standing opposite the proposition if you wish to vote for the same.

Put a cross mark "X" after the word "NO" standing opposite the proposition if you wish to vote against the same.

PROPOSITION

Should a provision be added to the Duluth City Charter creating a community investment trust fund and providing for the deposit of certain revenues in such fund?

YES _____ NO _____

A "YES" vote is a vote in favor of creating a community investment trust fund.

A "NO" vote is a vote against creating a community investment trust fund.

RESOLVED FURTHER, that the city clerk is hereby directed to cause such proposed amendment to the Charter to be published once a week for two successive weeks prior to such general election in the Duluth News-Tribune, a daily newspaper published in the city of Duluth having an aggregate regular paid circulation of at least 25,000 copies.

Resolution 95-0861 was unanimously adopted.

Approved September 21, 1995

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:40 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 25, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Bohlmann -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-0925-01 St. Mary's Medical Center, by Karl M. Ruthenbeck, architect, petitioning for concurrent use permit for skywalk project. -- Planning commission

95-0925-11 Alden E. Lind submitting concerns regarding the McQuade public access project (95-0735R). -- Received

95-0925-18 McQuade public access committee submitting letter supporting the McQuade public access project (95-0735R). -- Received

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REPORTS OF OFFICERS

95-0925-03 Assessor submitting letter of sufficiency regarding petition to vacate a portion of East Faribault Street. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0925-05 Duluth housing trust fund board minutes of August 24, 1995 meeting. -- Received

95-0925-06 Duluth transit authority: (a) Minutes of August 30, 1995 meeting; (b) July 1995 financial statement. -- Received

95-0925-07 Seaway Port authority of Duluth: (a) Minutes of July 27, 1995 meeting; (b) June 1995 combined financial statements. -- Received

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REPORTS OF COUNCILORS

95-0925-08 Councilor Prettnner submitting correspondence from Representative Oberstar regarding amendment to H.R. 1555, the Communications Act of 1995. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Roy St. George commented on what he perceived to be a stifling of Councilor Bohlmann with regard to her right to speak against a resolution changing the City Charter.

Greg Price spoke regarding the deterioration of safety rails at Lincoln Park and requested that the city take measures to improve safety and eyesores at the park.

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RESOLUTIONS TABLED

Councilor Prettnner moved to remove Resolution 95-0840 from the table, authorizing amendment to contract #16262 with Center City Housing Corporation extending term of agreement and time for repayment of loan obligation, which motion was seconded and unanimously carried.

Councilor Prettnner moved to also consider at this time Resolution 95-0809, authorizing loan agreement with MPA Limited Partners II Limited Partnership for rehabilitation of property at 605 North Central Avenue in the amount of \$108,500, and Resolution 95-0848, authorizing the

assignment of contract Nos. 16261 and 16721 to MPA Limited Partners II Limited Partnership for the Memorial Park Apartments, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on the resolutions.

Steve Shepherd noted that the city has been made aware by representatives of Center City Housing that this project is never expected to generate enough income to pay off the loans, and accused the city of falsifying records to the IRS by calling grants loans in order to qualify for low income housing tax credits.

Councilor Prettner clarified previous statements by saying that the money received through the HOME program and URAP funds could have been given as grants by the city, but that the arrangements made with the project were such that it would be a loan over a long period of time so that those funds could come back to the city to be used for low income housing in the future.

Mike Bolen, project developer for Center City Housing Corporation, stated that Mr. Shepherd's assertions that Center City Housing Corporation is in violation of certain of its contractual and regulatory and statutory agreements are simply not true. Mr. Bolen stated that Center City Housing Corporation takes seriously all agreements that it enters into with regard to production of low income housing and that it is indeed in compliance with those agreements. He explained in detail who and what Center City Housing is and how it operates, and the lengthy process required for approval of all loans and grants funds.

Responding to Councilor Downs, Mr. Bolen stated that technically he is the initial limited partner. He explained that when the transaction is complete, the limited partners will invest and the partnership will replace him. He further noted that once the transaction is completed, neither Mr. Burns nor anyone on the Center City Housing staff will be limited partner equity investors. He stated that the assignment of the Phase I contracts contains specific language wherein the general partnership inherits all of the obligations of the original contract and that all previous agreements with the neighborhoods will continue to be in force.

Responding to Councilor Dahlberg, Mr. Bolen stated that 501C3 law prohibits any member of a 501C3 corporation, board of directors or staff from benefitting from anything that the corporation does, so he will not be allowed to retain any position on the board.

Resolutions 95-0840, 95-0809 and 95-0848 were adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 95-0925-12, to city contract Number 16262 with Center City Housing Corporation extending the term of the agreement and the time for repayment of the loan obligation and also substituting Memorial Park Apartments in place of all references to the Koino Center.

Resolution 95-0840 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a loan agreement, substantially in the form of that agreement which is on file with the city clerk as Public Document No. 95-0925-13 with MPA Limited Partners II Limited Partnership for the rehabilitation of property at 605 North Central Avenue (Memorial Apartments), in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$108,500, payable from Fund 260 as follows: \$35,000 from 1994 HOME Program funds and \$73,500 from 1995 HOME Program funds.

Resolution 95-0809 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the city of Duluth hereby authorizes the assignment and assumption substantially in the form of that on file in the office of the city clerk as Public Document No. 95-0925-20 of Contract Nos. 16261 and 16721 from Center City Housing Corporation to MPA Limited Partners II Limited Partnership.

Resolution 95-0848 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Keenan called the public hearing regarding residential permit parking in the Denfeld area, to order (Public Document No. 95-0925-09).

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At this time, 8:20 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

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Councilor Prettner moved to remove from the table Resolution 95-0735, accepting and supporting the recommendations and design to date of the McQuade public access committee, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

Steve Running, member of the Save Brighton Beach Association and the McQuade public access committee, gave a detailed report of the process that has been followed by the committee to select a site for a safe harbor. He supported the McQuade Road site because it had the least amount of opposition, and emphasized that no financial obligation will be assumed by the city if this location is approved. He clarified that extension of a water line only, not a sanitary sewer, has been requested.

Responding to Councilor Wheeler's concern that this access will make the lake more accessible to boating activities for unexperienced boaters who don't respect the lake, Mr. Running stated that he felt too many barriers have been built in the past to prevent people from using the lake. He told Councilor Wheeler that the committee has not projected what the usage of this facility will be ten years from now, but that the plan presently allows for the docking of 90 boats and does not anticipate future expansion.

Councilor Downs felt that by accepting and approving the design the council is committing the city to financial responsibility for the project.

Councilor Dahlberg said he didn't feel the city is committing any financing for the project by approving the plans. He said that another resolution will have to be presented to the council for expenditure of funds.

Councilor Talarico suggested amending the resolution from "accepting the design" to "receive and support the design."

Responding to Councilor Hardesty, Mr. Running expressed concern that if the city council decides to take no action on this resolution, a negative message will be sent to Duluth and Lakewood townships, also involved in the project, and that the project may not go forward.

David Koneczny, member of the McQuade public access committee and president of the Lake Superior Trolling Association, stated that the position of the Lake Superior Trolling Association on water safety has not been relaxed because of this project. Responding to Councilor Wheeler, Mr. Koneczny stated that the Lake Superior Trolling Association rosters about 1,200 people, that the organization's main purpose is to instruct boating safety. He felt that the safe harbor as designed will adequately accommodate the numbers of boats without expansion being necessary.

Alden Lind concurred with Councilor Wheeler that if this facility is built, boaters will come to use it and that safety on Lake Superior will be compromised. He opposed the resolution stating that a harbor at the McQuade Road is not needed because Knife River harbor is only ten minutes away, the army corps of engineers does not recommend harbors this close together, and he felt the proposed harbor is a convenience desired by a minimal amount of individuals who will use public money that will not benefit all taxpayers.

Responding to Councilors Wheeler and Dahlberg, Mr. Koneczny stated that if a boat were in the McQuade Road area and bad weather came up, travel time back to Knife River would be five to six hours with difficult boat handling. He stated that the Knife River Marina is a commercial endeavor which is not accessible to the average boater and cannot be counted on to act as a safe refuge. He noted that without Knife River, the only two safe harbors available are Two Harbors and the Duluth entry which are 26 miles apart.

Responding to Mr. Lind, Administrative Assistant Nollenberger clarified that when the committee was established by the mayor, there was absolutely no direction or instructions given. He said the purpose of the committee was simply to study the issue of a location for a safe harbor.

Councilor Wheeler expressed concern about the ability of the structure to withstand storms.

Mr. Lind stated that the Knife River harbor is owned by Lake County and leases out the operation of it. He added that the county is presently considering doubling the capacity of the harbor and that it has been told by the DNR that it needs to provide better and more public access.

President Keenan stated he is unwilling to approve any plan that involves funding from the city of Duluth for this facility.

Al Katz, member of the North Shore Community Association and the McQuade public access committee, concurred with Councilor Keenan and Mr. Nollenberger that at no point has any member of the committee been instructed what they must think in order to come on board or to remain. He stated that after a quick caucus of members present at this meeting, that Councilor Talarico's suggested amendment lives up to the intent of the committee. He stated that approval of this resolution will allow the committee to move on to the next phase and that the committee has no expectation of any funding by any of the governmental entities involved.

Councilor Talarico move to amend the title of the resolution to read "RESOLUTION OF ACKNOWLEDGE AND RECEIPT AND SUPPORT FOR THE RECOMMENDATIONS AND DESIGN TO DATE OF THE MCQUADE PUBLIC ACCESS COMMITTEE," and to amend the second to last paragraph of the resolution to change the word "accepts" to the words "has received," which motion was seconded.

Councilor Wheeler expressed concern that by offering support, the plan is being accepted as is without further input or study.

Councilor Talarico's amendment passed upon a unanimous vote.

Resolution 95-0735, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the McQuade public access committee (MPAC), with representation from the city of Duluth, Lakewood Township, Duluth Township, and St. Louis County, as well as other stakeholder groups, has been developing a proposal for a protected public access at the McQuade Road location; and

WHEREAS, the committee over the past 12 months, with engineering assistance from the DNR, collected technical data, reviewed designs, and has recommended the size, configuration, amenities, and the location of the project; and

WHEREAS, MPAC's design advisory committee (DAC), with representation from those neighbors most impacted by the project, reviewed design proposals and provided recommendations for an acceptable facility to MPAC; and

WHEREAS, the project was featured extensively in local and Twin Cities media as well as 5,000 copies of the MPAC newsletter; and

WHEREAS, the committee presented the project proposal for public review at three open houses in each of the townships and at Lakeview Castle; and

WHEREAS, in excess of 104 people attended those meetings and 124 surveys were tabulated, showing 70 percent generally approving the project as presented.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth has received the project design and survey results of June 1995 and supports the recommendation for the publicly acceptable boat access facility at the McQuade Road location as depicted in Public Document No. 95-0925-13 on file in the office of the city clerk.

BE IT FURTHER RESOLVED, that the city of Duluth will continue to participate in the planning and design refinements of the project, and directs the committee to move ahead to resolve issues of ownership, maintenance, funding, and relevant matters of community concern.

Resolution 95-0735, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilor Wheeler -- 1

Absent: Councilor Bohlmann -- 1

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

UNFINISHED BUSINESS

BY PRESIDENT KEENAN:

RESOLVED, that Northern Tier General Constructors be and hereby is authorized Change Order G-3 to Contract No. 17241 for additional work at the Skateboard Pocket Park, in an amount of \$5,085, payable out of Capital Fund 450, Ag. 015, Org. 1994, Obj. C406.

Resolution 95-0836 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

WHEREAS, in the development of the utilities serving the Kohl's department store site, Told Development Company constructed a water main loop to connect the system in Sundby Road with the system across Highway 53, at the request of the water and gas department; and

WHEREAS, this water main loop constitutes a substantial enhancement to the water

distribution system of the city, and the water needs of the Kohl's development could have been met without the construction of this loop; and

WHEREAS, the developer has waived reimbursement of connection fees which may be charged by the city under Section 48-222 of the Code on approximately 450 feet of benefitting property fronting this main extension on Sundby Road; and

WHEREAS, the 2,090 feet of water main has been installed under plans and specifications meeting the city's requirements, including 550 feet of water main loop which was separately bid and the cost thereof segregated and ascertained; and

WHEREAS, the main has been inspected and found to conform to city of Duluth specifications, ownership thereof has been tendered to the city pursuant to Division 2 of Article VII of Chapter 45 of the Duluth City Code, as built plans therefore are on file with engineer's office of the water and gas department, which finds the main as constructed to be wholly acceptable;

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the water and gas department, that the eight inch ductile iron water main in Burning Tree Road from 550 feet southerly of the north line of Highway 53 to Highway 53, then easterly in an easement to Sundby Road, then southeasterly in Sundby Road to Page Street, is hereby accepted, and that the director be authorized to include such main as a part of the water system of the city of Duluth.

RESOLVED, FURTHER, that the proper city officers are hereby authorized to reimburse Told Development Company for the cost of the 550 feet of loop water main of \$32,500, payable from the water fund.

Resolution 95-0837 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1996, subject to department approvals, and the payment of sales and property taxes:

Ice Sculptures, Inc. (Afterburner Lounge), 4701 Airport Drive, transferred from the Duluth airport authority (Afterburner Lounge), same address, with William R. Ritter, 100 percent stockholder.

Resolution 95-0865 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, seagulls have become a health hazard and nuisance in some neighborhoods and areas of the city; and

WHEREAS, the council has carefully studied the issue of prohibiting the feeding of seagulls by ordinance and determined that such a prohibition would be unenforceable as a practical matter;

NOW, THEREFORE, BE IT RESOLVED, that the council requests that the administration erect advisory signs in appropriate parks and public areas frequented by seagulls, requesting

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

the cooperation of the public by not feeding seagulls, in an effort to reduce the nuisance and health hazard created by contact between humans and seagulls.

Resolution 95-0869 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statute 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
Blue Line Club of Duluth, Inc.	Duluth Entertainment Convention Center	September 22, 1995

Resolution 95-0873 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of personnel analyst, which were approved by the civil service board on September 5, 1995, and which are filed with the city clerk as Public Document No. 95-0925-14, is approved.

Resolution 95-0855 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

COMMISSION ON AGING

Judy Greene and Janith D. Jacobson for terms expiring July 1, 1997.

Resolution 95-0858 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the following reappointments by Mayor Doty be and the same are hereby confirmed:

DULUTH PUBLIC ARTS COMMISSION

Jon A. Helstrom and Neale Roth for terms expiring September 30, 1998.

Resolution 95-0859 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved September 25, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcels of property, grounds of condemnation being the buildings are structurally unsound, open to trespass, and a menace to the neighborhoods; and

WHEREAS, notices of condemnation were served as follows:

- Parcel 1 832 East Third Street, a.k.a. northerly 70 feet of Lots 15 & 16, Block 64½, Auditor's Rearrangement of Part of Portland Division, by certified mail on Erling Meidal, 832 East Third Street, Duluth, MN 55805, signed by Erling Meidal on March 17, 1995, and by certified mail on Martin Kalm, 826 East Third Street, Duluth, MN 55805, signed by Martin Kalm on March 30, 1995; and
- Parcel 2 926 North Sixth Avenue East, a.k.a. south 35 feet of north 70 feet of Lot 98, Block 123, Duluth Proper Third Division, by certified mail on Sandy Yeazle, 926 North Sixth Avenue East, Duluth, MN 55805, letter returned marked "unclaimed," and by certified mail on David and Tammy Larson, 506 East Seventh Street, Duluth, MN 55805, signed by David Larson on January 23, 1995, and by legal notice in the Duluth News-Tribune to Robert Hochrien, address unknown - and to Sandy Yeazle on January 26 and 27, 1995; and
- Parcel 3 1107 West First Street, a.k.a. west 30 feet of east 95 feet of Lot 181, Block 67, Duluth Proper Second Division, by certified mail on Rose Jannette, Greysolon Plaza Apartments, 231 East Superior Street, Duluth, MN 55802, signed by Rose Jannette on April 11, 1995; and
- Parcel 4 417 North 50th Avenue West, a.k.a. Lots 5, 6 and 7, Block 186, West Duluth Seventh Division, by certified mail on Patricia Pensak, 520 Winnipeg Avenue, Duluth, MN 55806, letter returned marked "unclaimed" and by legal notice in the Duluth News-Tribune to Patricia Pensak on March 16 and 17, 1995; and
- Parcel 5 323 North 58th Avenue West, a.k.a. Lot 5, Block 133, West Duluth Fifth Division, by certified mail on Joel Gratiot, 323 North 58th Avenue West, Duluth, MN 55807, signed by Joel Gratiot on March 31, 1995; and
- Parcel 6 5802 Highland Street, a.k.a. Lot 4, Block 27, West Duluth Sixth Division, by certified mail on Gunnar S. and Lynn R. Thomasson, 5802 Highland Street, Duluth, MN 55807, letter returned marked "unclaimed" and by certified mail on Associates Financial Service Company of Minnesota, Inc., 24 North Third Avenue West, Duluth, MN 55802, Attn: Chris Deadrick, Manager, signed by Wendy Nelson and by legal notice in the Duluth News-Tribune to Gunnar S. and Lynn R. Thomasson and to Associates Financial Service Company of Minnesota, Inc., on February 16 and 17, 1995; and
- Parcel 7 235 Fairmont Street, a.k.a. Lot 1, Block 1, Helstrom Rearrangement, by certified mail on Jon A. Helstrom and Elizabeth J. Helstrom, 2525 Somerset Avenue, Duluth, MN 55803, signed by Jon Helstrom on December 19, 1994; and
- Parcel 8 9 East Seventh Street, garage only, a.k.a. west 1/2 of Lot 5, Duluth Proper First Division, East Seventh Street, by certified mail on Janice Kay Barker, 9 East

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Seventh Street, Duluth, MN 55805, and returned marked "unclaimed" and by legal notice in the Duluth News-Tribune to Janice Kay Barker, and to Jerome S. Clarke, address unknown, and to Paul Cummings, address unknown, on January 26 and 27, 1995; and

- Parcel 9 1032 East Sixth Street, garage only, a.k.a. Lot 16, Block 123, Portland Division, by certified mail on Rodney G. and Linda D. Barber, 1032 East Sixth Street, Duluth, MN 55805, signed by Linda Barber on February 28, 1995, and by certified mail on John M. Nowak, 8147 Cabin Road, Canyon, MN 55717, signed by John M. Nowak on March 6, 1995; and
- Parcel 10 2240 West 12th Street, garage only, a.k.a. easterly 1/2 of Lot 5 and all of Lot 6, Block 50, Harrisons Brookdale Division, by certified mail on Elaine L. Westlund, 2240 West 12th Street, Duluth, MN 55806, signed by E. Niemi on February 8, 1995; and
- Parcel 11 2420 West Fourth Street, garage only, a.k.a. east 1/2 of Lot 394, Block 113, Duluth Proper Second Division, by certified mail on Willard Gruwell, 2420 West Fourth Street, Duluth, MN 55806, signed by Lorena Gruwell on January 21, 1995; and by legal notice in the Duluth News-Tribune to Lorena M. L. Gruwell, address unknown, on January 26 and 27, 1995; and
- Parcel 12 2718 Morris Thomas Road, garage only, a.k.a. east 1/2 of east 1/2 of northeast 1/4 of northwest 14 ex easterly 200 feet of Section 31, Township 50, Range 14, Lands in the city of Duluth, by certified mail on Patricia A. Peterson, 2718 Morris Thomas Road, Duluth, MN 55811, signed by Jeffery J. Maki on February 8, 1995.

NOW, THEREFORE, BE IT RESOLVED, that the building official is hereby authorized and directed, forthwith, to take whatever means may be necessary to abate the cause the abatement of the nuisance now existing on the above-named properties, and to make prompt report in writing to the city council with respect to abatement and removal of such nuisances, together with cost if any thereof, to the city of Duluth.

Resolution 95-0856 was unanimously adopted.
Approved September 25, 1995
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement with the Minnesota department of natural resources in the sum of \$11,500 for the maintenance, etc., of the Duluth snowmobile trails for the 1995-1996 season; said agreement to be in the form of Public Document No. 95-0925-15(a) on file with the city clerk; the funds therefrom to be deposited in the General Fund 100-500-1920-5622.

RESOLVED FURTHER, that the proper city officers are hereby authorized to pay up to \$11,500 to the Duluth Area Association of Snowmobile Clubs for snowmobile grooming and maintenance during the 1995-1996 season, in accordance with the schedule of allowable costs which is filed with the city clerk as Public Document No. 95-0925-15(b), payable from the General Fund 100-500-1920-5622.

Resolution 95-0849 was unanimously adopted.
Approved September 25, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security/job service for the provision of job development and placement services in an amount not to exceed \$46,982 payable from the following:

\$ 2,000 - Fund 268, Org. 6241;
\$ 5,500 - Fund 269, Org. 6240;
\$19,741 - Fund 269, Org. 6272;
\$19,741 - Fund 269, Org. 6273;

Contract dates will run from July 1, 1995 to June 30, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0925-16.

Resolution 95-0847 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

WHEREAS, the steam cooperative desires to complete a review of current fuel rates; and
WHEREAS, the city desires to hire a consultant to provide the professional services required to review the fuel rates; and

WHEREAS, Dahlen, Berg & Company, Inc., has submitted a proposal for professional services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Dahlen, Berg & Company, Inc., to provide the city with such professional services.

BE IT FURTHER RESOLVED, that the cost of said professional services, estimated at \$3,500, will be payable from the Steam Fund 540, Dept./Agency 920, Organization 1460, Object 5310.

Resolution 95-0851 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0874, by Councilor Dahlberg, requesting the U.S. fish and wildlife service and the Minnesota and Wisconsin departments of natural resources increase seagull egg harvesting activities, was introduced for discussion.

Councilor Dahlberg stated that the U.S. fish and wildlife service and the Minnesota and Wisconsin departments of natural resources have stated via letter that they will provide this service as long as the city of Duluth will pay for all costs involved. He raised concern that costs which the city will be charged are unknown.

Councilor Prettner and President Keenan agreed that more discussion should take place to find out what the costs are before proceeding.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Greg Price supported the resolution, noting that it is a solution to a problem brought up by Councilor Downs. He stated that six individuals from Michigan have died due to histoplasmosis, a bird dropping disease. He stated that the seagulls are a public nuisance and create a public health issue. He passed around a news article regarding the disease and felt that the price of eradicating bird eggs can be justified when considering the risk of allowing the disease to spread.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Dahlberg moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent alley in Fourth Street Alley from 24th Avenue East to 25th Avenue East (City Job No. 8928RS95).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project, and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0852 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Premier Lawn Service be and hereby is awarded a contract for snow plowing of municipal parking lots and ramps for the property management division in accordance with specifications on its low specification bid of approximately \$22,000, terms net 30, FOB job sites, \$20,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5441 and \$2,000 payable out of Casino Parking Ramp Fund 502, Dept./Agency 030, Object 5441.

Resolution 95-0854 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement relating to the permanent improvement of 54th Avenue East between Idlewild Street and a point approximately 50 feet south thereof with James H. and Kathy Proctor; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-0925-17; the city's cost thereunder in an amount not to exceed \$4,800 to be paid from the P.I. fund.

Resolution 95-0864 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

north side of College Street from Junction Avenue to Missouri Avenue.

Resolution 95-0850 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby established:

- one stall in front of 427 North 57th Avenue West;
- one stall in front of 904 North Sixth Avenue East;
- one stall in front of 5605 West Sixth Street;
- one stall in front of 223 North 12th Avenue East;
- one stall in front of 4616 West Fourth Street;
- one stall in front of 1012 North 12th Avenue East.

Resolution 95-0853 was unanimously adopted.

Approved September 25, 1995

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR DOWNS

95-042 - AN ORDINANCE PROHIBITING THE FEEDING OF SEAGULLS, AMENDING SECTION 6-61 OF THE CITY CODE.

Councilor Downs moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Dahlberg opposed the ordinance, stating he believes it is unenforceable. He added that the merchants in the Canal Park area do not support the ordinance.

Councilor Atkins felt that Resolutions 95-0869 and 95-0874 address this problem adequately and said that he cannot support this ordinance.

Ordinance 95-042 failed upon the following vote (Public Document No. 95-0925-10):

Yeas: Councilors Downs and Talarico -- 2

Nays: Councilors Atkins, Dahlberg, Hardesty, Prettnner, Wheeler and President Keenan -- 6

Absent: Councilor Bohlmann -- 1

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER

95-049 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED BETWEEN FIFTH AND SIXTH AVENUE EAST AND BETWEEN FIFTH ALLEY AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY COMMERCIAL (CITY PLANNING COMMISSION).

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-048 (9271) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ELIZABETH HOWARD FOR A DRAINFIELD ENCROACHMENT INTO THE EASTERLY 40 FEET OF 129TH AVENUE WEST AT 12815 WEST SEVENTH STREET IN FOND DU LAC.

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

- - -

The meeting was adjourned at 11:30 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9271

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ELIZABETH HOWARD FOR A DRAINFIELD ENCROACHMENT INTO THE EASTERLY 40 FEET OF 129TH AVENUE WEST AT 12815 WEST SEVENTH STREET IN FOND DU LAC.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to Elizabeth Howard, her successors and interests, referred to herein as the permittees, to occupy, erect and maintain a retaining wall in that part of 128th Avenue West Street as the same was dedicated to the use of the public and the plat of Fond du Lac, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) The easterly 40 feet of 129th Avenue West adjacent to Lot 122, Seventh Street, Fond du Lac.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said drainfield and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such drainfield shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said 128th Avenue and agree that the city of Duluth shall not be liable for damage caused to such drainfield while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such drainfield in said avenue.

Section 6. That the permittee shall further observe the following conditions:

(a) That all applicable codes will be observed and construction of said drainfield;

(b) The size and location of drainfield shall be limited to and maintained in accordance with St. Louis County health department permit;

(c) That the concurrent use permit be issued for the life of the drainfield and the St. Louis County health department permit.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 5, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Absent: Councilor Bohlmann -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed September 25, 1995
Approved September 25, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 2, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on January 9, 17, 23, 26 and 30, 1995; and February 6, 13, 21 and 27, 1995, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1002-01 Arrowhead Development Corporation, by William Burns, attorney, submitting appeal of planning commission decision regarding the low density planned 126 unit townhouse development to be located in the plat of Maple Ridge Addition. -- Committee 2 (planning)

95-1002-12 Alden E. Lind submitting letter regarding the McQuade protected access committee (95-0893R). -- Received

- - -

REPORTS OF OFFICERS

95-1002-02 Engineering division submitting monthly project status report of September 1, 1995. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1002-03 Board of zoning appeals minutes of August 22, 1995 meeting. -- Received

95-1002-04 Duluth airport authority: (a) Minutes of August 15, 1995 meeting; (b) Unaudited balance sheet of July 31, 1995. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Robin Erickson spoke regarding an accident her son had in September in Lincoln Park that was caused because of a broken park railing . She called attention to various unsafe areas in Lincoln Park which she feels need immediate attention before another individual is seriously injured or killed because of what she felt is the lack of appropriate upkeep.

Lengthy discussion about assessment, repair and maintenance of unsafe park conditions throughout Duluth ensued among councilors, Administrative Assistant Nollenberger and Public Works Director Larson.

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were filed prior to October 2, 1995, in accordance with Section 11 of the City Charter:

BY COUNCILOR KEENAN

95-0894R - RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO AGREEMENT NO. 17299 WITH ARCHITECTS IV, FOR PROVIDING CERTAIN ADDITIONAL ARCHITECTURAL SERVICES TO THE CITY OF DULUTH IN CONNECTION WITH THE WEST END BUSINESS DISTRICT REVITALIZATION, PHASE I, IN AN AMOUNT NOT TO EXCEED \$10,000, PAYABLE FROM CAPITAL FUND 450.

- - -

BY COUNCILOR ATKINS

95-0871R - RESOLUTION ENTERING AN AGREEMENT WITH INDEPENDENT SCHOOL DISTRICT #709 TO PROVIDE JOB SEARCH PROGRAM SERVICES TO STRIDE, FOOD STAMP EMPLOYMENT AND TRAINING AND JOB TRAINING PARTNERSHIP TITLE II-A AND II-C PARTICIPANTS AT COSTS NOT TO EXCEED \$31,011; PAYABLE FROM FUND #269, BUDGET ITEMS 6272 (\$11,755) AND 6273 (\$11,756), AND FUND #268, BUDGET ITEMS 6240 (\$4,500) AND 6241 (\$3,000).

- - -

BY COUNCILOR ATKINS

95-0872R - RESOLUTION ENTERING AN AGREEMENT WITH ST. LOUIS COUNTY BOARD OF COMMISSIONERS TO PROVIDE ELIGIBILITY SPECIALIST SERVICES AT COSTS NOT TO EXCEED \$15,970.95 PAYABLE FROM FUND #269, BUDGET ITEMS 6272 AND BUDGET ITEM 6273.

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council of the City of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Findings.

It is hereby found, determined, and declared as follows:

A. The City has previously issued its \$9,000,000 Commercial Development Revenue Bonds (Duluth Radisson Hotel Project), Series 1985, dated December 1, 1985 (the "Series 1985 Bonds") pursuant to Minnesota Statutes of 1985, Chapter 474, now codified at Minnesota Statutes, Section 469.152 through 469.165 (the "Act") to finance the acquisition, renovation and equipping of the Duluth Radisson Hotel by Duluth Hotel Limited Partnership, a Minnesota limited partnership (the "Developer").

B. Under and pursuant to Section 469.155, subdivision 12 of the Act, the City is authorized to issue revenue bonds to refund in whole or in part bonds previously issued under the Act and the interest on them.

C. By resolution adopted on September 11, 1995, the City Council gave preliminary approval to the issuance by the City of its \$8,470,000 Commercial Development Revenue Refunding Bonds (Duluth Radisson Hotel Project), Series 1995A (the "Series 1995A Bonds"), to refund the outstanding principal amount of the Series 1985 Bonds (the "Refunding") maturing on and after December 1, 1995 (the "Redemption Date").

D. The City Council hereby determines that the issuance and sale of the Series 1995A Bonds, pursuant to the Act, is in the best interest of the City, and the City hereby determines to issue the Series 1995A Bonds and to sell the Series 1995A Bonds to Miller & Schroeder, Inc. (the "Underwriter") to finance the Refunding. The Series 1995A Bonds shall be in such denominations, numbered, dated, subject to redemption prior to maturity, be in such form as is prescribed in the Indenture of Trust dated as of the date of the Series 1995A Bonds (the "Series 1995A Indenture") between the City and American Bank National Association, St. Paul, Minnesota, as trustee (the "Trustee"), and bear interest at rates not to exceed 8.00% per annum for any maturity.

E. The Series 1995A Bonds will be special limited obligations of the City payable solely from the revenues to be derived from the Loan Agreement between the City and the Developer dated as of the date of the Series 1995A Bonds (the "Series 1995A Loan Agreement") in the manner provided in the Series 1995A Indenture. The Series 1995A Bonds shall be secured by the Series 1995A Indenture and by a Combination Mortgage, Security Agreement and Fixture

Financing Statement, between the Developer and City, dated as of the date of the Series 1995A Bonds (the "Series 1995A Mortgage"). The City's interest in the Series 1995A Mortgage will be assigned to the Trustee pursuant to an Assignment of Mortgage, dated as of the date of the Series 1995A Bonds (the "Series 1995A Assignment of Mortgage"). The Series 1995A Bonds shall be further secured by an Assignment of Leases and Rents between Developer and the Trustee, dated as of the date of the Series 1995A Bonds (the "Series 1995A Assignment").

F. The Series 1995A Bonds shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the City be subject to any liability thereon. No holder of the Series 1995A Bonds shall ever have the right to compel any exercise of the taxing power of the City to pay the Series 1995A Bonds or the interest thereon, nor to enforce payment thereof against any property of the City. The Series 1995A Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

Section 2. Authorization.

The Series 1995A Loan Agreement, the Series 1995A Indenture (including the form of the Series 1995A Bonds), the Series 1995A Mortgage, the Series 1995A Assignment of Mortgage, and the Bond Purchase Agreement between the City, the Developer and the Underwriter, dated as of the date of the Series 1995A Bonds (the "Bond Purchase Agreement") are hereby approved.

Section 3. Execution of Documents and Certificates.

A. The Mayor and City Clerk are hereby authorized and directed to execute the Series 1995A Bonds in accordance with the Series 1995A Indenture.

B. The Mayor and the City Clerk are hereby authorized and directed to execute, acknowledge, and deliver the Series 1995A Loan Agreement, the Series 1995A Indenture, the Series 1995A Assignment of Mortgage, and the Bond Purchase Agreement on behalf of the City, substantially in the forms now on file with the City, with such changes, insertions, and omissions therein as the City Attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such documents in accordance with the terms hereof.

C. The Mayor, the City Clerk and the City Treasurer are authorized and directed to execute and deliver all other documents which may be required under the terms of the Series 1995A Indenture, the Series 1995A Loan Agreement, the Series 1995A Mortgage, or the Bond Purchase Agreement, or by bond counsel, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

D. The Mayor, City Clerk, and other officers of the City are authorized to furnish to the Trustee, the Developer, the Underwriter, and bond counsel certified copies of all proceedings and records of the City relating to the Series 1995A Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Series 1995A Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

Section 4. Appointment of Bond Registrar.

The Trustee is hereby appointed as paying agent, bond registrar, authenticating agent and transfer agent for the Series 1995A Bonds.

Section 5. Official Statement.

The City has not participated in the preparation of the Preliminary Official Statement relating to the Series 1995A Bonds (the "Preliminary Official Statement"), which Preliminary Official

Statement is expected to be amended and completed to add certain pricing and other information (as amended and completed, the "Official Statement") and has made no independent investigation with respect to the information contained therein, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Series 1995A Bonds of the Preliminary Official Statement and the Official Statement in the form on file with the City. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the City for use in connection with the offer and sale of the Series 1995A Bonds.

Section 6. Covenants; Limitations.

A. All covenants, stipulations, obligations and agreements of the City contained in this Resolution and the aforementioned documents shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this Resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

B. No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City nor any officer or employee executing the Series 1995A Bonds shall be liable personally on the Series 1995A Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

C. No provision, covenant or agreement contained in the aforementioned documents, the Series 1995A Bonds or in any other document related to the Series 1995A Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Series 1995A Loan Agreement, Series 1995A Mortgage or other sources set forth in the Series 1995A Indenture which are to be applied to the payment of the Series 1995A Bonds, as provided therein and in the Series 1995A Indenture.

D. Except as herein otherwise expressly provided, nothing in this Resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any owner of the Series 1995A Bonds issued under the provisions of this Resolution, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, this Resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any owner from time to time of the Series 1995A Bonds issued under the provisions of this Resolution.

Section 7. Severability.

In case any one or more of the provisions of this Resolution, or of the aforementioned documents, or of the Series 1995A Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, or of the aforementioned documents, or of the Series 1995A Bonds, but this Resolution, the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

aforementioned documents, and the Series 1995A Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 8. Redemption.

It is hereby found and determined that, based on representations of the Developer, the proceeds of the Series 1995A Bonds, along with other sums of the Developer available therefor, will be sufficient to prepay all of the principal of, interest on and redemption premium, if any, on the Series 1985 Bonds. The Series 1985 Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notice of Call for Redemption attached hereto as Attachment A, which terms and conditions are hereby approved and incorporated herein by reference. The City Clerk, or the Clerk's designee, is hereby authorized and directed to forthwith mail or publish or both, the Notice of Call for Redemption in accordance with the terms of the Series 1985 Bonds.

Resolution 95-0897 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council of the City of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Findings.

It is hereby found, determined, and declared as follows:

A. The City has previously issued its \$9,000,000 Commercial Development Revenue Bonds (Duluth Radisson Hotel Project), Series 1985, dated December 1, 1985 (the "Series 1985 Bonds") pursuant to Minnesota Statutes of 1985, Chapter 474, now codified at Minnesota Statutes, Section 469.152 through 469.165 (the "Act") to finance the acquisition, renovation and equipping of the Duluth Radisson Hotel by Duluth Hotel Limited Partnership, a Minnesota limited partnership (the "Developer").

B. Under and pursuant to Section 469.155, subdivision 12 of the Act, the City is authorized to issue revenue bonds to refund in whole or in part bonds previously issued under the Act and the interest on them.

C. By resolution adopted on September 11, 1995, the City Council gave preliminary approval to the issuance by the City of its \$8,470,000 Commercial Development Revenue Refunding Bonds (Duluth Radisson Hotel Project), Series 1995A (the "Series 1995A Bonds"), to refund the outstanding principal amount of the Series 1985 Bonds (the "Refunding") maturing on and after December 1, 1995.

D. Based on representations of the Developer, the City Council hereby determines that it is necessary and desirable to issue its \$450,000 Taxable Commercial Development Revenue Bonds (Duluth Radisson Hotel Project), Series 1995B (the "Series 1995B Bonds") and to lend the proceeds therefrom to the Developer to be used, along with available funds of the Developer, to pay costs of remodeling the Duluth Radisson Hotel and costs of issuance of the Series 1995A Bonds and the Series 1995B Bonds (the "Project").

E. The City Council hereby determines that the issuance and sale of the Series 1995B Bonds, pursuant to the Act, is in the best interest of the City, and the City hereby determines to issue the Series 1995B Bonds and to sell the Series 1995B Bonds to Miller & Schroeder, Inc. (the "Underwriter") to finance the Project. The Series 1995B Bonds shall be in such denominations, numbered, dated, subject to redemption prior to maturity, be in such form as is prescribed in the Indenture of Trust dated as of the date of the Series 1995B Bonds (the "Series

1995B Indenture") between the City and American Bank National Association, St. Paul, Minnesota, as trustee (the "Trustee"), and bear interest at rates not to exceed 11.50% per annum for any maturity.

F. The Series 1995B Bonds will be special limited obligations of the City payable solely from the revenues to be derived from the Loan Agreement between the City and the Developer dated as of the date of the Series 1995B Bonds (the "Series 1995B Loan Agreement") in the manner provided in the Series 1995B Indenture. The Series 1995B Bonds shall be secured by the Series 1995B Indenture and by a Combination Mortgage, Security Agreement and Fixture Financing Statement, between the Developer and City, dated as of the date of the Series 1995B Bonds (the "Series 1995B Mortgage"). The City's interest in the Series 1995B Mortgage will be assigned to the Trustee pursuant to an Assignment of Mortgage, dated as of the date of the Series 1995B Bonds (the "Series 1995B Assignment of Mortgage"). The Series 1995B Bonds shall be further secured by an Assignment of Leases and Rents between Developer and the Trustee, dated as of the date of the Series 1995B Bonds (the "Series 1995B Assignment"); the unconditional guaranties of Timmington, Meyer and Schram Limited Partnership XI, a Minnesota limited partnership, and Logan Duluth, Inc., a Minnesota corporation, the General Partners of the Developer; and the personal guaranties of Scott Timmington, John A. Meyer, Spencer Schram, Renee Logan and Martin Fishman.

G. The Series 1995B Bonds shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the City be subject to any liability thereon. No holder of the Series 1995B Bonds shall ever have the right to compel any exercise of the taxing power of the City to pay the Series 1995B Bonds or the interest thereon, nor to enforce payment thereof against any property of the City. The Series 1995B Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

H. The rights of the holders of and the security for the Series 1995B Bonds will be fully subordinated to the rights of the holders of and the security for the Series 1995A Bonds, including loan repayments under the Series 1995B Loan Agreement, which will be fully subordinated to loan repayments under the Series 1995A Loan Agreement.

Section 2. Authorization.

The Series 1995B Loan Agreement, the Series 1995B Indenture (including the form of the Series 1995B Bonds), the Series 1995B Mortgage and the Series 1995B Assignment of Mortgage, and the Bond Purchase Agreement between the City, the Developer and the Underwriter, dated as of the date of the Series 1995B Bonds (the "Bond Purchase Agreement") are hereby approved.

Section 3. Execution of Documents and Certificates.

A. The Mayor and City Clerk are hereby authorized and directed to execute the Series 1995B Bonds in accordance with the Series 1995B Indenture.

B. The Mayor and the City Clerk are hereby authorized and directed to execute, acknowledge, and deliver the Series 1995B Loan Agreement, the Series 1995B Indenture, the Series 1995B Assignment of Mortgage, and the Bond Purchase Agreement on behalf of the City, substantially in the forms now on file with the City, with such changes, insertions, and omissions therein as the City Attorney may hereafter deem appropriate, such execution to be conclusive evidence of approval of such documents in accordance with the terms hereof.

C. The Mayor, the City Clerk and the City Treasurer are authorized and directed to execute and deliver all other documents which may be required under the terms of the Series 1995B Indenture, the Series 1995B Loan Agreement, the Series 1995B Mortgage, or the Bond Purchase Agreement, or by bond counsel, and to take such other action as may be required or

deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

D. The Mayor, City Clerk, and other officers of the City are authorized to furnish to the Trustee, the Developer, the Underwriter, and bond counsel certified copies of all proceedings and records of the City relating to the Series 1995B Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Series 1995B Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

Section 4. Appointment of Bond Registrar.

The Trustee is hereby appointed as paying agent, bond registrar, authenticating agent and transfer agent for the Series 1995B Bonds.

Section 5. Official Statement.

The City has not participated in the preparation of any offering materials relating to the Series 1995B Bonds or the Preliminary Official Statement relating to the Series 1995A Bonds (the "Preliminary Official Statement"), which Preliminary Official Statement is expected to be amended and completed to add certain pricing and other information (as amended and completed, the "Official Statement") and has made no independent investigation with respect to the information contained therein, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy or completeness of such information. Subject to the foregoing, the City hereby consents to the distribution and the use by the Underwriter in connection with the sale of the Series 1995B Bonds of the Preliminary Official Statement and the Official Statement in the form on file with the City. The Preliminary Official Statement and the Official Statement are the sole materials consented to by the City for use in connection with the offer and sale of the Series 1995B Bonds.

Section 6. Covenants; Limitations.

A. All covenants, stipulations, obligations and agreements of the City contained in this Resolution and the aforementioned documents shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or the City Council by the provisions of this Resolution or of the aforementioned documents shall be exercised or performed by the City or by such members of the City, or such officers, board, body or agency thereof as may be required or authorized by law to exercise such powers and to perform such duties.

B. No covenant, stipulation, obligation or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City, or any officer, agent or employee of the City in that person's individual capacity, and neither the City nor any officer or employee executing the Series 1995B Bonds shall be liable personally on the Series 1995B Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

C. No provision, covenant or agreement contained in the aforementioned documents, the Series 1995B Bonds or in any other document related to the Series 1995B Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in such

documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Series 1995B Loan Agreement, Series 1995B Mortgage or other sources set forth in the Series 1995B Indenture which are to be applied to the payment of the Series 1995B Bonds, as provided therein and in the Series 1995B Indenture.

D. Except as herein otherwise expressly provided, nothing in this Resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City or any owner of the Series 1995B Bonds issued under the provisions of this Resolution, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, this Resolution, the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City and any owner from time to time of the Series 1995B Bonds issued under the provisions of this Resolution.

Section 7. Severability.

In case any one or more of the provisions of this Resolution, or of the aforementioned documents, or of the Series 1995B Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, or of the aforementioned documents, or of the Series 1995B Bonds, but this Resolution, the aforementioned documents, and the Series 1995B Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Resolution 95-0898 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale intoxicating liquor license for the period ending August 31, 1996, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

DonLynn, Ltd. (Duluth Liquor Store), 32 West First Street, with Cynthia Draeger, president and 50 percent stockholder, Paul Draeger, secretary/treasurer and 50 percent stockholder.

Resolution 95-0862 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0881, by Councilor Bohlmann, appointing two people to civil service board, was introduced for discussion.

Councilor Bohlmann moved to table the resolution for one week because all candidates were not present for interviews this evening, which motion was seconded and unanimously carried.

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointment by Mayor Doty be and the same are hereby confirmed:

WATER AND GAS SERVICE HEARING BOARD

Marsha Edgerton for a term expiring September 1, 1998, replacing Jerold Peterson.

Donald Mantay for a term expiring September 1, 1998.

Resolution 95-0884 was unanimously adopted.

Approved October 2, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0892, by Councilor Prettner, granting a special use permit to Arrowhead Development Corporation for a low density planned development for property located south of Rice Lake Road and west of Blackman Avenue, was introduced for discussion.

Councilor Prettner moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, the committee desires to continue to have public information services provided; and

WHEREAS, Margaret R. Colombo has satisfactorily performed such services previously for the committee; and

WHEREAS, the state of Minnesota department of natural resources has agreed to finance the costs of public information services; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing Agreement No. 17222 with Margaret R. Colombo for public information services to an amount not to exceed \$9,900 payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. MS 26; said agreement to be substantially in the form of Public Document No. 95-1002-05 on file in the office of the city clerk.

Resolution 95-0893 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Swan & Associates, Inc., for the sum of not to exceed \$4,560, from General Fund 100, Ag. 700, Org. 2726, Obj. 1424, for providing certain asbestos project management services to the city of Duluth in connection with city hall water pipe replacement, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1002-06.

Resolution 95-0876 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17308 with Design Alternative for the sum of not to exceed \$1,600, from Capital Fund 450, Ag. 015, Org. 1994, Obj. C403, for providing certain architectural services to the city of Duluth in connection with Peterson Arena expansion, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1002-07.

Resolution 95-0878 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved October 2, 1995
GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Popular Subscription, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 662 subscriptions for the library in accordance with specifications on its low specification bid of \$21,771.02, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 300, Organization 1701, Object 5590.

Resolution 95-0886 was unanimously adopted.

Approved October 2, 1995
GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17246 with American Engineering Testing, Inc., in an amount of not to exceed \$2,400, from Capital Fund 450, Obj. C419, for providing certain additional geotechnical services to the city of Duluth in connection with the lakewalk slope stabilization, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1002-08.

Resolution 95-0895 was unanimously adopted.

Approved October 2, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0896, by President Keenan, authorizing the filing of application and execution of agreement to construct sport facilities under the provision of the state capital bond fund, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Responding to Councilor Talarico, Stan Karich, of Duluth Amateur Hockey Association (DAHA), gave an overview of the renovations and new construction that is proposed, as well as projected costs and how the funding is split up between the city, DAHA and the state.

Resolution 95-0896 was adopted as follows:

BY PRESIDENT KEENAN:

WHEREAS, the Minnesota amateur sports commission (MASC), via the state capital bonding fund, provides for capital funds to assist political subdivisions of the state of Minnesota for the development of sport facilities; and

WHEREAS, the city of Duluth desires to construct and develop an arena for the sport of hockey.

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

1) Peterson addition: estimates that the total cost of developing said facility shall be \$2,250,000 and city of Duluth/Duluth amateur hockey association is requesting \$250,000 from the Mighty Ducks capital bonding fund and will assume responsibility for a match requirement of \$1,125,000 (city) and \$875,000 (DAHA).

Fryberger renovation: estimates that the total cost of renovating said facility shall be \$121,500 and city of Duluth/Duluth amateur hockey association is requesting \$50,000 from the Mighty Ducks capital bonding fund, and Duluth amateur hockey association will assume responsibility for a match requirement of \$71,500;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

2) City of Duluth agrees to own, assume 100 percent operation costs for said sport facilities, and will operate said facilities for its intended purpose for the functional life of the facility which is estimated to be 25 years;

3) City of Duluth agrees to enter into necessary and required agreements with the Minnesota amateur sports commission for the specific purpose of constructing a sport facility and long-term program direction;

4) That an application be made to the state of Minnesota, Minnesota amateur sports commission, to be included in the Minnesota amateur sports commission's (governor's) capital budget request for an amount presently estimated to be \$250,000 (Peterson) and \$50,000 (Fryberger);

5) That the Duluth amateur hockey association and/or city of Duluth is authorized and directed to execute said application and serve as the official liaison with the Minnesota amateur sports commission.

Resolution 95-0896 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, proper city officials are hereby authorized to accept \$54,428 in Minnesota youth works/american corps program funds from the Minnesota department of economic security for the period September 1, 1995, through August 31, 1996. Funds will provide work experience for 11 youth who will work 20 hours per week as tutors at local schools while they also pursue completion of their high school education, as needed. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 95-1002-09.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund No. 268, Budget Item No. 6248.

Resolution 95-0857 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to accept \$40,000 in Minnesota youth program/city grant funds from the Minnesota department of economic security for the period June 1, 1995, through September 30, 1995. Funds will provide curfew enforcement/ underage alcohol abuse prevention services. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 95-1002-10.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited to Fund No. 268, Budget Item 6249.

Resolution 95-0877 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

Abstention: Councilor Hardesty -- 1

Approved October 2, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DAHLBERG:

RESOLVED, that Resolution 95-0505 to Ogston's, Inc., for furnishing additional gas service replacement, be amended to increase the amount by \$28,987 for a new total of \$137,132, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0866 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Elk River Concrete, Inc., be and hereby is awarded a contract for furnishing and delivering 120 LF of RC pipe, six inch diameter manholes and covers for the water and gas department in accordance with specifications on its low specification bid of \$7,182.36, terms net 30, FOB job site, \$3,591.18 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$3,591.18 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-0867 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DAHLBERG:

RESOLVED, that Western Petroleum, Inc., be and hereby is awarded a contract for furnishing and delivering 90,000 gallons of liquid propane for the gas department in accordance with specifications on its low specification bid of \$33,732, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5213.

Resolution 95-0887 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer adjacent to Superior Street from 63rd Avenue East to 240 feet easterly to serve: Lots 34 through 28, Block 57, Lester Park Fourth Division (City Job No. 8929SA95).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0868 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that A.S.V. Distribution, Inc., be and hereby is awarded a contract for furnishing and delivering a posi-track loader for the sewer division in accordance with specifications on its low specification bid of \$31,456.46, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0875 was unanimously adopted.
Approved October 2, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for professional services with RREM, Inc., covering the preparation of a focused feasibility study for the Rice Lake landfill site (Duluth Dump No. 1); said agreement to be substantially in the form of Public Document No. 95-1002-11 on file in the office of the city clerk; the cost thereof, in an amount not to exceed \$29,430, to be paid from the self insurance fund.

Resolution 95-0885 was unanimously adopted.
Approved October 2, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the state of Minnesota be and hereby is awarded a contract for furnishing long distance telephone services for all departments/divisions in accordance with specifications on its low specification bid of an estimated \$12,089.88 annually, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5321.

BE IT FURTHER RESOLVED, the proper city official be authorized to renew an agreement with the state of Minnesota subject to moderate rate increases.

Resolution 95-0888 was unanimously adopted.
Approved October 2, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0889, by Councilor Talarico, awarding contract to Century Fence Company for striping Superior Street for the intended parking expansion in accordance with specifications on its low specification bid of \$19,908.88, was introduced for discussion.

Responding to Councilor Atkins, Public Works Director Larson stated that less expensive ways of marking parking spaces were studied but of the three types of marking available, it is felt that this epoxy method is the only one that will last through the winter of the trial study. He described all the methods tested and the reasons they weren't chosen. He said that this job has been contracted out because the city does not have the equipment necessary to do this job. He stated that the total of the contract should not be the full \$19,908 because of the elimination of an 8,000 foot edge line which has been deemed unnecessary. He stated the striping is necessary for people to know what angle they should park at and to avoid unsafe conditions.

Responding to Councilor Prettner, Mr. Larson felt that because of the elimination of the edge line, it would be appropriate to amend the cost of the contract downwards. He said that the method of backing into spaces and driving out as she suggested earlier has been considered but needs further study.

Councilor Prettner moved to amend the resolution by changing the number "\$19,908.88" to read "\$14,000," which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

Councilor Bohlmann stated she can't justify spending this amount of money on a situation that may only be temporary. She further stated that because this company was the only bidder, she is concerned that the city is not getting the best price possible.

Responding to councilors, Mr. Larson stated that parking in West Duluth and Downtown Duluth cannot be compared because of the difference in traffic patterns and layout of the streets, that added congestion in the downtown will not cause the city to be in violation of EPA standards with regard to air pollution, that all of the one-way avenues downtown will be converted to two-way traffic and that the cost for necessary changes in signals because of this conversion is projected to be between \$100,000 to \$200,000, which may be reimbursed by MSA funds. He stated that changing the avenues to two-way traffic was an independent decision not tied to the diagonal parking issue. He felt that conversion to two way traffic will move traffic in the downtown faster and ease the congestion. He stated that 140 additional parking spaces will be created and that revenues received from the additional parking meters should recover all costs for meters, striping paint and temporary signs required by the project within a year's time. He said that if a decision is made to reject the diagonal parking program, costs for removing the striping has not been determined but removal could be accomplished by city workers.

Councilor Wheeler felt that trying this new parking method in the downtown is worthwhile and will give area merchants a chance to evaluate for themselves if this is workable or not. He didn't believe \$14,000 for paint striping is unreasonable but said he does not support expenditure of \$100,000 to \$200,000 for other changes until this method has been tested thoroughly and then only if there is some plan for significant and rapid repayment.

Councilor Hardesty said she believes it's necessary to apply the paint striping to get a clear idea of how the plan will work. She did not support additional funding for the conversion of the avenues.

Mr. Nollenberger noted that it has been determined that in most cases the cost of one new parking space is approximately \$8,000 to \$10,000.

Councilor Talarico supported the paint striping at the amended amount and said he felt that this experiment is worthy of the investment considering the significant increased number of parking spaces it will generate for downtown businesses.

Councilor Atkins felt that if there are safety issues involved, the DTA buses should be rerouted to Michigan Street and First Street.

President Keenan stated that costs for removing the paint should be known before implementing this plan and that there should be no compromises made with regard to safety issues. He felt that the trial area should be made smaller to get a true sense of how this will work in the downtown, since the angle parking as well as the avenue reversion is what the Greater Downtown Council considers necessary to make the project complete.

Mr. Larson stated that cost projections will be done during this trial period and then evaluated to see how often the pavement markings will need to be redone so the council will have that information if and when the vote to make this plan permanent is requested.

Resolution 95-0889, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that Century Fence Company be and hereby is awarded a contract for striping Superior Street for the intended parking expansion for the traffic operations division in accordance with specifications on its low specification bid of \$14,000, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2145, Object 5530.

Resolution 95-0889, as amended, was adopted upon the following vote:

Yeas: Councilors Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 6

Nays: Councilors Atkins, Bohlmann and Downs -- 3

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering 10,800 cubic yards of washed sand for the street maintenance division in accordance with specifications on its low specification bid of \$102,186.30, terms net 30, FOB various job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 95-0890 was unanimously adopted.

Approved October 2, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR BOHLMANN

95-051 - AN ORDINANCE PERTAINING TO SPECIAL CIVIL SERVICE TESTS FOR PERSONS WITH DISABILITIES; INCORPORATING STATE AND FEDERAL STANDARDS FOR SUCH TESTS; AMENDING SECTION 13-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER

95-049 (9272) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED BETWEEN FIFTH AND SIXTH AVENUE EAST AND BETWEEN FIFTH ALLEY AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY COMMERCIAL (CITY PLANNING COMMISSION).

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

- - -

The meeting was adjourned at 9:30 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9272

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED BETWEEN FIFTH AND SIXTH AVENUE EAST AND BETWEEN FIFTH

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

ALLEY AND FIFTH STREET FROM C-1 COMMERCIAL TO C-2 HIGHWAY
COMMERCIAL (CITY PLANNING COMMISSION).

The city of Duluth does ordain:

Section 1. That Plate No. 35 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)
(refer to page 568)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 7, 1996)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 2, 1995
Approved October 2, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, October 5, 1995, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Dahlberg, Downs, Hardesty, Talarico, Wheeler and President Keenan -- 6

Absent: Councilors Atkins, Bohlmann and Prettner -- 3

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MOTIONS AND RESOLUTIONS

Resolution 95-0910, by Councilor Wheeler, providing for the issuance, sale and delivery of gross revenue recreation facility refunding bonds (municipal golf courses), Series 1995; establishing the terms and form thereof; and creating a debt service fund therefor, was introduced for discussion.

Administrative Assistant Nollenberger explained that this resolution is to refund the bonds that were issued for the expansion of Enger and Lester golf courses in order to take advantage of lower interest rates.

Wayne Burgraff, Evensen Dodge, reported at length on the results of the bond sale. He said the structure of the original 1988 bond sale was not changed, and reported that the savings realized from this bond sale amounts to a seven percent savings of par amount of the refunding bonds, which is equal to a present value savings of about \$240,000. He recommended that the bid be accepted.

In response to Councilor Wheeler regarding the city's long term debt, Mr. Burgraff said the latest Moody's report issued the city its strongest credit report in many years, noting that the city is becoming stronger financially, has increased its financial flexibility and is paying off its debt relatively quickly.

In response to Councilor Downs, Mr. Burgraff said the costs to refinance are:

1) a call premium of two percent of par amount of bonds that are going to be called, which amounts to about \$59,000; 2) compensation for the purchaser of the bonds, amounting to about \$71,000 and 3) all other interest costs, estimated at this point to be no more than \$55,000. He said the \$240,000 savings are net of these expenses. Also in response to Councilor Downs, Mr. Burgraff said it is acceptable for firms to bid together as they did for this sale, and explained that this is done because these bonds are more risky and more difficult to sell because the primary security for the bonds is revenue from the golf course which could fluctuate.

In response to Councilor Wheeler, Mr. Nollenberger said this savings was anticipated and included in the budget.

Mr. Burgraff noted that with the low interest rates there is an opportunity for additional savings for the city in current refunding of outstanding bond issues.

Resolution 95-0910 was adopted as follows:

BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

1. Authorization of Bonds.

1.01. Pursuant to Minnesota Statutes, Section 471.15 through 471.191, the City operates a program of public recreation, of which the Lester Park Golf Course and Enger Park Golf Course are a part.

1.02. Under and pursuant to Minnesota Statutes, Section 471.191, as amended, the City, pursuant to a Lease with Option to Purchase Agreement, dated as of May 1, 1988 (the "Lease"),

between Marquette Lease Services, Inc. ("Marquette"), as lessor, and the City, as lessee, financed improvements to and equipment for Lester Park Golf Course and Enger Park Golf Course (the "Golf Courses").

1.03. \$3,565,000 Certificates of Participation, dated May 1, 1988 (the "1988 Certificates"), were issued pursuant to an Escrow Agreement dated as of May 1, 1988, among Marquette, the City and American National Bank and Trust Company; such Certificates evidence a proportionate interest in the rental payments due under the Lease.

1.04. Under the terms of the Lease, the City has the option to prepay the Rental Payments, for a Prepayment Price set forth in the Lease, to acquire Marquette's interest in the Golf Courses.

1.05. Under and pursuant to the provisions of Minnesota Statutes, Section 471.191 and Chapter 475, the City is authorized to issue and sell bonds to provide funds to prepay the Lease and refund the 1988 Certificates.

1.06. The City, by Resolution No. 95-0825R adopted on September 18, 1995, has determined that it is necessary and desirable that the City prepay the Lease, purchase Marquette's interest in the Golf Courses, refinance that portion of the Lease Rental Payments evidenced by the 1988 Certificates maturing on and after November 1, 1996, and issue Gross Revenue Recreation Facility Refunding Bonds (Municipal Golf Courses), Series 1995 (the "Bonds"), in the approximate amount of \$3,305,000, pursuant to the official terms of offering. The title of the bond issue and the minimum bid are hereby amended to conform to the terms set forth in the Official Statement.

1.07. The Bonds shall be issued pursuant to an Indenture of Trust between the City and Norwest Bank Minnesota, National Association (the "Trustee") in the aggregate principal amount of \$3,315,000.

1.08. Forms of the following documents relating to the financing have been prepared and submitted to the City Council:

A. The Indenture of Trust (the "Indenture") proposed to be made and entered into between the City and the Trustee (Public Document No. 95-1005-01); and

B. The Escrow Agreement (the "Escrow Agreement") proposed to be made and entered into between the City and American Bank National Association (the "Escrow Agent") (Public Document No. 95-1005-02).

Section 2. The City Council has caused its financial adviser to request proposals for the sale of the Bonds and has received and considered all proposals presented pursuant to the official terms of offering and has determined that the most favorable proposal is that of Dain Bosworth, Incorporated, of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3,275,220, plus accrued interest on the total principal amount from November 1, 1995, to the date of delivery of the Bonds and upon condition that the Bonds bear interest at the annual rates as indicated below and shall mature on December 1 in the following respective years and amounts:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

MATURIT Y YEAR	AMOUNT	INTEREST RATE	MATURIT Y YEAR	AMOUNT	INTERES T RATE
1996	\$175,000	5.90%	2002	\$255,000	5.90%
1997	\$200,000	5.90%	2003	\$265,000	5.90%
1998	\$215,000	5.90%	2004	\$275,000	5.90%
1999	\$225,000	5.90%	2005	\$295,000	6.00%
2000	\$240,000	5.90%	2006	\$305,000	6.05%
2001	\$250,000	5.90%	2007	\$615,000	6.10%

The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 3. The Bonds shall not be general obligations but shall be special limited obligations of the City, payable solely out of Gross Revenues (as defined in the Indenture) of the Golf Course Facilities (other than to the extent payable out of proceeds of the Bonds or the net proceeds out of insurance claims or condemnation awards). The Bonds shall be secured by the Indenture. The City has agreed to segregate the Gross Revenues derived from the Golf Course Facilities on its official books and records and to remit such Gross Revenues pursuant to the Indenture. The Mayor and the City Clerk are hereby authorized and directed to execute the Bonds in accordance with the Indenture.

Section 4. The Indenture and the Escrow Agreement are hereby approved. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Indenture and the Escrow Agreement, substantially in the forms now on file with the City Clerk, with such necessary and appropriate omissions, modifications, insertions and additions as do not materially affect the substance of the transaction, consistent with the Act, as the Mayor in his discretion shall determine. The execution of the Indenture and the Escrow Agreement by the Mayor, with the advice of the City Attorney, shall be conclusive evidence of such determination. All of the provisions of the Indenture and the Escrow Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated herein and shall be in full force and effect from the date of execution and delivery thereof.

Section 5. The Mayor and the City Clerk are hereby authorized to execute and deliver, on behalf of the City, such other documents as are necessary or appropriate in connection with the issuance, sale and delivery of the Bonds. The City Clerk is authorized and directed to give notice of redemption and prepayment of the Lease and the 1988 Certificates in accordance with the requirements of the resolution and escrow agreement authorizing this issuance.

Section 6. All covenants, stipulations, obligations and agreements of the City contained in this Resolution, the Indenture and the Escrow Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the City to the full extent authorized or permitted by

law, and all such covenants, stipulations, obligations and agreements shall be binding upon the City upon execution and delivery of such documents. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or its officers by the provisions of this Resolution or of the aforementioned documents to be executed and delivered by the City shall be executed or performed by the City or by such officers of the City, or such board, body, authority or agency thereof as may be required by law to exercise such powers and to perform such duties.

Section 7. Except as herein otherwise expressly provided, nothing in this Resolution, the Indenture or the Escrow Agreement, expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City, the Trustee, the Escrow Agent, the Purchaser, or any holder of the Bonds issued under the provisions of this Resolution, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, that the aforementioned documents and all of their provisions being intended to be and being for the sole and exclusive benefit of the City, the Trustee, the Escrow Agent, the Purchaser, and any holder from time to time of the Bonds issued under the provisions of this Resolution.

Section 8. The officers and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this Resolution, the Indenture, the Escrow Agreement and the Bonds for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Bonds, the aforementioned documents including the prepayment and redemption of the 1988 Certificates and this Resolution.

Section 9. In the event any of the officers of the City Authorized to execute the documents on behalf of the City under this Resolution shall for any reason be unable to do so, any other officer of the City authorized to act for such designated officer is hereby directed and authorized to do so on behalf of the City with the same effect as if executed by the officer authorized to do so in this Resolution.

Section 10. All actions of the members, officers, employees and staff of the City heretofore taken and in furtherance of this financing are hereby approved, ratified and confirmed.

Section 11. The Mayor, the City Clerk and other officers of the City are authorized and directed to prepare and furnish, with regard to the issuance of the Bonds, certified copies of all proceedings and records of the City relating to the Bonds and such other affidavits, certificates and opinions as may be required to show the facts relating to the legality, tax exemption and marketability of the Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; that all such certified copies, certificates, affidavits and opinions, including and heretofore furnished, shall constitute representations of the City as to the truth of all statements made by the City and contained herein.

Section 12. The Trustee is hereby appointed authenticating agent and paying agent with respect to the Bonds.

Section 13. The City hereby authorizes the circulation of the Official Statement in connection with the sale and delivery of the Bonds.

Section 14. Continuing Disclosure.

14.01. A. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"), the City hereby makes the following covenants and agreements for the benefit of the holders from time to time of the outstanding Bonds.

B. If the City fails to comply with any provisions of this Section 14, the holders of any of the outstanding Bonds may take whatever action at law or in equity as may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section 14. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 14 constitute a default under the Indenture, the Bonds or under any other provision of this resolution.

14.02. The City will provide, in the manner set forth in Section 14.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

(i) on or before a date six months after the end of each fiscal year of the City, which is presently December 31, commencing with the fiscal year ending December 31, 1996 (each a "Reporting Date"):

(a) The audited financial statements of the City, which shall include the Golf Course Enterprise Fund, and the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Minnesota. Such financial statements shall be prepared in accordance with generally accepted accounting principles for governmental entities as prescribed by the Governmental Accounting Standards Board. If and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, the statements shall note the discrepancies therefrom.

(b) To the extent not included in the financial statements referred to in paragraph (a) hereof, the information for such fiscal year of the type contained in those sections of the Official Statement for the Bonds titled, "Revenues, Expenses and Retained Earnings and Pro Forma Gross Revenue Coverage", and those sections attached thereto as Tables 9 through 24, inclusive of Appendix B, which information may be unaudited.

Any or all of the information may be incorporated by reference from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 14.03 or to the SEC. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the information each document so incorporated by reference.

(ii) In a timely manner, notice of the occurrence of any of the following events or conditions with respect to the Bonds, if material:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (g) Modifications to rights of security holders;
- (h) Bond calls;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the securities;
- (k) Rating changes.

(iii) In a timely manner, notice of the failure of the City to provide the information required under Section 14.02(i) at the time specified thereunder.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

14.03. The City agrees to make available the information described in Section 14.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate: the information described in Section 14.02(i), (ii) and (iii) to each of the then nationally recognized municipal securities information repositories under the Rule, to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule (the "State Depository"), if any, and to the Municipal Securities Rulemaking Board, as provided in Section 14.02.

14.04. The covenants of the City in this Section 14 shall remain in effect so long as any Bonds are outstanding. This Section 14 may be amended or supplemented by the City from time to time, without notice to (except as provided in Section 14.03) or the consent of the holders of the Bonds, by a resolution of the City Council filed in the office of the City Clerk accompanied by an opinion of Bond Counsel to the effect that such amendment or supplement is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule. This Section 14 is intended to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Resolution 95-0910 was unanimously adopted.

Approved October 5, 1995

GARY L. DOTY, Mayor

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The meeting was adjourned at 5:30 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 10, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1010-06 Gordon H. Wedin, et al. (nine signatures) petitioning for reclassification from R-1-B to C-2 the southerly 1/2 of Lots 11 and 12 and that part of Lots 9 and 10 south of the Central Highway, Block 1, Clearview Park Duluth. -- Assessor

95-1010-15 Robert Kolodge submitting letter supporting the proposed Denfeld area permit parking zone (95-0879R). -- Received

95-1010-01 The following submitting letters opposing portions of the proposed street improvements (95-0565R): (a) John Hamlin; (b) Kelle Zenner. -- Received

95-1010-07 The following submitting letters opposing the proposed Denfeld area permit parking zone (95-0879R): (a) Ray and Marie Anderson; (b) Lucille C. Bujold; (c) Denfeld Senior High School principal; (d) Richard W. Washburn; (e) Mrs. Ann Zuber. -- Received

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REPORTS OF OFFICERS

95-1010-02 Community development and housing division submitting:

- (a) HRA report for the HUD CD-funded housing rehabilitation program for July 1995;
- (b) 1996 CDBG program recommendations summary sheets. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-1010-03 Board of directors of trusts of Miller-Dwan Hospital and Medical Center minutes of: (a) July 20; (b) August 17, 1995 minutes. -- Received

95-1010-04 Lawful gambling commission minutes of August 8, 1995 meeting. -- Received

95-1010-05 Special assessment board minutes of September 19, 1995 meeting. -- Received

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REPORTS OF ADMINISTRATION

Administrative Assistant Nollenberger reviewed the time schedule for the Bayfront outlet mall project. He said DEDA will be considering a 90 day extension of the contract to the developer in order to allow for leases to be signed, and said that if DEDA approves the extension, there will be no construction contracts let during that 90 day period. He assured councilors that the extension will put no money at risk related to capital construction on the project. He noted that the city has received the final financing commitment for the project from Finova Corporation. Regarding the city's obligation to fill in the slip, he said issues have been clarified and the Corp of Engineers is now expected to issue the permit necessary.

In response to Councilor Wheeler, Mr. Nollenberger said the leases that are required by the financing corporation are being negotiated now between the developer and financier.

Councilor Wheeler said he does not favor granting the developer a 90-day extension.

Councilor Bohlmann felt the council should be able to see the financial agreement for this project, and that the DEDA has been irresponsible in this matter. She questioned if the terms

of the agreement have been changed with the new financier, and if the developer has secured the required lease commitments.

Councilor Talarico, speaking as a DEDA commissioner, did not agree that DEDA has been irresponsible, saying DEDA has provided updates to the council as requested regarding this project. He noted that Finova Corporation is a well established corporation, and said he didn't feel a 90-day extension to the developer would be harmful to the city. He said the leases will be reviewed in detail by DEDA members, and said he has also asked Councilor Atkins to review the leases, noting that his financial background will be beneficial to this review.

Mr. Nollenberger noted that this is the first extension requested by the developer, and pointed out that DEDA has just been able to fulfill its obligations to the project with the recent land exchange approval and decision by the Corp of Engineers regarding the filling of the slip.

Councilor Hardesty requested a guarantee that the city will not spend money for public improvements at Bayfront until everything is in place. She also requested that the four councilor/DEDA commissioners be accountable to the rest of the council in terms of giving needed information. She supported the leases being reviewed by Councilor Atkins as well as the DEDA.

Councilor Dahlberg felt all councilors should be allowed to review the leases.

Councilor Wheeler suggested that if the 90 day extension is granted, then it be agreed that after that no further extensions will be allowed.

Councilor Atkins said the developer is requiring him to sign a letter of confidentiality in order to review the leases, and expressed hope that all councilors could be allowed to do the same.

Councilor Bohlmann said she wants to see in writing the financial agreements and any restrictions or conditions the financing company is placing on the developer.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Catherine Gorghuber spoke against the rezoning of residential property for the proposed Simon and Opus projects.

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Alden Lind briefly shared some personal concerns regarding the council's recent vote on the McQuade Road boat harbor project.

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Clyde Ritchie felt the proposed McQuade Road boat harbor is a violation of the Congdon trust. He spoke in favor of providing a safe harbor, but requested that the Congdon trust property continue to be protected as it has been for many years. He felt it would be a fiscal irresponsibility for the city to fund the project and a poor use of public funding.

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Ken Hogg felt citizens don't trust the process involved in planning/zoning matters, and urged the council to develop a process that the community believes is fair.

Councilor Downs disagreed, saying he feels the process is very effective, noting that neighbors are notified by mail of proposed projects. He stated belief that developers work well with neighbors and that the planning staff and planning commission members are very thorough.

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RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0881, appointing two people to the civil service board, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Bohlmann moved to insert the name "Dennis E. Birchland" in the blank for the term expiring May 1, 2001, and the name "Keith J. Stauber" in the blank for the term expiring May 1, 1997, which motion was seconded and unanimously carried.

Resolution 95-0881 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby appoints the following people to the civil service board: Dennis E. Birchland, for a term expiring May 1, 2001, replacing Janet Nelson; Keith J. Stauber, for a term expiring May 1, 1997, replacing Neal Hessen, who resigned.

Resolution 95-0881 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

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Councilor Prettner moved to remove from the table Resolution 95-0892, granting a special use permit to Arrowhead Development Corporation for a low density planned development for property located south of Rice Lake Road and west of Blackman Avenue, which motion was seconded and unanimously carried.

Councilor Prettner said that a committee meeting was held on this issue, and the two outstanding issues are whether the appropriate wetland delineation has occurred and whether there is adequate water supply to the development. She noted that the land is currently properly zoned for 240 single-unit houses, and that the special use permit is needed because of the type of structures being proposed, not the density. She said the planning committee feels if concerns regarding wetlands and water supply are resolved, it would be appropriate to approve this special use permit. She informed the council that the legislature has mandated that these type of issues be resolved within 60 days, so the council must approve this resolution by next week or issue findings why it was not approved.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Anita Hinsa voiced concerns regarding water and traffic. She asked if the county's input has been sought regarding their toolshed and gravel pit located nearby.

Nancy Anderson requested that the council look at traffic and safety issues, and stated concern about costs to residents for road improvements.

Larry Burda felt the proposed development would change the character of the neighborhood, that the increased traffic would be unsafe, and that there would be an unfair increase in costs to taxpayers for improved streets. He requested that the special use permit not be approved.

Jim Anderson addressed density concerns.

Councilor Prettner clarified that the developer can build six units per acre without council approval and that the special use permit is only required because they are proposing attached dwellings.

Bill Burns, attorney for the developer, spoke in support of the project, and said the developer does not oppose a review of the water, wetland and traffic issues raised.

Councilor Prettner moved to table the resolution for one week, which motion was seconded and unanimously carried.

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UNFINISHED BUSINESS

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17299 with Architects IV, for the sum of not to exceed \$10,000, from Capital Fund 450, Ag. 015, Org. 1994, Obj. C421, for providing certain architectural services to the city of Duluth in

connection with the West End Business District revitalization, Phase I, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1010-08.

Resolution 95-0894 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Independent School District No. 709 for the provision of job search program activities to STRIDE principle wage earners, food stamp employment and training program and J.T.P.A. Title II-A and II-C participants at costs not to exceed \$31,011 for the period October 2, 1995, until June 30, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-1010-09.

FURTHER RESOLVED, that costs incurred under this agreement shall be charged to Fund No. 269, Budget Items 6272 (\$11,755) and 6273 (\$11,756) and Fund No. 268, Budget Items 6240 (\$4,500) and 6241 (\$3,000).

Resolution 95-0871 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, that proper city officials are hereby authorized to enter into an agreement with the St. Louis County Board of Commissioners to provide public assistance eligibility specialist services for an amount not to exceed \$15,970.95. Services will be provided by one full-time equivalent, fully trained, and qualified eligibility specialist to the city's job training programs division. Contract will run from July 1, 1995, through June 30, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-1010-10.

FURTHER RESOLVED, that costs incurred shall be payable from Fund No. 269, Budget Item No. 6272 (\$7,985.47) and Budget Item No. 6273 (\$7,985.48).

Resolution 95-0872 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 1996, subject to departmental approvals, and the payment of sales and property taxes:

Lucky Break, Inc. (Lucky Break), 610 East Fourth Street, lower level, with Elfriede M. Fredrickson, CEO, and Darrel L. Fredrickson, CFO.

Resolution 95-0863 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0899, by Councilor Downs, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license of Rockridge Development Corporation (The Tap

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Room), 600 East Superior Street, transferred to MCS Acquisitions, Inc. (The Tap Room), same address, was introduced for discussion.

Councilor Downs moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR DOWNS:

RESOLVED, that A & E Business Products be and hereby is awarded a contract for furnishing and installing office components at the payroll office for the finance department in accordance with specifications on its low specification bid of \$15,553.10, terms net/30, FOB job site, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B511.

Resolution 95-0905 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

EQUAL OPPORTUNITY ADVISORY COMMISSION

Bernice Pepper for a term expiring August 31, 1998.

Nancy E. Anderson for a term expiring August 31, 1998.

Patricia Ann Tschida for a term expiring August 31, 1997.

Kimberley Anderson for a term expiring August 31, 1997.

Matthew Carter for a term expiring August 31, 1997.

Susana Pelayo-Woodward for a term expiring August 31, 1996.

Resolution 95-0777 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the revised civil service classification of water and gas distribution leadworker, which were approved by the civil service board on November 11, 1994, and which are filed with the city clerk as Public Document No. 95-1010-14, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be 32, \$2,785 to \$3,312 per month.

Resolution 95-0900 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that city council Resolution 95-0029 is hereby amended by deleting therefrom the funding source entitled "General Fund 020, Organization 1202, Object 5319" and substituting therefor the "Economic Development Fund 255."

Resolution 95-0911 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR PRETTNER:

RESOLVED, that Resolution 95-0620 is hereby amended to direct that the city auditor shall encumber the funding authorized pursuant to Resolution 95-0620 for each of the years 1995, 1996 and 1997 in accordance with the following:

1995	\$26,667
1996	\$40,000
1997	\$13,333

Resolution 95-0912 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$5,000, from Capital Fund 450, Object C409, for providing certain engineering services to the city of Duluth in connection with the Twin Ponds fishing pier & handicap access (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1010-11.

Resolution 95-0904 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the contract with BJ Cleaners be and hereby is renewed for furnishing and delivering janitorial services at the Lake Superior Zoo for the parks and recreation department in accordance with specifications on its low specification bid of \$10,000, terms net/30, FOB job site, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5319.

Resolution 95-0906 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Northland Bituminous, Inc., be and hereby is awarded a contract for parking lot renovations for the DECC in accordance with specifications on its low specification bid of \$308,106, terms net/30, FOB job site, payable out of Fund 470, Dept./Agency 030, Organization -, Object 5530.

Resolution 95-0909 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0908, by Councilor Atkins, authorizing execution of a lease agreement with the housing and redevelopment authority for the Harborview homes community policing station, was introduced for discussion.

Councilor Atkins noted that this station has been funded by a federal drug grant for the past few years, but that the HRA has not been successful in obtaining a grant for the remainder of this year.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

In response to Councilor Atkins, Mr. Nollenberger said he is hopeful that the HRA will receive additional monies for this program for next year. He said the program has been very successful and the city has committed to continue the program through the end of this year. He added that there are six other police officers funded with federal dollars.

Councilor Dahlberg supported this community policing station, saying it has brought positive change to the Harborview community.

Councilor Downs supported the community policing program.

Councilor Prettner voiced doubt that federal drug elimination grants will be available next year. She encouraged the development of a plan to deal with cuts in federal programs as they occur.

President Keenan expressed hope that a plan would be formulated if needed to try to find funding to keep this police station open in 1996.

Resolution 95-0908 was adopted as follows:

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute a lease agreement with the housing and redevelopment authority for the Harborview Homes Community Policing Station; which agreement is on file in the office of the city clerk as Public Document No. 95-1010-12.

Resolution 95-0908 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Resolution 94-0960 be amended to Power Process Equipment for furnishing two pump seals, to increase the amount by \$2,336.31 for a new total of \$10,444.10, payable out of Water Fund 510, Dept./Agency 900, Organization 550, Object 5220.

Resolution 95-0902 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northern Engine & Supply Co., Inc., be and hereby is awarded a contract for furnishing and delivering two rental dozers for the park maintenance in accordance with specifications on its low specification bid of \$6,630, terms N/30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5415.

Resolution 95-0901 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0834 be amended to decrease the award of bid to Morton Salt International, Inc., by \$67,968 for furnishing and delivering road salt, to increase the amount awarded to Cutler Magner Co. by \$63,696 for a new total of \$71,217, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 95-0903 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0879, by Councilor Hardesty, designating portions of certain streets in the vicinity of Duluth Denfeld High School as resident permit parking zones; and specifying a fee for residents' parking permits, was introduced for discussion.

Councilor Hardesty said a public hearing was held last week, and that many neighbors are not in favor of the proposal, and that the principal of Denfeld High School does not feel it is necessary. She said she is not ready to recommend it for council approval at this time.

Councilor Downs outlined his observation of the area, and said he does not feel the parking problem is that serious. He said a survey of neighbors resulted in a majority of neighbors not wanting a resident permit area.

Councilor Atkins felt the main parking problem in the area is the Duluth Clinic parking that has encroached on the neighborhood.

Resolution 95-0879 failed upon a unanimous vote (Public Document No. 95-1010-13).

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Building Restoration Corporation be and hereby is awarded a contract for repair and replacement of the expansion and control joints at the Coney Island parking lot in accordance with specifications on its low specification bid of \$16,588, terms net/30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C429.

Resolution 95-0907 was unanimously adopted.

Approved October 10, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR DOWNS

95-052 - AN ORDINANCE RELATING TO LAWFUL GAMBLING, ELIMINATING THE PROHIBITION ON PADDLEWHEELS; REPEALING SECTION 10A-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR BOHLMANN

95-051 (9273) - AN ORDINANCE PERTAINING TO SPECIAL CIVIL SERVICE TESTS FOR PERSONS WITH DISABILITIES; INCORPORATING STATE AND FEDERAL STANDARDS FOR SUCH TESTS; AMENDING SECTION 13-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 9:55 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9273

BY COUNCILOR BOHLMANN:

AN ORDINANCE PERTAINING TO SPECIAL CIVIL SERVICE TESTS FOR PERSONS WITH DISABILITIES; INCORPORATING STATE AND FEDERAL STANDARDS FOR

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

SUCH TESTS; AMENDING SECTION 13-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 13-37 of the Duluth city code, 1959, as amended, be amended to read as follows:

Sec. 13-37. Special tests for person with disabilities; determination of eligibility for such tests; placement on eligible lists.

The provisions of this Section shall be effective notwithstanding anything to the contrary elsewhere in this Chapter.

A disabled person, whose disability is such that an original entrance test otherwise authorized by this Chapter does not provide such person an equal opportunity to demonstrate or manifest such person's suitability for employment in a particular classification may request to be tested for such classification pursuant to applicable state and federal laws.

Any person, whose tests results, because of a test accommodation, cannot be scored in the same manner as all other persons tested for the classified position shall not be ranked on any employment list, but shall be certified in addition to the minimum number of names required to be certified by this Chapter. For purposes of this Section the terms "disability" or "disabled person" shall have the same meaning as those terms are defined by Minn. Stat. Sec. 363.01, Subd. 13.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 26, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 10, 1995
Approved October 10, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 16, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1016-10 Duluth Teachers' Retirement Association, et al. (seven signatures) petitioning for the reclassification from R-1-B to C-2 a portion of Block 1, Clearview Park. -- Assessor

95-1016-12 Lakeview Christian Academy, by Robert C. Maki, attorney, petitioning to vacate the alley between Lots 1-12 and 29-40, Duluth Heights, Sixth Division. -- Assessor

95-1016-03 Jason Rengo submitting letter opposing the proposed development by Opus Corporation (95-047-O). -- Received

95-1016-01 The following submitting letters opposing the proposed low density 126 unit townhouse development by Arrowhead Development (95-0892R): (a) Gayle Butler; (b) Timothy J. Perala. -- Received

95-1016-13 The following submitting letters regarding the proposed appropriation of 1996 CDBG funds (95-053-O): (a) Arrowhead Regional Corrections; (b) Center City Housing Corporation; (c) Duluth Community Action Program, Inc.; (d) Robert R. Ekstrom (supported by 174 signatures). -- Received

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REPORTS OF OFFICERS

95-1016-04 Assessor submitting assessment roll levied to defray the assessable portion of the 1994 citywide sidewalk program (Contract No. 5264). -- Clerk

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1016-06 Duluth economic development authority submitting memo regarding Bayfront project. -- Received

95-1016-07 Duluth housing trust fund board minutes of September 14, 1995 meeting. -- Received

95-1016-08 Duluth transit authority: (a) Minutes of September 27, 1995 meeting; (b) August, 1995 financial statement summary. -- Received

95-1016-05 Planning commission minutes of: (a) July 11; (b) August 8, 1995 meetings. -- Received

95-1016-09 Technical design advisory committee for the downtown waterfront mixed use design review district minutes of August 15, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Ken Hogg commented on the upcoming Miller Hill traffic study meeting.

- - -

In response to Patty Martin, President Keenan addressed the procedure for filling openings on boards and commissions.

In response to Councilor Bohlmann, Administrative Assistant Nollenberger reviewed appointment policy and process.

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RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0790, confirming appointment of Dena Snyder to Duluth transit authority replacing Robert LaPine, which motion was seconded and unanimously carried.

Councilor Bohlmann moved to refer the resolution to the administration at the appointee's request, which motion was seconded and unanimously carried.

- - -

Councilor Prettner moved to remove from the table Resolution 95-0892, granting a special use permit to Arrowhead Development Corporation for a low density planned development for property located south of Rice Lake Road and west of Blackman Avenue, which motion was seconded and unanimously carried.

Councilor Prettner moved to amend the resolution by amending the last paragraph to read as follows:

"NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Arrowhead Development Corporation to allow for the development of a low density planned development in the plat of Maple Ridge, on the following conditions:

(a) That the project be developed in accordance with plans on file in the office of the city clerk as Public Document No. _____;

(b) That Arrowhead Development Corporation provides a specific delineation of the wetlands on the project site certified by a qualified professional;

(c) That provision is made for an adequate water supply to serve the development;

(d) That building permits for Phase II of the project, as shown on the plans described in paragraph (a), above, shall not be issued prior to improvement of Como Avenue north of Willow Street to standards specified by the city engineer, or otherwise satisfy the city council of adequate provisions for handling traffic," which motion was seconded.

Councilor Bohlmann felt condition (c) regarding water supply is too general. She questioned if there is any guarantee that this development won't lessen the water pressure for nearby residents.

Councilor Prettner noted that the water and gas department has addressed water concerns for the area, both for daily use and for emergency purposes.

In response to Councilor Bohlmann, Mr. Nollenberger said the utilities will be financed through the special assessment process, which normally requires that 20 percent of the total project is paid up front, and the remainder is financed by the special assessment bond. He clarified that no existing dwellings will be assessed, only vacant lots will be included. He further responded that he is not aware of the city having had any major defaults on special assessments in the past.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Larry Burda questioned how this project fits into the street improvement program.

William Burns, attorney for the developer, reviewed the proposed project, and said that it will have modest impact on wetland and water issues previously discussed. He noted the engineering report which concluded that there will be no adverse effect on the existing traffic flow. He stated that it will provide a significant tax base, that no public funds are involved and it will provide a type of housing that is not available in the community.

Jennifer Johnson questioned how nearby property owned by the county will affect this project, and she disagreed that this type of housing is not available elsewhere in the city, citing the Aspenwood condominiums located nearby. She requested that the council favor the neighbors instead of the developer and maintain the single family structure requirement.

Nancy Anderson stated concern regarding increased traffic in the area, and noted that one of the purposes of granting a special use permit is to provide housing that is not available in the neighborhood, and said with Aspenwood two blocks away, this proposal does not meet that criteria.

Ernie Stauffenecker said the neighborhood supports single family development on that property.

Cindy Snow said the Aspenwood condominiums do not provide the same type of housing that is proposed at this development. She urged approval of the special use permit.

Councilor Prettner's amendment carried upon a unanimous vote.

Councilor Bohlmann spoke against the resolution, stating that she feels the wishes of the neighborhood should be considered before those of the out of town developer.

In response to Councilor Wheeler, Mr. Burns said that it is projected that in the first 12 months, 25 units would be constructed and sold, and that the developer hopes to complete the project over a four year period. He responded that the profile of purchasers of units appears to be older persons.

Councilor Wheeler stated that he feels the proposed development is an appropriate use for the property.

Councilor Hardesty felt it would be difficult to substantiate the reasons to deny this permit, and said she feels the development will be an asset to the city.

President Keenan stated concern about the timing of the construction and possible damage to the environment.

Councilor Atkins stated concern about safety of children in this neighborhood and other neighborhoods. He requested a commitment from the council and administration to deal with traffic issues with proper signage and/or stop signs to slow traffic.

In response to Councilor Talarico regarding buffer zones, William Marceau, developer, said there is county property between the development and residents.

Jennifer Johnson disputed that there is a buffer zone between the residences on Willow Street and the development.

Mr. Burns estimated that there is approximately one-half of a city block between the rear of the new units to the rear of the property on Willow Street. He noted that buffer zones are not required between residential developments, and said setbacks are equal or greater than what is required for a single family development.

Resolution 95-0892, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Arrowhead Development Corporation has submitted to the city council a request for a special use permit for a low density planned development on property described as the plat of Maple Ridge and located along the west side of Blackman Avenue, south of Rice Lake Road, 305 feet north of Willow Street, and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its disapproval of the proposal to the city council; and

WHEREAS, the planning commission's recommendation was negative; and

WHEREAS, the city council has conducted a review and hearing and finds that appropriate safeguards will exist to protect the comprehensive plan to conserve and to protect property values in the neighborhood if the conditions set forth herein are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Arrowhead Development Corporation to allow for the development of a low density planned development in the plat of Maple Ridge, on the following conditions:

(a) That the project be developed in accordance with plans on file in the office of the city clerk as Public Document No. 95-1016-14;

(b) That Arrowhead Development Corporation provides a specific delineation of the wetlands on the project site certified by a qualified professional;

(c) That provision is made for an adequate water supply to serve the development;

(d) That building permits for Phase II of the project, as shown on the plans described in paragraph 1, above, shall not be issued prior to improvement of Como Avenue north of Willow Street to standards specified by the city engineer, or otherwise satisfy the city council of adequate provisions for handling traffic.

Resolution 95-0892, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved October 16, 1995

GARY L. DOTY, Mayor

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At this time, 9:00 p.m., President Keenan called the public hearing regarding community development block grant program for 1996 to order (Public Document No. 95-1016-11).

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At this time, 10:35 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

- - -

MOTIONS AND RESOLUTIONS

Resolution 95-0922, by Councilor Wheeler, authorizing the financing of an addition and improvements to the East Superior Street parking ramp, was introduced for discussion.

Councilor Wheeler moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council (the "Council") of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Purpose and Authorization.

1.01 The City is authorized by Minnesota Statutes, Section 465.71, as amended, and its home rule charter to acquire real or personal property by lease purchase agreement.

1.02 The City is authorized by Minnesota Statutes, Section 471.345, Subd. 13 to implement an energy conservation measure by means of a training program or facility alteration designed to reduce energy consumption or operating costs.

1.03 The Council has determined that it is necessary and expedient to enter into a lease-purchase agreement for the purchase and installation of energy conservation equipment and improvements (the "Project").

1.04 The City has solicited proposals for the provision of financing for the Project through a lease-purchase agreement, and an offer has been received from G.E. Capital Public Finance, Inc. (the "Purchaser"), to enter into such an agreement and provide such financing in the principal amount of \$1,157,098 and at an interest rate of 5.77% per annum. The Council finds this offer reasonable and proper and hereby accepts the offer.

1.05 Forms of the following documents relating to the lease-purchase agreement and the Project have been submitted to the City Council and are now on file in the office of the City Clerk:

A. Minnesota Master Lease Agreement dated as of the date of delivery thereof (the "Lease"), by and between the Purchaser and the City, which, among other things, provides for the acquisition, construction and installation of equipment necessary for the completion of the Project and the leasing of the Project by the Purchaser to the City and pursuant to which the City is required to construct and equip the Project (Public Document No. 95-1016-16(a)).

B. Escrow Agreement, dated as of the date of delivery of thereof (the "Escrow Agreement"), to provide for the payment of costs pursuant to the Lease (Public Document No. 95-1016-16(b)).

1.06 It is determined that no official statement or prospectus has been prepared or circulated by the City in connection with the Lease and that the Purchaser has made its own investigation concerning the City as set forth in an investment letter of even date herewith, receipt of which is hereby acknowledged.

Section 2. Approval of Documents; Execution; Other Proceedings.

2.01 The terms of the Lease are hereby approved. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Lease and the Escrow Agreement in substantially the forms on file with the City Clerk, subject to modification as provided in Section 2.02 of this resolution. All of the provisions of the Lease and the Escrow Agreement when executed and delivered as authorized herein shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated herein and shall be in full force and effect from the date of execution and delivery thereof.

2.02 The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the City attorney and the City officials authorized herein to execute said documents. Said City officials are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

2.03 The officers, attorneys, engineers and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution and the Lease for the full, punctual and complete performance of all the terms, covenants and agreements contained in the Lease and this resolution.

2.04 A. The Mayor and the City Clerk and other officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the legality of the Lease, certified copies of all proceedings and records of the City relating to the Lease and the Escrow Agreement, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Lease as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

B. In the event of the absence or disability of the Mayor or the City Clerk, such officers or members of the Council as in the opinion of the City attorney may act in their behalf, shall without further act or authorization, execute and deliver the Lease, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Section 3. Funds and Accounts.

3.01 Designation of Account. There is hereby created a special account to be administered and maintained by the Treasurer of the City. The account shall be maintained in the manner herein specified until all of the rental payments, as defined in the Lease, have been fully paid.

Debt Service Account. There is hereby created a separate Debt Service Account for payment of rental payments under the Lease, which shall be a separate segregated account within the City's general fund. The monies in the Debt Service Account shall be used for no purpose other than the payment of the rental payments under the Lease. The Treasurer is authorized and directed to transfer monies of the City, appropriated by the Council, to the Debt Service Account monthly so that on each rental payment date there are amounts sufficient to ensure that rental payments under the Lease are paid when due. Subject to annual appropriation by the Council, the City will pay promptly when due, all of the rental payments and other amounts required by the Lease from the sources at the times and in the amounts specified herein and in the Lease. There are hereby irrevocably appropriated and pledged to, and there shall be credited to the Debt Service Account: (i) funds of the City appropriated for the payment of the rental payments due under the Lease; (ii) all investment earnings on monies held in the Debt Service Account; and (iii) any and all other monies which are properly available and are appropriated by the Council to the Debt Service Account. The Debt Service Account shall be used solely to pay the rental payments due under the Lease and to pay any other obligations of the City hereafter issued by the City and made payable from the Debt Service Account as provided by law.

The Council covenants and agrees to include in the City's 1996 budget an amount sufficient to pay the rental payments under the Lease when due in 1996.

3.02 Monies on deposit in the Debt Service Account may, at the discretion of the City, be invested in securities permitted by Minnesota Statutes, Section 475.66; and provided, that any such investments shall mature at such times and in such amounts as will permit for payment of rental payments when due.

3.03 Pursuant to the requirements of Minnesota Statutes, Section 465.71, the City hereby retains the right to terminate the Lease at the end of any fiscal year during its term.

Section 4. Federal Tax Covenants.

4.01 The City covenants and agrees with the Purchaser of the Lease that the City will (i) take all action on its part necessary to assure that the interest on the Lease will be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Lease and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Lease to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Lease and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Lease shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Lease was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Lease or \$100,000. To this effect, any proceeds of the Lease and any sums from time to time held in the Debt Service Account (or any other City account which will be used to pay rental payments to

become due on the Lease) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Lease and money in the Debt Service Account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Lease to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Lease, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Lease, the following schedule will be met: (i) at least 15% of the gross proceeds of the Lease will be allocated to expenditures for the governmental purpose of the Lease within six months of the date of issue of the Lease; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Lease, and that 100% of the available proceeds of the Lease will be allocated within 30 months from the date of issue of the Lease.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Miscellaneous.

5.01 The City Clerk is hereby authorized and directed to file a certified copy of this resolution in the office of the St. Louis County Auditor, together with such other information as the Auditor shall require, and to certify that the Lease as an obligation of the City has been entered into the Auditor's bond register.

5.02 If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

5.03 Headings in this resolution are included for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof.

Resolution 95-0923 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. Northland Vietnam Vets.	Rustic Bar	9/28/95
	Kom On Inn	9/28/95
2. Hermantown Hockey Assoc	Western Tavern	10/3/95
	Harbor Lites - pulltabs	10/3/95
	Harbor Lites - bingo	10/3/95

Resolution 95-0921 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the municipal and school board general election on November 7, 1995, as listed in Public Document No. 95-1023-02.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judge chairmen shall be compensated at the rate of \$6 per hour and non-chairman election judges shall be compensated at the rate of \$5.25 per hour. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.30 per mile; payable from General Fund 015-1512-5441.

Resolution 95-0924 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Silverness Plumbing, Heating & Excavating, Inc., be and hereby is awarded a contract for replacing insulated unions and flange kits at various locations for the water and gas department in accordance with specifications on its low specification bid of \$6,109, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0917 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0753, awarding a municipal energy services program agreement pursuant to Minnesota Statutes 471.345(13) to Johnson Controls, Inc., in the amount of \$1,289,832, payable from the Capital Improvement Fund 450, be increased to the amount of \$1,300,246, payable from the same source.

Resolution 95-0913 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Equipment Rental Company, Inc., be and hereby is awarded a contract for furnishing and delivering an electric crane for the sewer division in accordance with specifications on its low specification bid of \$6,094.76, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 95-0915 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Arrowhead Tree Service be and hereby is awarded a contract for furnishing and delivering trees for 1996 for the city nursery in accordance with specifications on its low specification bid of \$6,797.04, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 95-0918 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Grove Nursery Center be and hereby is awarded a contract for furnishing and delivering trees for 1996 for the city nursery in accordance with specifications on its low specification bid of \$5,048.10, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 95-0919 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Salo Trucking Company, Inc., be and hereby is awarded a contract for demolition of seven dwellings and five garages for the building inspection division in accordance with specifications on its low specification bid of \$29,400, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 95-0914 was unanimously adopted.

Approved October 16, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-053 - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1996 ACTION YEAR.

- - -

BY COUNCILOR PRETTNER

95-054 - AN ORDINANCE GRANTING ST. MARY'S MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER FOURTH AVENUE EAST BETWEEN FOURTH ALLEY AND EAST FOURTH STREET.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The rules were suspended upon a unanimous vote to hear a speaker on this ordinance.

Patty Martin requested that the council delay action on this ordinance until St. Mary's works with the community regarding this project.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR DOWNS

95-052 - AN ORDINANCE RELATING TO LAWFUL GAMBLING, ELIMINATING THE PROHIBITION ON PADDLEWHEELS; REPEALING SECTION 10A-17 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Downs opposed the ordinance, stating that he feels the gambling problem in the community is hurting families, and that this is an opportunity for the council to slow the gambling operation.

Councilor Wheeler opposed the ordinance, stating that he feels that gambling is a huge social problem.

Councilor Hardesty opposed the ordinance, stating that she feels it is a policy issue.

Councilor Bohlmann opposed the ordinance, stating that she will not vote for any expansion of gambling.

Councilor Atkins noted that there is currently only one paddlewheel operation in Duluth. He suggested that the council hold a committee meeting to review the entire gambling ordinance.

The rules were suspended upon a unanimous vote to hear a speaker on this ordinance.

Mike Farrell agreed that the whole issue of gambling needs to be looked at, and said because gambling addiction is a problem for many in the community, he favors limiting the number of games available.

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Councilor Dahlberg moved to suspend the rules and continue the meeting past 11:00 p.m., which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Wheeler and President Keenan -- 7

Nays: Councilors Prettner and Talarico -- 2

- - -

Ordinance 95-052 (Public Document No. 95-1016-15) failed upon the following vote:

Yeas: Councilor Dahlberg -- 1

Nays: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

- - -

The meeting was adjourned at 11:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 23, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Hales, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Downs -- 1

- - -

The minutes of council meetings held on March 6, 20 and 27, 1995, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1023-15 Duluth Teachers' Retirement Fund Association submitting additional signature regarding petition for reclassification from R-1-B to C-2 a portion of Block 1, Clearview Park. -- Assessor

95-1023-01 David B. LaPlante, et al. (ten signatures) petitioning for construction of a permanent alley in 11th Street Alley from Ninth Avenue East to Tenth Avenue East. -- Assessor

95-1023-02 Thomas J. and Malissa A. Michael petitioning to vacate the alley in Nortons Fairmont Park Division, Duluth, Block 27, Lots 3 & 4, except southerly ten feet for Hwy. 23. -- Assessor

95-1023-03 Equaysayway submitting letter supporting the American Indian Women/Children's transitional housing portion of the proposed appropriation of 1996 CDBG funds (95-053-O). -- Received

95-1023-14 Evensen Dodge, Inc., financial consultants, submitting presale analysis regarding \$1,955,000 GO equipment certificates of indebtedness, Series 1995D, and \$2,430,000 GO bonds, Series 1995E. -- Received

95-1023-04 Catherine E. and Mark S. Gorghuber submitting letter opposing the proposed rezoning of land adjacent to Miller Hill Mall (95-056-O). -- Received

95-1023-05 (a) Richard G. and Lynn K. Marsh; (b) Harry L. Munger submitting letters opposing the proposed rezoning of land adjacent to Miller Hill Mall (95-056-O). -- Received

95-1023-13 Simon Property Group, by Robert F. Eaton, attorney, submitting letter supporting the proposed rezoning of property adjacent to the Miller Hill Mall to C-5 classification (95-056-O). -- Received

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REPORTS OF OFFICERS

95-1023-06 Assessor submitting:

(a) Letter for confirmation of assessment roll levied to defray the assessable portion of Joshua Avenue from T.H. 195 to Willow Street (Contract No. 5247), and Joshua Avenue Willow Street northerly 200 feet (Contract No. 5260). -- Clerk

(b) Letter of sufficiency regarding petition to reclassify from R-1-B to C-2 the southerly 1/2 of Lots 11 and 12 and that part of Lots 9 and 10 south of the Central Highway, Block 1, Clearview Park;

(c) Letter of sufficiency regarding petition to reclassify from residential to commercial, four lots in the city of Duluth, Lots 1, 2, 3 and 4 in Block 1, Clearview Park;

(d) Letter of sufficiency regarding petition to vacate the portion of the platted alley through Block 30, Duluth Heights, Sixth Division, lying adjacent to Lots 1 through 12 and Lots 29 through 40;

(e) Letter of sufficiency regarding petition to construct a permanent alley in 11th Street Alley from Ninth Avenue East to Tenth Avenue East. -- Received

95-1023-24 Community development and housing division submitting HRA CD-funded housing rehabilitation report for August 1995. -- Received

95-1023-07 Engineering division submitting monthly project status report for October 1, 1995. -- Received

95-1023-08 Parks and recreation department director submitting Lake Superior zoological society board of directors minutes of July 31, 1995 meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-1023-09 Charter commission minutes of August 9, 1995 meeting. -- Received

95-1023-10 Citywide citizens advisory committee draft minutes of October 4, 1995 meeting. -- Received

95-1023-11 Duluth airport authority minutes of September 19, 1995 meeting. -- Received

95-1023-12 Duluth SRO housing commission minutes of August 9, 1995 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Al Skip Hendrickson spoke of his concerns with regard to expansion of the Miller Hill Mall.

- - -

RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0774, confirming appointment of Kenneth Sunnarborg to Duluth airport authority replacing John Peyton, and Resolution 95-0775, confirming reappointment of Maureen Booth to Duluth housing trust fund board, which motion was seconded and unanimously carried.

Resolution 95-0774 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH AIRPORT AUTHORITY

Kenneth Sunnarborg for a term expiring July 1, 1998, replacing John Peyton.

Resolution 95-0774 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

The rules were suspended upon a unanimous vote to hear speakers regarding Resolution 95-0775.

Blaise Taylor and Peter Nickitas spoke in support of reappointment of Maureen Booth to the Duluth housing trust fund board, noting that she is a dedicated citizen and community volunteer who brings diversity and care to the work that she undertakes and is a voice for people who otherwise may go unrepresented.

Maureen Booth stated that she has been a community activist for over 30 years and has worked for all members of the community regardless of race and class. She spoke regarding reductions in federal funds which the city will be faced with in the future and pledged to continue her work related to safe, affordable housing for all, regardless of whether she is appointed to the Duluth housing trust fund board or not.

Roy St. George spoke against reappointment of Maureen Booth and expressed his displeasure about the procedure for appointments to boards and commissions. He stated that Ms. Booth has had no involvement in the Central Hillside Community Club, and has not attended any neighborhood coalition meetings for the CDBG. He said she is not qualified to represent the Central Hillside neighborhood on this board because she has no knowledge of what the priorities of Central Hillside residents are.

In response to Mr. St. George, Councilors Prettner and Talarico and President Keenan clarified that Ms. Booth's reappointment is not to represent the Central Hillside neighborhood specifically, but that her position is to represent all CDBG neighborhoods generally.

Councilor Hardesty supported appointment of Ms. Booth to the Duluth housing trust fund board, noting that her experience and work in the community with advocacy for a variety of concerns does make her an excellent candidate.

Councilor Wheeler stated his enthusiastic support for Ms. Booth's reappointment and encouraged Mr. St. George and others to continue to be involved in the community.

Resolution 95-0775 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following reappointment by Mayor Doty be and same is hereby confirmed:

DULUTH HOUSING TRUST FUND BOARD

Maureen Booth (CDBG neighborhood) for a term expiring September 30, 1998.

Resolution 95-0775 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following, on file in the city clerk's office as Public Document No. 95-1016-04, be and the same is hereby confirmed:

1994 citywide sidewalk program, Contract No. 5264.

Resolution 95-0943 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota, as follows:

1. Authorization of Certificates and Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its general obligation equipment certificates and general obligation bonds for the following purposes:

a. \$1,955,000 General Obligation Equipment Certificates of Indebtedness, Series 1995D (the "Certificates"), are hereby authorized and shall be issued pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "Act") and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing funds to purchase capital equipment, as permitted by the Act, having an expected useful life at least as long as the term of the Certificates, and for the payment of part of the interest cost of the Certificates;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

b. \$2,430,000 General Obligation Refunding Bonds, Series 1995E (the "Bonds"), consisting of the following:

(i) \$1,390,000 General Obligation Improvement Refunding Bonds, Series 1995E-1, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Improvement Bonds, Series 1987, dated December 1, 1987, and the outstanding principal balance of the City's General Obligation Improvement Bonds dated August 1, 1988; and

(ii) \$1,040,000 General Obligation Sewer Utility Revenue Refunding Bonds, Series 1995E-2, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, for the purpose of refunding the outstanding principal balance of the City's General Obligation Sewer Utility Revenue Bonds dated June 1, 1980, and the outstanding principal balance of the City's General Obligation Sewer Utility Revenue Bonds dated August 1, 1988.

2. Issuance and Sale of Certificates and Bonds. The terms and conditions of the Certificates and Bonds and the sales thereof are set forth in the Official Terms of Offering, which are attached hereto as Exhibit A and Exhibit B. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Certificates and Bonds and the sales thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Certificates and Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Certificates and Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Certificates and Bonds shall be set forth in a subsequent resolution of this City Council.

Resolution 95-0948 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Duluth Dodge Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a 15 passenger van for the fleet services division (parks and recreation department) in accordance with specifications on its low specification bid of \$21,228.31, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E513.

Resolution 95-0933 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that MacQueen Equipment Co., Inc., be and hereby is awarded a contract for furnishing and delivering a rotary snow remover for the fleet services division in accordance with specifications on its low specification bid of \$62,808.38, terms N/30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E519.

Resolution 95-0940 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to employ Kathlynn McConnell of Lifestyle Consulting Services to conduct a workshop for the city of Duluth youth council at a cost to the city of \$150, which shall be paid from General Fund 015-1510-5334.

Resolution 95-0935 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire the Management Institute (Jack Farley-Principal) to provide training and development services to the city at a cost of \$1,800, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0946 was unanimously adopted.

Approved October 23, 1995, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city is hereby authorized to hire Karen Rylander-Davis to provide training and development services to the city at a cost of \$3,000, which shall be paid from the General Fund 015-1510-5446.

Resolution 95-0947 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0916, by Councilor Prettner, authorizing a request for HUD federal community development block grant (CDBG) funds, HUD home funds, and HUD emergency shelter grant program (ESGP) funds for the 1996 program year as well as approving a consolidated plan and reallocation of certain prior CDBG funds, was introduced for discussion.

Councilor Prettner reviewed the resolution and stated that the city is hopeful that more funds will become available, noting that there are projects worthy of funding that were fully funded by the CCAC until it learned there would be a funding cut. She further stated that the CCAC worked very hard at trying to be fair and to provide the best funding for the most programs. She noted that if an account is not opened for a project at the beginning of the program year, it is very difficult to fund the project if additional funds become available. She said that because of expressed optimism that additional funds will be forthcoming, she, President Keenan and Councilors Hardesty, Talarico and Wheeler are recommending a motion to amend the resolution to open accounts in the Public Service Projects section for \$1,000 each for the American Indian Women/Children's Transitional Housing, Men's Transitional Housing, Depot Arts Connection and YMCA Mentoring Program. She explained that \$2,000 would come from Women's Transitional Housing and \$2,000 from Family Transitional Housing - Salvation Army on the condition that the first \$4,000 received in additional funds will be used to repay the two transitional housing projects borrowed from first, and that the next \$46,000 in additional funds will be allocated to the four new open accounts on a proportional basis to bring them up to what the CCAC's original recommendations were. She further stated that because it appears that CAP Weatherization will receive additional federal cuts, language should be added that expresses strong support for any additional funding being allocated to that program.

Councilor Prettner moved to amend the resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1) On page 2 in the Public Service Projects section, change the figure "\$41,000" for Women's transitional housing to "\$39,000"; and change the figure "\$35,000" for Family transitional housing - Salvation Army to "\$33,000";

2) On page 3 at the end of the Public Service Projects section, add the following:

"6929 \$1,000 American Indian women/children's transitional housing
6930 \$1,000 Men's transitional housing
6931 \$1,000 Depot Arts Connection
6932 \$1,000 YMCA mentoring program";

3) On page 3 in the ADMIN/PLANNING/CONTINGENCY section, change account numbers as follows:

"6929" to "6933"
"6930" to "6934"
"6931" to "6935"; and

4) Add the following language to the end of the resolution:

"BE IT FURTHER RESOLVED, that if additional funds become available for the 1996 action year, it is the council's intent to allocate such funds as follows:

(a) The first \$4,000 in additional funding will be allocated to account numbers 6924 and 6925 to restore funding for those projects to the levels recommended by the CCAC;

(b) The next \$46,000 in additional funding will be allocated to account numbers 6929, 6930, 6931 and 6932 on a proportional basis to bring these project accounts to the following levels:

<u>Account</u>	<u>Amount</u>	
6929	\$15,000	American Indian women/children's transitional housing
6930	15,000	Men's transitional housing
6931	5,000	Depot Arts Connection
6932	15,000	YMCA mentoring program.

BE IT FURTHER RESOLVED, that the city council hereby expresses its strong support for the CAP Weatherization Program and expresses its intent to give serious consideration to allocation of additional funds to such program should such funds become available," which motion was seconded.

Councilor Bohlmann stated she will not support the amendment because she doesn't feel the original recommendation should be changed without further CCAC review.

President Keenan explained that as in the past the council has the prerogative to amend the resolution, however, he didn't feel the proposed change is significant since it just opens four new accounts in case there is additional funding.

Councilor Wheeler supported the amendment because he felt that there are needs in the areas of transitional housing and mentoring in the community that are not being met at the present time. He said he believes funding of these projects is something the CCAC would approve of and is a very conservative and wise course for the council to pursue.

Councilor Hardesty said she feels this is an ideal solution because it leaves in tact the recommendation of the CCAC but also provides opportunities for other programs if additional funding is received.

The amendment passed upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Prettner stated that this resolution also reflects that the city of Duluth is returning to its entitlement status with HUD after a three year partnership with St. Louis County, which she felt is a very profitable solution to enabling the county to also achieve entitlement status. She noted the resolution also allocates funds for the 1996 HOME Program and Emergency Shelter Grant Program and it approves a five year consolidated plan.

Discussion regarding city and county entitlement status ensued.

Resolution 95-0916, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slums and blight, principally for persons of low and moderate income; and

WHEREAS, the secretary of housing and urban development (HUD) is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (the HOME program), and the Steward B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth below are necessary and appropriate and further that said expenditures for the CDBG program will serve to assist low and moderate income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to make and submit appropriate documentation to the United States department of housing and urban development for those projects and corresponding levels as set forth below:

1996 CITY OF DULUTH
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
		<u>HOUSING PROJECTS</u>
6901	\$725,000	HRA housing rehabilitation
6902	350,000	Neighborhood Housing Service (NHS) housing rehabilitation
6903	350,000	CAP weatherization - regular program
6904	57,000	CAP weatherization - sliding fee scale program
		<u>PHYSICAL IMPROVEMENTS</u>
6905	\$293,000	Fairmont area streets - West Duluth
6906	221,000	Endion area streets - East Hillside
6907	60,000	West Duluth sidewalk safety
6908	35,000	Grant Recreation Center improvements
6909	33,000	Duluth Community Health Center parking lot

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

6910	33,000	Lincoln Park restoration
6911	21,000	West End sidewalk safety project
6912	15,000	Duluth Bethel Society renovation
6913	13,000	Hillside sport court basketball hoops
6914	3,000	Neighborhood mid-block lighting - West Duluth

ECONOMIC DEVELOPMENT

6915	\$112,000	North Star Community Development Corp. (NSCDC)
6916	35,000	Project SOAR economic self sufficiency

PUBLIC SERVICE PROJECTS

6917	\$ 75,000	Duluth Hunger Project
6918	63,000	Neighborhood Youth Service (NYS) - Central Hillside
6919	56,000	East Hillside Endion YWCA Kids Corner
6920	54,000	Boys/Girls Club Youth & Family Center- Lincoln Park
6921	53,000	YWCA Kids Corner - Central Hillside
6922	49,000	Duluth Community Health Center youth/seniors
6923	33,000	Life House Youth Center
6924	39,000	Women's transitional housing
6925	33,000	Family transitional housing - Salvation Army
6926	22,000	NHS - homebuyer assistance
6927	28,000	Tenants Union - MN Clients Council
6928	16,000	Truancy Action Program (TAP)
6929	1,000	American Indian women/children's transitional housing
6930	1,000	Men's transitional housing
6931	1,000	Depot Arts Connection
6932	1,000	YMCA mentoring program

ADMIN/PLANNING/CONTINGENCY

6933	\$305,000	Program administration
6934	80,000	Neighborhood planning
6935	34,000	Contingency - other projects

\$3,300,000 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

Source of funding

1996 CDBG grant - city	\$3,300,000
Year 18 (1992) CDBG grant - city	7,824
Year 1 (1993) CDBG grant - city/county	11,620
Year 2 (1994) CDBG grant - city/county	4,400
Year 3 (1995) CDBG grant - city/county	176,156
<u>Total</u>	<u>\$3,500,000</u>

BE IT FURTHER RESOLVED, that the proper city officers are authorized to make the following transfers in prior year community development accounts:

Year 18 (1992) CDBG Program - 262 Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6809	Harrison playground	\$ 50,000	-892	\$ 49,108
6810	Central Hillside parks	53,000	-6,932	46,068
6801	HRA housing rehabilitation	700,000	+7,824	707,824

Year 1 (1993) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6161	East Hillside basketball hoops	\$ 60,000	-288	\$ 59,712
6182	Contingency	11,332	-11,332	-0-
6151	HRA housing rehabilitation	850,000	+11,620	861,620

Year 2 (1994) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6260	Central Hillside mid-block lighting	\$ 4,400	-4,400	\$ -0-
6251	HRA housing rehabilitation	950,000	+4,400	954,400

Year 3 (1995) CDBG Program -263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6385	Contingency	\$197,413	-176,156	\$ 21,257
6351	HRA housing rehabilitation	850,000	+176,156	1,026,156

BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

1996 HOME PROGRAM

\$332,000	Homeowner rehabilitation
\$200,000	Community Housing Development Organization (CHDO) rental and homeowner rehabilitation
\$ 28,000	CHDO operating expenses
\$ 22,500	Program administration
<u>\$582,500</u>	<u>Total (estimate)</u>

1996 ESG PROGRAM

\$ 71,100	Operations of homeless emergency shelters and services (rent, utilities, equipment, staffing, etc.)
\$ 7,900	Essential social services - prevention of homelessness (new/increased services - up to ten percent)
<u>\$ 79,000</u>	<u>Total (estimate)</u>

BE IT FURTHER RESOLVED, that the city of Duluth consolidated plan for housing and community development FY 1996-2000 required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of the department of housing and urban development issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BE IT FURTHER RESOLVED, that if additional funds become available for the 1996 action year, it is the council's intent to allocate such funds as follows:

(a) The first \$4,000 in additional funding will be allocated to account numbers 6924 and 6925 to restore funding for those projects to the levels recommended by the CCAC;

(b) The next \$46,000 in additional funding will be allocated to account numbers 6929, 6930, 6931 and 6932 on a proportional basis to bring these project accounts to the following levels:

<u>Account</u>	<u>Amount</u>	
6929	\$15,000	American Indian women/children's transitional housing
6930	15,000	Men's transitional housing
6931	5,000	Depot Arts Connection
6932	15,000	YMCA mentoring program.

BE IT FURTHER RESOLVED, that the city council hereby expresses its strong support for the CAP weatherization program and expresses its intent to give serious consideration to allocation of additional funds to such program should such funds become available.

Resolution 95-0916, as amended, was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that Resolution No. 94-0651 is hereby amended to increase inspection services provided by HRA by modifying Public Document No. 94-0725-35 to include Northern Communities Land Trust's project located on 14th Street East in Duluth, Minnesota, and to reduce the amount payable to HRA under the agreement by \$5,000, from an amount not to exceed \$14,000 to an amount not to exceed \$9,000, payable from 1992 and 1993 Home Administrative Account No. 260.

Resolution 95-0925 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Faribault Street lying east of Dakota Avenue legally described as:

that portion of Faribault Street adjacent to Lot 6, Block 3 and Lot 6, Block 4, First Rearrangement in Woodland Park, Eighth Division of Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved the vacation petition at its October 10, 1995, meeting with the retention of 20 feet, ten feet each side of the centerline, of said street for utility easement purposes.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of Faribault Street described above, and as more particularly described on Public Document No. 95-1023-16.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the street to be vacated and the utility easement being retained.

Resolution 95-0927 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city council on June 25, 1990, approved Resolution 90-0590, granting a special use permit to St. Luke's Hospital for a helistop atop the parking structure at 1020 East First Street; and

WHEREAS, St. Luke's Hospital has submitted to the city council a request to renew the special use permit for an air ambulance helistop on property described as Lots 5-16, Block 19, Portland Division and located at 1020 East First Street and said permit renewal application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit is hereby renewed and extended to St. Luke's Hospital to allow for the operation of an air ambulance helistop at 1020 East First Street, for a period of ten years from the date of adoption of this resolution, on the condition that all terms and conditions of Resolution 90-0590 are maintained.

Resolution 95-0937 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, Chapter 327, Minnesota Laws, 1973, created the Spirit Mountain recreation area authority and gave that body certain powers with respect to developing that area for recreational purposes; and

WHEREAS, said Chapter 327 requires that the Duluth City Council approve a work permit for construction on area property prior to any development; and

WHEREAS, said Chapter 327 requires a public hearing before the city planning commission and parks and recreation advisory board prior to such approval and a recommendation to the city council by each of said bodies; and

WHEREAS, on October 10, 1995, the planning commission and subsequently the parks and recreation advisory board held public meetings, discussed said project and made a favorable recommendation to the city council.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approve the work permit for the ski racing equipment storage and maintenance facility building as indicated on the plans on file as city council Public Document No. 95-1023-17.

Resolution 95-0938 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

BE IT RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Loucks & Associates for historical survey and research services for the Duluth heritage preservation commission for which a grant was received from the Minnesota historical society. Such agreement shall be substantially in conformance with the agreement Exhibit A (Public Document No. 95-1023-18), and shall not exceed a total cost to the city of \$5,800, payable from Fund 100-015-2020-4230-MS18 (\$3,800) and Fund 100-020-1202-5319 (\$2,000). Fund 100-015-2020-4230-MS18 shall be funded with a grant provided by the Minnesota historical society.

Resolution 95-0939 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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Resolution 95-0945, by Councilor Prettner, granting a special used permit to Chester Creek Partners for a low density planned development for an assisted living nursing facility for property located north of Arrowhead Road and west of Rice Lake Road, was introduced for discussion.

Councilor Prettner moved to table the resolution to enable councilors to tour the site, which motion was seconded and carried upon a unanimous vote.

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BY PRESIDENT KEENAN:

RESOLVED, that the city is authorized to employ Innovations in Quality, a professional consulting firm, to continue the strategic planning process with the Duluth public library, at a cost not to exceed \$1,800, which shall be payable from General Fund 100, Agency 300, Organization 2120, Object 5319.

Resolution 95-0930 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Marsha Qualey for \$400 to provide monthly writing workshops from October 1995-May 1996 for seventh-12th graders, payable out of General Fund 100, Agency 300, Organization 2120, Object 5319.

Resolution 95-0931 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, the city of Duluth desires to provide medical services to the Lake Superior Zoo animals; and

WHEREAS, the city desires to hire an animal hospital to provide the services required by the Lake Superior Zoo; and

WHEREAS, Cloquet Animal Hospital has submitted a proposal for medical services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Cloquet Animal Hospital to provide the city with such medical services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BE IT FURTHER RESOLVED, that the cost of said medical services, estimated at \$7,500, will be payable from the Fund 504, Dept./Agency 400, Organization 0500, Object 5219.

Resolution 95-0932 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that Thompson Electric Co., Inc., be and hereby is awarded a contract for furnishing and delivering the energy upgrade for the DECC in accordance with specifications on its low specification bid of \$96,216.24, terms N/30, FOB job site, payable out of DECC Fund 470, Dept./Agency 030, Organization -, Object 5520.

Resolution 95-0934 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 95-1023-19, between the city of Duluth and the Duluth Woodland community center, which authorizes the Duluth Woodland community center to operate and maintain facilities named in said agreement for recreational and community advancement purposes, in consideration of the payment of \$14,400 per year by the city of Duluth.

RESOLVED FURTHER, that monies paid pursuant to this agreement be paid out of Parks and Recreation General Fund 100, Agency 400, Div. 1812, Obj. 5319.

Resolution 95-0936 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY PRESIDENT KEENAN:

RESOLVED, that the city is hereby authorized to participate in the Duluth transit authority's commuter pass program effective November 1, 1995, at an estimated annual cost to the city of \$3,000, which shall be payable from the departmental budgets of the participating employees.

Resolution 95-0949 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Western Water Management, Inc., be and hereby is awarded a contract for furnishing and delivering boiler sludge conditioner for the steam authority in accordance with specifications on its low specification bid of \$8,579.37, terms N/30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5216.

Resolution 95-0941 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city council of the city of Duluth hereby accepts the dedication of a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

utility easement from Derrick Investment No. 91, Inc., over Lot 1, Block 3, Miller Creek Division, as such easement is described and depicted in Public Document No. 95-1023-20, on file with the city clerk.

Resolution 95-0928 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a subgrant agreement with the state of Minnesota department of public safety relating to the receipt of \$5,490 of federal assistance (infrastructure program for FEMA 1064-DR-MINNESOTA) for storm damage incurred during July 9-14, 1995, said agreement to be in the form of Public Document No. 95-1023-21, on file in the office of the city clerk, said sum to be deposited in Fund 100-500-1920-4230.

Resolution 95-0929 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Saginaw Construction be and hereby is awarded a contract for construction of Keene Creek Trail, Phase I, in accordance with specifications on its low specification bid of \$64,885, terms N/30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C414.

Resolution 95-0942 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, upon the advice of a variance committee appointed expressly for the purpose of recommending to the commissioner of transportation the validity of the city of Duluth's request for a variance from Minnesota Rules 8820.9960, so as to permit 35 degree diagonal parking with stall widths of nine feet, stall depths of 17.6 feet, traffic lane widths of 12.4 feet, length along the curb of 14.7 feet, and centerline to edge of curb 30 feet, in lieu of the required 45 and 60 degree minimum standards on the proposed construction project on Municipal State Aid Street No. 171 (Superior Street) between Fourth Avenue East and Sixth Avenue West in the city of Duluth, the commissioner did grant the variance; and

WHEREAS, the variance is conditional upon receipt of a resolution by the Duluth City Council that indemnifies, saves and holds harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or causes of action arising out of or by reason of the construction of Municipal State Aid Street No. 171 (Superior Street) between Fourth Avenue East and Sixth Avenue West in the city of Duluth and further agrees to defend at their sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of this variance.

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the granting of said variance, that the city of Duluth does agree to the above conditions of indemnification, saving and holding harmless the state of Minnesota and its agents and employees.

Resolution 95-0944 was unanimously adopted.

Approved October 23, 1995
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a five year Lease No. H-05466 with MnDOT covering surface automobile parking under Bridge No. 69879 (elevated Interstate 35 south of Roosevelt Street between Central and 58th Avenue West) and an assignment of that lease to IDS Life Insurance Company and any necessary assignment of related documents; said lease and assignments to be substantially in the form of Public Document No. 95-1023-22, on file in the office of the city clerk; the \$500 per year rental payable thereunder to be paid from Fund 865-860-3005.

Resolution 95-0951 was unanimously adopted.

Approved October 23, 1995

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER

95-050 - AN ORDINANCE TO RENAME PORTIONS OF RALEIGH STREET, LESURE STREET AND WASECA STREET AS WASECA INDUSTRIAL ROAD.

- - -

BY COUNCILOR PRETTNER

95-056 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF LAND FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (SIMON PROPERTIES/MILLER HILL MALL).

Councilor Prettnner moved to table the ordinance for the purpose of holding a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR TALARICO

95-055 O - AN ORDINANCE AUTHORIZING THE SALE OF LOT 27, ENGLEWOOD FARMS, TO CARL D. AND MARY A. HENDRICKSON FOR \$1,400.

- - -

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

BY COUNCILOR WHEELER

95-053 (9274) - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1996 ACTION YEAR.

Councilor Wheeler moved to amend the ordinance as follows:

1) Reduce Account No. 6924, Women's transitional housing, from "\$41,000" to "\$39,000";
2) Reduce Account No. 6925, Family transitional housing - Salvation Army from "\$35,000" to "\$33,000";

3) Add the following new accounts under public service projects:

"6929	\$1,000	American Indian women/children's transitional housing
6930	\$1,000	Men's transitional housing
6931	\$1,000	Depot Arts Connection
6932	\$1,000	YMCA mentoring program";

4) Change account numbers under ADMIN/PLANNING/CONTINGENCY as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

"6929" to "6933"

"6930" to "6934"

"6931" to "6935," which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

Councilor Bohlmann stated she will vote against the ordinance because she doesn't believe the CCAC's recommendation should be altered in any way. She noted that the HRA's mil levy has increased over the last few years to compensate for other funding decreases and funding for the NHS has decreased. She stated that she will vote no on the ordinance to voice her disapproval of the process the council has taken.

Councilor Prettner clarified that the Neighborhood Housing Agency is receiving a 46% increase over the 1995 allocation and that the HRA is losing \$125,000 in the initial allocation but is getting \$200,000 in reprogrammed funds which results in a slight increase over the 1996 allocation.

Councilor Atkins commented that historically the council has made some real drastic changes to CCAC recommendations, but he views these changes as minor. He reminded councilors that the CCAC is only an advisory board and that the council has always been the body to make final allocations to CDBG projects.

Councilor Wheeler moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

- - -

BY COUNCILOR PRETTNER

95-054 (9275) - AN ORDINANCE GRANTING ST. MARY' MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER FOURTH AVENUE EAST BETWEEN FOURTH ALLEY AND EAST FOURTH STREET.

The rules were suspended upon a unanimous vote to hear a speaker on the ordinance.

Responding to council questions, Doug Faragher of St. Mary's Medical Center, said the planned parking facility will accommodate approximately 800 vehicles and is available to anyone working within the medical community including Polinsky, Miller-Dwan, the Duluth Clinic or St. Mary's Medical Center. He said the new parking facility will be utilized by about 2/3 physicians and management staff and about 1/3 patients. He stated that the existing parking facility used by the Duluth Clinic and St. Mary's at this time will be used for patient parking. He further stated that the new ramp will be used for contract parking, employee parking and public parking. He said the same security measures that are in place in the existing ramp will be used in the new facility. Mr. Faragher noted there have been two significant meetings with the Central Hillside Community Club and he said he feels most of the issues raised by the neighborhood have been resolved to the satisfaction of all. He further stated that the approximate cost per parking space is about \$12,000 and is somewhat excessive due to the necessity of blasting rock for the lower levels of the ramp.

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

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The meeting was adjourned at 9:10 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9274

BY COUNCILOR WHEELER:

AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY
DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1996 ACTION YEAR.

The city of Duluth does ordain:

Section 1. Pending anticipated receipt of funds from the U.S. department of housing and urban development (HUD), said funds shall be appropriated to the federal program fund - community development as follows:

1996 CITY OF DULUTH
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6901	\$725,000	HRA housing rehabilitation
6902	350,000	Neighborhood Housing Svc. (NHS) housing rehabilitation
6903	350,000	CAP weatherization - regular program
6904	57,000	CAP weatherization - sliding fee scale program
<u>PHYSICAL IMPROVEMENTS</u>		
6905	\$293,000	Fairmont area streets - West Duluth
6906	221,000	Endion area streets - East Hillside
6907	60,000	West Duluth sidewalk safety
6908	35,000	Grant Recreation Center improvements
6909	33,000	Duluth Community Health Center parking lot
6910	33,000	Lincoln Park restoration
6911	21,000	West End sidewalk safety project
6912	15,000	Duluth Bethel Society renovation
6913	13,000	Hillside Sport Court basketball hoops
6914	3,000	Neighborhood mid-block lighting - West Duluth
<u>ECONOMIC DEVELOPMENT</u>		
6915	\$112,000	North Star Community Development Corp. (NSCDC)
6916	35,000	Project SOAR economic self-sufficiency
<u>PUBLIC SERVICE PROJECTS</u>		
6917	\$ 75,000	Duluth Hunger project
6918	63,000	Neighborhood Youth Service (NYS) - Central Hillside
6919	56,000	East Hillside/Endion YWCA Kids Corner
6920	54,000	Boys/Girls Club Youth & Family Center - West End
6921	53,000	YWCA Kids Corner - Central Hillside

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

6922	49,000	Duluth Community Health Center youth/seniors
6923	33,000	Life House Youth Center
6924	39,000	Women's transitional housing
6925	33,000	Family transitional housing - Salvation Army
6926	22,000	NHS - homebuyer assistance
6927	28,000	Tenants Union - MN Clients Council
6928	16,000	Truancy Action Program (TAP)
6929	1,000	American Indian women/children's transitional housing
6930	1,000	Men's transitional housing
6931	1,000	Depot Arts Connection
6932	1,000	YMCA mentoring program

ADMIN/PLANNING/CONTINGENCY

6933	\$305,000	Program administration
6934	80,000	Neighborhood planning
6935	34,000	Contingency - other projects
	\$3,300,000	Total

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 3, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Downs -- 1

Passed October 23, 1995
Approved October 23, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9275

BY COUNCILOR PRETTNER:

AN ORDINANCE GRANTING ST. MARY'S MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER FOURTH AVENUE EAST BETWEEN FOURTH ALLEY AND EAST FOURTH STREET.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to St. Mary's Medical Center, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of Fourth Avenue East as the same was dedicated to the use of the public and the plat of Duluth Proper First Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

Aerial easement for skywalk across Fourth Avenue East, city of Duluth, St. Louis County, state of Minnesota, described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Commencing at the intersection of the south right-of-way line of Fourth Street and the east right-of-way line of Fourth Avenue East; thence southerly along the east right-of-way line of said Fourth Avenue East a distance to of 44.50 feet, said last line assumed to be south; thence south 42 degrees 15 minutes 02 seconds west along the limits of an existing concurrent use easement 21.57 feet; thence south along west limit of said easement 66.54 feet to the point of beginning; thence north 81 degrees 0 minutes 0 seconds west 52.14 feet to the west right-of-way line of Fourth Avenue east; thence south along said west right-of-way line 20.25 feet; thence south 81 degrees 0 minutes 0 seconds east 56.40 feet to westerly limit of said concurrent use easement; thence north 45 degrees 0 minutes 0 seconds west 5.95 feet along limit of said easement; thence north along limit of said easement 16.71 feet to the point of beginnings.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Fourth Avenue East and agree that the city of Duluth shall not be liable for damage caused to such skywalk while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said Fourth Avenue East.

Section 6. That the construction of the skywalk be limited to and in substantial compliance with the plans submitted by LHB entitled "St. Mary's Medical Center Proposed Skywalk" dated 09-17-95 and on file in the office of the city clerk as Public Document No. 95-1023-23.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 3, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: None -- 0

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Absent: Councilor Downs -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 23, 1995
Approved October 23, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 30, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1030-07 Greater Downtown Council, Old Downtown area steering committee, submitting letter supporting the proposed expansion of the casino parking ramp (95-0922R). -- Received

95-1030-03 Brian Wissink submitting letter opposing diagonal parking on Superior Street (95-0842R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-1030-04 Board of zoning appeals minutes of September 26, 1995 meeting. -- Received

95-1030-05 Heritage preservation commission 1995 annual report. -- Received

95-1030-06 Technical design advisory committee for the downtown waterfront mixed-use design review district minutes of September 19, 1995 meeting. -- Received

- - -

REPORTS OF COUNCILORS

Councilor Prettner expressed concern with regard to the Charter commission's decision to not allow the council to hire staff. Concerns she raised were that the commission did not openly discuss the request with the council, it did not address the concerns that were raised in an extensive letter submitted with the request and that the commission overlooked the fact that there are a number of cities with a strong mayoral government whose Charter does allow city councils to hire staff.

Responding to Councilor Prettner, City Attorney Dinan said that the only way to get the Charter changed at this point is to put the proposal on a ballot for the general public to vote on.

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RESOLUTIONS TABLED

Councilor Wheeler moved to remove from the table Resolution 95-0922, authorizing the financing of an addition and improvements to the East Superior Street parking ramp, which motion was seconded and unanimously carried.

Councilor Hardesty noted there is a committee meeting scheduled for next week on this issue and that she feels it is premature to vote on the issue now.

Councilor Keenan stated he walked through the parking ramp today and found there were no cars parked on the fourth level, that the third level was 2/3 empty and that the other lower levels were nearly full. He questioned the need for construction of another addition.

Councilor Atkins stated that he has learned through discussion with others that the peak time is not during the day, but at night.

Councilor Wheeler moved to retable the resolution, which motion was seconded and unanimously carried.

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Councilor Prettner moved to remove from the table Resolution 95-0945, granting a special use permit to Chester Creek Partners for a low density planned development for an assisted living nursing facility for property located north of Arrowhead Road and West of Rice Lake Road, which motion was seconded and unanimously carried.

Councilor Keenan reported that a tour of the property resulted in finding that the roadway is in a wetland and that appropriate permits have not been applied for.

Jim Mohn, of the planning department, stated that a wetlands delineation needs to occur which will most likely result in some necessary adjustments in the site and parking lot plans and that a corp of engineers permit has not yet been applied for. He stated that Mr. Nelson, the property owner and developer, has informed him that the delineation is in process and is being performed by Earthburners, Inc. He said that based on the process for permitting, the planning commission and possibly the city council will need to address this application again to deal with wetland variance and mitigation issues, but that it is the responsibility of the planning commission and the corp of engineers to follow through with requirements that will bring this project to fruition. He noted that recommendations of the conservation district were forwarded to City Attorney Dinan and are incorporated in an amendment that is before the council this evening. With regard to questions relative to permitted fill activities on adjacent properties that have resulted in erosion and runoff issues on Mr. Nelson's property, Mr. Mohn explained that discussion with the conservation district needs to occur to make some administrative changes in the permitting process to correct the problem.

Responding to President Keenan, Mr. Mohn said that it has been suggested that a Minnesota pollution control agency permit be taken out based on the size of the project, however, he has determined that Phase I of the project can be considered an independent project. He noted that both phases of the project are being included with regard to the delineation of the wetlands.

President Keenan moved to amend the resolution by adding the following language to the end of the last paragraph:

".., and on compliance with the following further conditions:

(a) That Chester Creek Partners provide a specific delineation of the wetlands on the project site certified by a qualified professional;

(b) That before any wetland impact occurs, Chester Creek Partners shall secure an individual permit from the U.S. Army Corps of Engineers and shall produce a complete, approved wetland replacement plan pursuant to the Wetland Conservation Act, Rule 8420.0230;

(c) That the project site has soil erosion and sediment control best management practices installed in accordance with an approved plan," which motion was seconded.

Councilor Talarico commended the developer for working closely with the city to ensure protection of the environment. He stated that this sort of housing will meet a need in the community that otherwise would not be served. He urged that the city establish a standard for the process of issuing permits in wetland areas so that the council is not charged with the setting of conditions for development projects in the future.

President Keenan's amendment carried upon a unanimous vote.

The rules were suspended upon a unanimous vote to allow Mr. Nelson to respond to Councilor Bohlmann's question.

Mr. Nelson stated that the project will serve as housing for people 85 years old and older. With regard to the facility serving as an alternative to nursing home care while convalescing, Mr. Nelson said that it would be at the operator's discretion.

Resolution 95-0945, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Chester Creek Partners has submitted to the city council a request for a special use permit for a low density plan development for an assisted living nursing facility on property located north of Arrowhead Road and west of Rice Lake Road, legally described as:

the south 1/2 of the southeast quarter of Section 8, Township 50 North, Range 14 West; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Chester Creek Partners to allow for the operation of an assisted living nursing facility on the condition that the project developed consistent with plans on file with the office of the city clerk and as identified as Public Document No. 95-1030-08, and on compliance with the following further conditions:

(a) That Chester Creek Partners provide a specific delineation of the wetlands on the project site certified by a qualified professional;

(b) That before any wetland impact occurs, Chester Creek Partners shall secure an individual permit from the U.S. Army Corps of Engineers and shall produce a complete, approved wetland replacement plan pursuant to the Wetland Conservation Act, Rule 8420.0230;

(c) That the project site has soil erosion and sediment control best management practices installed in accordance with an approved plan.

Resolution 95-0945, as amended, was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following, on file in the city clerk's office as Public Document No. 95-1030-06(e), be and the same is hereby confirmed:

Joshua Avenue from T.H. 195 to Willow Street, Contract No. 5247, and Joshua Avenue Willow Street northerly 200 feet, Contract No. 5260.

Resolution 95-0974 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that Resolution 95-0085 be amended to Network Services for furnishing paper products to be ordered as needed for the remainder of 1995, to increase the amount by \$5,228 for a new total of \$11,928, payable out of various funds, dept./agency various, organization various, object various.

Resolution 95-0963 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0968, by Councilor Downs, approving the issuance of a bingo hall license at 2224 West Superior Street, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on the resolution.

John Vaydich, gaming manager for the Duluth Softball Players' Association, spoke in support of the resolution, stating that all license inspectors have issued approvals. He said that operations are on schedule and noted that considerable investment has been made by the building owner and a partnership involving four charities. He reported that the hall presently employs five full-time and approximately 25 part-time employees.

Responding to Councilor Atkins, Mr. Vaydich confirmed that the four charities involved are Duluth Softball Association, Hermantown Hockey, Piedmont Heights Hockey and CLIMB Theater.

Responding to Councilor Wheeler, Mr. Vaydich stated that approximately 1200 customers use the services of the bingo hall. He said there is a variety of customers who frequent the hall, and the average spend per person per visit is approximately \$23.40. Mr. Vaydich stated that the hall is breaking about even after all expenses are paid.

Responding to Councilor Wheeler, Administrative Assistant Nollenberger confirmed that the Fond du Luth Casino's intent is to replace their bingo operation with slot machines and he stated that the city will continue to receive 19 percent of the net slot revenues on all slots in the facility.

Mr. Vaydich stated that if the bingo operation at Fond du Luth does close, he has been told to expect approximately 40 percent of the Fond du Luth bingo customer base.

Mike Farrell spoke of the negative impact that the casino and bingo hall have on families.

He stated there are a number of children in the city who are left alone while their parents are at these places and he spoke of the example that is being set for them as well as the financial hardship it creates for these families. He encouraged councilors to take enough time necessary to make a wise and educated decision on the issue.

Responding to Councilor Downs, Mr. Farrell confirmed how easily pull tabs and lottery tickets can be obtained by 18 year olds.

Councilor Atkins clarified that pull tabs are only sold at liquor establishments which can only be accessed by adults 21 and over, and cannot be removed from which they are sold. He further noted that lottery tickets are sold in grocery and convenience stores and that gambling is sanctioned by the state of Minnesota as well as the city of Duluth in its partnership with the casino.

Responding to Councilor Atkins, Mr. Farrell stated that nationwide about six percent of the gambling public will have problems with compulsive gambling.

Councilor Dahlberg said he feels it is important that the city develop a general policy with regard to gambling.

Councilor Hardesty agreed that a policy statement needs to be made by the city for the future, but she urged the council to approve the bingo license at this time.

Councilors Bohlmann, Wheeler and Downs expressed their opposition to government promoted gambling and stated they will not support the resolution.

Resolution 95-0968 was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, Ronald B. Jordan has applied to the Minnesota gambling control board for a bingo hall license at premises located at 2224 West Superior Street in Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statutes 349.164, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a bingo hall license to Ronald B. Jordan for premises located at 2224 West Superior Street in Duluth.

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

Resolution 95-0968 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Hardesty, Prettnner, Talarico and President Keenan --

6

Nays: Councilors Bohlmann, Downs and Wheeler -- 3

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0882, by Councilor Bohlmann, appointing and reappointing three people to the Duluth community action board was introduced for discussion.

Councilor Bohlmann moved to divide the resolution to appoint the only person who appeared to be interviewed, which motion was seconded and carried upon a unanimous vote.

Councilor Bohlmann stated that it is the recommendation of the personnel committee that Barbara Berg be appointed to the Duluth community action board. Councilor Bohlmann said she feels Ms. Berg has an excellent background and is a good candidate for appointment to the board.

Councilor Talarico expressed concern that the council has not had the opportunity to interview all of the candidates and said he would feel more comfortable waiting until there has been opportunity to consider them all equally before voting on this resolution.

Councilor Bohlmann stated it is her hope to vote on this appointment tonight as there appears to be a lack of interest from the other candidates who failed to appear for interviews this evening. She suggested sending the other two positions back to the administration for new recommendations.

Administrative Assistant Nollenberger clarified that this appointment is not a mayoral appointment and noted that one of the appointments is the reappointment of Paula Dallum and that reappointments are generally not interviewed.

Councilor Prettnner supported reappointing Paula Dallum to the board, but stated she has concerns about appointment of Barbara Berg. Councilor Prettnner's concerns included Ms. Berg's very short tenancy in the state and city, and that her background is in urban policy, yet she had no knowledge of what CAP is all about. She said her impression was that Ms. Berg thought she was applying for the planning commission. She said she feels Ms. Berg should be given an opportunity to do some research on the board to determine if this is the board she truly wishes to serve on. She stated that while Ms. Berg makes her decision, it will give the council opportunity to interview other interested candidates.

Councilor Wheeler disagreed with Councilor Prettnner and stated that Ms. Berg went to Hamline University and has lived in the state for at least four or five years and she has family here in Duluth. He did agree that Ms. Berg was not entirely clear what the responsibility of the board was, but he felt that after discussing it with her, there seemed to be good comprehension and he felt her background would be refreshing to the CAP board and he supported her

appointment.

President Keenan expressed his discomfort during the interview because Ms. Berg didn't seem to understand the responsibilities of the board she was applying for. He said it is the council's responsibility to appoint qualified people who will best serve the particular board or commission, and said he cannot support this candidate at this time.

Councilor Downs noted that the council has held many interviews with individuals for various boards and commissions, and that a good number of them were not able to answer specific questions because they had never been to a board meeting and were unfamiliar with the issues of the particular board. He didn't believe the council has valid reason to deny this appointment. He said he perceived Ms. Berg to be an intelligent, articulate person and very capable of filling this position.

Councilor Prettner recommended tabling the appointment for at least a week to check with Ms. Berg to be sure that this is the board she wants to serve on. She agreed that Ms. Berg is intelligent and articulate and is probably capable of serving this board very well.

Councilor Bohlmann moved to table the resolution appointing Barbara Berg to the Duluth community action program board, replacing Fletcher Hinds for a term expiring January 1, 1998, which motion was seconded and unanimously carried.

Councilor Wheeler moved to reappoint Paula Dallum to the Duluth community action program board for a term expiring January 1, 1998, which motion was seconded and unanimously carried.

Resolution 95-0882(b) was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby reappoints the following person to the Duluth community action program board:

Paula Dallum for a term expiring January 1, 1998.

Resolution 95-0882(b) was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

Councilor Downs moved to table the portion of the resolution making appointment of an individual to replace Dale Sisson on the Duluth community action program board for a term expiring January 1, 1996, until more interviews can be scheduled, which motion was seconded and carried upon a unanimous vote.

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BY COUNCILOR PRETTNER:

RESOLVED, that Lipe Bros. Construction, Inc., be and hereby is awarded a contract for construction of a wooden stairway at 18-1/2 Avenue East for the CD division in accordance with specifications on its low specification bid of \$26,633, terms N/30, FOB job site, payable out of CD Fund 263, Dept./Agency 602, Organization -, Object 6259.

Resolution 95-0953 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

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 to DEDA the following tax forfeited parcel now withheld from sale in conservation:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95141	city of Duluth - community development division	westerly 31'-2½" of Lot 13, Duluth Proper First Division (10-910-130)	upper side of East Superior Street between Lake Avenue and First Avenue East (Downtown)

Resolution 95-0956 was unanimously adopted.
Approved October 30, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that Lipe Bros. Construction, Inc., be and hereby is awarded a contract for construction of a wooden stairway at Third Avenue West for the community development division in accordance with specifications on its low specification bid of \$28,942, terms N/30, FOB job site, payable out of CD Fund 263, Dept./Agency 603, Object 6360.

Resolution 95-0959 was unanimously adopted.
Approved October 30, 1995
GARY L. DOTY, Mayor

- - -

Resolution 95-0965, by Councilor Prettner, authorizing execution of a property tax study project agreement at a cost to the city of not to exceed \$15,000, was introduced for discussion.

Councilor Bohlmann commented that a letter of nonsupport has been received from Commissioner Kron of the St. Louis County Board regarding this issue. She said she is concerned about entering into a study of this nature with governmental entities such as are in the Twin Cities area and that her fear is that the metro area will dictate what changes and service cutbacks will be required of the city of Duluth because of state and federal funding cutbacks. She addressed her concern that the city of Duluth will be forced to raise property taxes because of decisions made by officials of the cities of Minneapolis and St. Paul and Ramsey and Hennepin counties. She supported a slower approach to the issue as is being demonstrated by St. Louis County.

Responding to Councilor Bohlmann, Councilor Prettner said the issues and concerns she has raised are good reasons why the city should participate in the study to make sure that Duluth does have a voice in the process. She said she felt that the choice of St. Louis County not to participate is in some ways short-sighted, but at the same time she respects the fact that the county has many priorities that the city is not faced with. She agreed with Councilor Bohlmann that she doesn't want governmental entities in the Twin Cities making decisions that will affect Duluth. She noted that the metro area has already been appointed as an advisory board to the legislature and she feels that it is very important that Duluth have a voice in the advisory process to represent issues that are critical in the area and specific to the city of Duluth.

Resolution 95-0965 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to execute a property tax study project agreement, which agreement shall be substantially in the form of the draft agreement which is on file in the office of the city clerk as Public Document No. 95-1030-09, at a cost to the city of not to exceed \$15,000, which shall be paid from the General Fund 010-1101-5319.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-0965 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth desires to make improvement to the site and building at Morgan Park Goodfellowship Club; and

WHEREAS, the city desires to hire a consulting architect/engineer to provide the services required to make such improvements; and

WHEREAS, LHB Engineers & Architects has submitted a proposal for architectural/engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB Engineers & Architects to provide the city with such full engineering services.

BE IT FURTHER RESOLVED, that the cost of said services, estimated at \$14,000, will be payable from the Fund 263, Dept./Agency 603, Object 6365.

Resolution 95-0966 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-1030-11 with St. Louis County pursuant to which said county will reimburse the city for up to \$100,000 in costs incurred by the city in the construction of the access road for the Northwest Airlines heavy maintenance base project with state of Minnesota economic recovery funds, said sums to be payable to Fund 420.

Resolution 95-0969 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 95-1030-12 with St. Louis County for the provision by the county to the city of up to \$255,000 in county state aid highway funding for the Northwest Airlines heavy maintenance base project access road and related road work, said funds to be payable to Fund 420.

Resolution 95-0970 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a settlement agreement, a copy of which is on file in the office of the city clerk as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

No. 95-1030-13, with Duluth Hotel Limited Partnership in settlement of an outstanding dispute regarding fees owed to the city stemming from the 1985 revenue bond issue for the acquisition and improvement of the Radisson Hotel in the amount of \$41,394.91, payable to Fund 255.

Resolution 95-0971 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to reimburse the Duluth economic development authority for legal fees incurred by it in securing a settlement of the Radisson Hotel Limited Partnership bond issue litigation in the amount of not to exceed \$4,435, payable from Fund 255.

Resolution 95-0972 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute lease agreements with Duluth Bible Church (201 West St. Andrews Street) and St. Michael's Church (4628 Pitt Street) covering the ownership, use, and maintenance of in-place playground equipment installations on properties owned by those organizations; such agreements to be substantially in the form of Public Document Nos. 95-1030-01 and 95-1030-02 on file in the office of the city clerk.

Resolution 95-0722 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0958, by Councilor Keenan, awarding contract to Johnson-Wilson Constructors, Inc., for DECC ballroom renovation for a bid of \$156,700, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on the resolution.

Dan Russell, DECC director, explained why it is necessary to redecorate and carpet the ballroom at this time. He also reported that a reasonable settlement had been reached with regard to litigation involving structural faults of the roof.

Resolution 95-0958 was adopted as follows:

BY PRESIDENT KEENAN:

RESOLVED, that Johnson-Wilson Constructors, Inc., be and hereby is awarded a contract for the ballroom renovation for the DECC in accordance with specifications on its low specification bid of \$156,700, terms N/30, FOB job site, payable out of DECC Fund 470, Dept./Agency 030, Object 5530.

Resolution 95-0958 was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY COUNCILOR DAHLBERG:

RESOLVED, that Silverness Plumbing, Inc., be and hereby is awarded a contract for furnishing and delivering a three inch gas main and related work for the Duluth airport authority in accordance with specifications on its low specification bid of \$24,516, terms N/30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-0957 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent alley in 11th Street Alley from Ninth Avenue East to Tenth Avenue East (City Job No. 8935RS95).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-0950 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Larson Chev-Olds, Inc., be and hereby is awarded a contract for furnishing and delivering a 3/4 ton pickup truck for the fleet services division in accordance with specifications on its low specification bid of \$21,798.42, terms N/30, FOB Duluth, payable out of Fund 660, Dept./Agency 015, Organization 1563, Object E526.

Resolution 95-0960 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Waldoch Crafts, Inc., be and hereby is awarded a contract for furnishing and installing a trim package on a van for the traffic operations division in accordance with specifications on its low specification bid of \$9,418.86, terms N/30, FOB Forest Lake, MN, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E501.

Resolution 95-0961 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 93-0811 be amended to Short, Elliott, Hendrickson, Inc., for furnishing engineering services in connection with traffic and access study in the area of T.H. 53/195 and Joshua Avenue, to increase the amount by \$1,904.28, for a new total of \$6,804.28, payable out of P.I. Fund 411, Dept./Agency 035, Organization 2118, Object 5303.

Resolution 95-0967 was unanimously adopted.

Approved October 30, 1995

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has entered into an agreement with the state of Minnesota department of transportation designating the commissioner of transportation to act as agent for the city of Duluth for the purpose of accepting a contract for the improvement of 26th Avenue East from Superior Street to Eighth Street; Greysolon Place from 31st Avenue East to Congdon Park Drive; Basswood Avenue from Orange Street to Central Entrance; Orange Street from Basswood Avenue to Arlington Avenue (S.P. 119-080-16, Minn. Proj. No. IX DULT (020), City Job Nos. 8828FA93, 8829FA93, 8830FA93, 8831FA93).

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth recommends acceptance by the commissioner of transportation of the state of Minnesota department of transportation of the following bid:

S.P. No. 118-080-16

Improvement of 26th Avenue East, Greysolon Place,

M i n n . P r o j . N o . I X D U L T (2 0)

Basswood Avenue and Orange Street;

\$906,935.64 KGM Contractors, Inc.

Resolution 95-0973 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

WHEREAS, the city of Duluth desires chaplaincy services; and

WHEREAS, the city desires to hire a chaplain to provide the services required.

WHEREAS, St. Louis County law enforcement chaplaincy has submitted a proposal for chaplaincy services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County law enforcement chaplaincy to provide the city with such chaplaincy service.

BE IT FURTHER RESOLVED, that the cost of said chaplaincy services, estimated at \$5,000, will be payable from the General Fund 100, Dept./Agency 200 & 100, Org. 1610 & 1501, Object 5490.

Resolution 95-0954 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for providing five months of maintenance covering computer hardware for the police department in accordance with specifications on its low specification bid of \$10,360, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 95-0964 was unanimously adopted.

Approved October 30, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the city is hereby authorized to accept a \$225,000 grant from the U.S. department of justice, office of community oriented policing services, to fund in part three neighborhood liaison police officer positions. The program shall be operated in strict accordance with the grant application, which is made a part hereof as Exhibit A (Public Document No. 95-1030-10).

Resolution 95-0975 was unanimously adopted.
Approved October 30, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, office of traffic safety, through St. Louis County to reimburse the police department's equipment expenditures and police overtime expenditures related to safe and sober grant application.

BE IT FURTHER RESOLVED, that Scott Lyons, chief of Duluth police department, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the Duluth police department.

BE IT FURTHER RESOLVED, that Gary Waller, sheriff of St. Louis County, is hereby authorized to be fiscal agent and conduct fiscal administration of this grant on behalf of the Duluth police department.

Resolution 95-0976 was unanimously adopted.
Approved October 30, 1995
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER

95-050 (9276) - AN ORDINANCE TO RENAME PORTIONS OF RALEIGH STREET, LESURE STREET AND WASECA STREET AS WASECA INDUSTRIAL ROAD.

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

- - -

BY COUNCILOR TALARICO

95-055 (9277) - AN ORDINANCE AUTHORIZING THE SALE OF LOT 27, ENGLEWOOD FARMS, TO CARL D. AND MARY A. HENDRICKSON FOR \$1,400.

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

- - -

The meeting was adjourned at 9:20 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9276

BY COUNCILOR PRETTNER:

AN ORDINANCE TO RENAME PORTIONS OF RALEIGH STREET, LESURE

STREET AND WASECA STREET AS WASECA INDUSTRIAL ROAD.

The city of Duluth does ordain:

Section 1. That the following public thoroughfares shall be and are hereby renamed Waseca Industrial Road:

Part 1. That portion of Waseca Street beginning at a point at the intersection of the centerline of Waseca Street and the centerline of 61st Avenue West; thence at an assumed bearing of, S90° 00' 00" along said centerline of Waseca Street, 660.5 feet more or less to a point on the centerline of 59th Avenue West.

Part 2. That portion of a newly constructed street having a centerline more fully described as follows:

Beginning at the point of intersection of the centerline of Waseca Street and the centerline of 59th Avenue West; thence along said centerline of Waseca Street having a assumed bearing of S90° 00' 00"E, 344.91 feet; thence easterly along a tangential curve concave to the north, radius 500.00 feet, central angle 6° 11' 26", 54.02 feet; thence N83° 48' 34"E along tangent, 139.39 feet; thence easterly along a tangential curve concave to the south, radius 500 feet, central angle 6° 11' 26", 54.02 feet; thence along tangent an assumed bearing of S90° 00' 00"E , 560.33 feet; thence easterly along a tangential curve concave to the south, radius 1000.00, central angle 17°18' 50", 302.18 feet; thence along tangent an assumed bearing of S72° 41' 10" E, 264.93 feet; thence along a tangential curve concave to the north, radius 1000.00 feet, central angle 17° 18' 50", 302.18 feet; thence along tangent an assumed bearing of S90° 00' 00"E, 297.75 feet; thence along a tangential a curve concave to the northwest, radius 320 feet, central angle 90° 00' 00", 502.65 feet; thence along tangent having an assumed bearing of N00° 00' 00"E, 462.45 feet; thence along a tangential curve concave to the southwest, radius 460.00 feet, central angle 49 24' 45", 396.70 feet; thence along tangent having an assumed bearing of N49° 24' 45" W, 253.29 feet; thence along a tangential curve concave to the southwest, radius 783.09', central angle 40° 39' 00", 555.59 feet; thence along tangent having an assumed bearing of S89° 56' 15" W, 388.71 feet, to a point being the intersection of the centerline of said described roadway with Central Avenue (55th Avenue West) and the centerline of Raleigh Street to the West and there terminating.

Section 2. That the city clerk, upon passage of this ordinance, shall:

(a) Notify the director of public works to proceed with erection of street signs relating to such change;

(b) Notify the property owners within 300 feet of the street; and

(c) Notify the following agencies and utilities of the specific changes:

(1) Business office of Northwestern Bell Telephone Company/U.S. West Direct Communications;

(2) Manager of delivery and collection, main post office;

(3) County auditor, St. Louis County;

(4) President, Minnesota Power;

(5) Chief, Duluth fire department;

(6) Chief, Duluth police department;

(7) Director, department of water and gas;

(8) City assessor;

(9) Voter registration department;

(10) Minnesota department of transportation;

(11) St. Louis County 911 agency.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Section 3. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: December 10, 1995).

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 30, 1995
Approved October 30, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9277

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE SALE OF LOT 27, ENGLEWOOD FARMS, TO CARL D. AND MARY A. HENDRICKSON FOR \$1,400.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Carl D. and Mary A. Hendrickson for a consideration of \$1,400, to be deposited in the General Fund 100-700-1418-4640:

Lot 27, Englewood Farms.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: December 10, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 30, 1995
Approved October 30, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 6, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1106-01 David R. Lax, et al. (11 signatures) petitioning to vacate various streets in the plat of Triggs and Kennedy's Addition and Gray's Addition. -- Assessor

95-1106-02 Kevin Owens submitting additional names (three signatures) regarding petition for reclassification from C-2 and R-1-C to R-3 properties at 1919 and 1921 Minnesota Avenue (Public Document No. 95-0710-12). -- Assessor

95-1106-03 Minnesota state auditor submitting management and compliance report of city of Duluth for the year ending December 31, 1994. -- Received

95-1106-04 Chester Holbeck submitting letter opposing the proposed prohibiting of feeding of seagulls (95-042-O). -- Received

- - -

REPORTS OF OFFICERS

95-1106-05 Assessor submitting letter of sufficiency regarding petition to vacate various streets within the plat of Triggs and Kennedy's Addition and Gray's Addition. -- Received

95-1106-06 Community development and housing division submitting 1996 CDBG program final allocation. -- Received

95-1106-07 Treasurer submitting acceptance of gambling funds from Duluth Heights community club. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1106-08 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of September 21, 1995 meeting. -- Received

95-1106-09 Special assessment board minutes of October 17, 1995 meeting. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 95-0984, by Councilor Downs, awarding contract to Rennix Corporation for a road management system in accordance with specifications on its low specification bid of \$7,068.41, was introduced for discussion.

Councilor Downs moved to amend the resolution to add the final phrase as follows: "... in the amount of \$4,762.68, and out of the General Fund 100, Dept./Agency 500, Organization 1930, Object 5226 in the amount of \$2,305.73," which motion was seconded and unanimously carried.

Resolution 95-0984, as amended, was adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that Rennix Corporation be and hereby is awarded a contract for furnishing and delivering a road management system for the fleet services in accordance with specifications on its low specification bid of \$7,068.41, terms net 30, FOB destination, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1560, Object 5221, in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$4,762.68, and out of the General Fund 100, Dept./Agency 500, Organization 1930, Object 5226, in the amount of \$2,305.73.

Resolution 95-0984, as amended, was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments and reappointments by Mayor Doty be and the same are hereby confirmed:

COMMUNITY RESOURCE PROGRAM ADVISORY COMMITTEE

Sharon Finch for a term expiring June 30, 1997, replacing Frank Jewell.

Matthew Johnson for a term expiring June 30, 1997, replacing Cricket Jones.

Pam Johnson for a term expiring June 30, 1997, replacing John Wohlwend.

Fran Bernstein, Cathy Critchley, Scott Lyons, Gerald Martin, Peg Mold, Holly Sampson, Chris Solon and James Yeager for term expiring June 30, 1997.

Resolution 95-0883 was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0977, by Councilor Bohlmann, confirming appointment of Roger Gunderson to Duluth transit authority replacing Mark Johns, was introduced for discussion.

Councilor Bohlmann moved to table the resolution to interview the new appointee, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of clerical technician, which were approved by the civil service board on October 3, 1995, and which are filed with the city clerk as Public Document No. 95-1106-10, are approved.

Resolution 95-0978 was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city, by city council Resolution 93-0824, on the 18th day of October, 1993, established the Central Hillside residential off street parking project;

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth, that the proper city officers are authorized to execute an agreement for services with Neighborhood Housing Services (NHS) of Duluth, Minnesota, to operate the Central Hillside residential parking pad program. Payment for the agreement, on file with the city clerk as Public Document No. 95-1106-11, shall not exceed \$27,000, payable out of the 1994 Federal Program Fund 263 - community development - Central Hillside Residential Parking Project Account No. 6261.

Resolution 95-0962 was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with LHB Engineers & Architects, for the sum of not to exceed \$5,000, from Capital Fund 450, Ag. 015, Org. 1994, Obj. C433, for providing certain services to the city of Duluth in connection with ADA facility transition plan (Phase I), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1106-12

Resolution 95-0981 was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 95-1106-13); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45 of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the water and gas department performed the inspection of the construction of said water and gas mains, plans of which are on file in the engineer's office of the water and gas department, and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the water and gas department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

Resolution 95-0979 was unanimously adopted.

Approved November 6, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that the city council ratifies and approves the execution of the following gas main extension agreement(s) and approves of the granting of credit therein for fees paid-in-lieu-of-assessment for connections made to said extension within ten years of the date indicated:

<u>Job No.</u>	<u>Location</u>	<u>Date</u>
W-2192	Stone Ridge Mall easement Joshua Avenue to Benjamin Avenue	April 13, 1994
G-2193	Stone Ridge Mall Hwy #53 and Joshua Avenue	April 13, 1994
G-2249	County Jail Haines Road & Kruger Road	September 5, 1994
G-2302	Tacony Street - 63rd Avenue West to 225 feet westerly	October 1, 1994

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

W-2325

63rd Avenue West - N.L. to S.L.
of Front Street

October 23, 1994

Resolution 95-0980 was unanimously adopted.
Approved November 6, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Construction, Inc., be and hereby is awarded a contract for the repair of the storm sewer at 34th and Superior for the sewer division in accordance with specifications on its low specification bid of \$17,660, terms N/30, FOB job site, payable out of PI Fund 411, Dept./Agency 035, Organization 2118, Object 5530.

Resolution 95-0952 was unanimously adopted.
Approved November 6, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Reuben Johnson & Son, Inc., be and hereby is awarded a contract for furnishing and delivering Kingsbury Creek erosion control for the engineering division in accordance with specifications on its low specification bid of \$72,299.25, terms N/30, FOB job site, payable out of Fund 411, Dept./Agency 035, Organization 2158, Object 5530.

Resolution 95-0955 was unanimously adopted.
Approved November 6, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Minnesota Blueprint Company, Inc., be and hereby is awarded a contract for furnishing and delivering a used engineering print machine for the engineering division in accordance with specifications on its low specification bid of \$10,502.48, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B447.

Resolution 95-0983 was unanimously adopted.
Approved November 6, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement to petition for the permanent improvement of 89th Avenue West between Swenson Avenue and Park Place, on Park Place between 89th Avenue West and McCloud Street, with Patricia A. Whalen; said agreement to be substantially in the form of that certain document on file in the office of the city clerk as Public Document No. 95-1106-14.

Resolution 95-0985 was unanimously adopted.
Approved November 6, 1995
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR TALARICO

95-057 - AN ORDINANCE AUTHORIZING THE SALE OF PARTS OF LOTS 11 AND 13,
BLOCK 130, DULUTH PROPER, THIRD DIVISION, TO THOMAS J. NORMAN AND HARVEY
D. PLASCH.

- - -

The meeting was adjourned at 8:05 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 9, 1995, 6:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty and President Keenan -- 6

Absent: Councilors Prettner, Talarico and Wheeler -- 3

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

WHEREAS, on November 7, 1995, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain city officers and for the purpose of submitting to the voters the question of whether a provision should be added to the Duluth City Charter creating a community investment trust fund and providing for the deposit of certain revenues in such fund; and

WHEREAS, the judges of the election precincts in the city have made their returns of said election, and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 95-1109-01(a)) at 5:00 p.m., November 9, 1995, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 27,873 votes, said votes having been cast in the following manner:

THAT for the office of mayor, Herb W. Bergson received 12,608 votes, Gary L. Doty received 16,726 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the offices of councilor at large, Patricia King Edwards received 10,535 votes, Ken Hogg received 12,344 votes, Yvonne M. Prettner received 19,537 votes, Guy Sederski received 8,002 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, first district, John Herlick received 1,668 votes, Scott A. Keenan received 5,623 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, third district, Marcia Hales received 2,084 votes, Thomas L. Haney received 1,386 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, fifth district, Isobel C. Rapaich received 3,003 votes, Russell Stover received 2,849 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT on the community investment trust fund question (Public Document No. 95-1109-01(b)) there were 20,338 "yes" votes and 7,333 "no" votes;

NOW, THEREFORE, BE IT RESOLVED, that Gary L. Doty having received the majority of all votes cast at said election for the office of mayor is hereby declared duly elected for a term of four years.

FURTHER RESOLVED, that Yvonne M. Prettner and Ken Hogg having received the two highest numbers of the votes cast at said election for the offices of councilor at large are hereby declared duly elected for terms of four years.

FURTHER RESOLVED, that Scott A. Keenan having received the majority of all votes cast at said election for the office of councilor, first district, is hereby duly elected for a term of four years.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

FURTHER RESOLVED, that Marcia Hales having received the majority of all votes cast at said election for the office of councilor, third district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Isobel C. Rapaich having received the majority of all votes cast at said election for the office of councilor, fifth district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that the community investment trust fund question, having received a majority of affirmative responses, is hereby declared approved by the electors voting upon such question.

Resolution 95-0986 was unanimously adopted.

Approved November 9, 1995

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:05 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 13, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1113-01 Joseph H. Kleiman, et al. (three signatures) petitioning for construction of a sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly. -- Assessor

95-1113-02 Elizabeth Howard submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9271 on September 25, 1995. -- Received

95-1113-07 Simon Properties, by Robert F. Eaton, attorney, submitting letter supporting the proposed Miller Hill Mall rezoning (95-056-O). -- Received

95-1113-08 David and Pam Sorenson submitting letter supporting the proposed Opus Corporation (95-047-O) and Miller Hill Mall (95-056-O) rezonings. -- Received

95-1113-09 The following submitting communications opposing the proposed Miller Hill Mall rezoning (95-056-O): (a) Tom Anderson, et al. (113 signatures); (b) Miller Creek task force. -- Received

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REPORTS OF OFFICERS

95-1113-03 Assessor submitting letter of sufficiency regarding petition to reclassify Lower Duluth, Lots 7, 9, 11 and 13, Minnesota Avenue from C-2 and R-1-C to R-3. -- Received

95-1113-04 Parks and recreation department director submitting board of directors of Lake Superior zoological society minutes of September 28, 1995 meeting. -- Received

95-1113-05 Purchasing agent submitting emergency purchase orders awarded to: (a) R.R.E.M., Inc., for extension of contract to revise the remedial investigation report of Rice Lake Road Dump Site No. 1; (b) Stafford Bandlow Engineering for mechanical engineering consultant services to investigate and report on an operating deficiency in the Aerial Lift Bridge. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1113-06 Civil service board minutes of September 5, 1995 meeting. -- Received

- - -

REPORTS OF COUNCILORS

95-1113-10 Councilor Dahlberg submitting letter of resignation. -- Received

- - -

RESOLUTION TABLED

Councilor Dahlberg moved to remove from the table Resolution 95-0874, requesting that the U.S. fish and wildlife service and the Minnesota and Wisconsin departments of natural resources increase seagull egg harvesting activities, which motion was seconded and carried upon a unanimous vote.

Councilor Dahlberg reported that the department of natural resources does not wish to harvest seagull eggs if there is not widespread public support for it. He asked if there is support among councilors to have a public hearing on the issue.

Councilor Atkins expressed support for a public hearing and summarized that from the information received from the DNR, the community is expected to pay all costs involved with an egg harvest and that before the DNR would move forward on this issue there needs to be overwhelming public support.

Councilor Dahlberg noted that it has been reported to him that pigs have been used in Michigan to eat the eggs to reduce the manpower costs, but he also noted some negative aspects to this solution.

Administrative Assistant Nollenberger stated that terns, which are a protected, endangered species, also nest with seagulls and that it is difficult to discern the two different types of eggs. He said placing a predator in the nesting area to destroy the eggs would be illegal.

Councilor Dahlberg moved to table the resolution, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

EQUAL OPPORTUNITY ADVISORY COMMISSION

Rick J. Smith for a term expiring May 31, 1998.

Cruz Mendoza for a term expiring May 31, 1996.

WHEREAS, Resolution 95-0777 listed incorrect expiration of terms for the appointments to the equal opportunity advisory commission;

NOW, THEREFORE, BE IT RESOLVED, that the terms of appointments made by Resolution 95-0777 be hereby amended to end on May 31 rather than August 31 of the year in which the respective terms expire.

Resolution 95-0992 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

HERITAGE PRESERVATION COMMISSION

Warren Czaia for a term expiring May 31, 1997, replacing Michael Lane who resigned.

Resolution 95-0993 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that paragraph 25 of that certain agreement between the city of Duluth and the Duluth Woodland Community Center, Inc., for the operation of said Woodland Community Center, the execution of said agreement being authorized by city council Resolution 95-0936, is hereby amended to read as follows:

25. This agreement shall become effective November 1, 1995, and shall be for an initial period through December 31, 1997, and may be renewed for successive two year periods as provided herein. The parties shall meet and confer at least 90 days before this agreement is to end to discuss the terms and conditions of the agreement. If the parties agree that no changes

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

are needed and that neither party wishes to terminate the agreement as provided in paragraph 18, then this agreement shall be automatically renewed for an additional two year period. The parties shall meet and confer in a similar manner during each successive renewal period.

Resolution 95-1003 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Halmar-Robicon, Inc., be and hereby is awarded a contract for furnishing and delivering field technician services for the water department in accordance with specifications on its low specification bid of \$5,613, terms net 30, FOB destination, payable out of Water Fund 511, Dept./Agency 900, Object 5532.

Resolution 95-0987 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Mine Safety Appliance Company, Inc., be and hereby is awarded a contract for furnishing and delivering four gasports for the gas department in accordance with specifications on its low specification bid of \$6,993.32, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 95-0995 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Neenah Foundry Company be and hereby is awarded a contract for furnishing and delivering approximately 35 storm sewer catch basins for the sewer division in accordance with specifications on its low specification bid of \$5,612.13, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5229.

Resolution 95-0982 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0988, by Councilor Talarico, awarding contract to U.S. West Communications, Inc., for telephones and installation for Duluth Technology Center in accordance with specifications on its low specification bid of \$9,283.96, was introduced for discussion.

Responding to councilors, Mr. Nollenberger explained that the cost of this telephone system was estimated at \$10,000 and is being paid for by a grant given to the city by U.S. West for economic development when it closed its offices in Duluth. He noted that as part of the agreement for use of the building, which is being leased for the nominal amount of \$4 per square foot, was the condition that the telephone system be compatible with the U.S. West equipment and wiring already in place within the building. He said it appears that there was only one bidder, however, it was a bid written by the state of Minnesota and that when all the bids were in, this particular bid is the only one that met specifications.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Wheeler said he didn't believe the cost to install telephones should be \$10,000 in a building that is already wired and said he would want more information before voting on the resolution.

Resolution 95-0988 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that U.S. West Communications, Inc., be and hereby is awarded a contract for furnishing and installing approximately eight telephones and related items for the Duluth Technology Center in accordance with specifications on its low specification bid of \$9,283.96, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 020, Organization 1202, Object 5241.

Resolution 95-0988R was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico and President Keenan -- 8

Nays: Councilor Wheeler -- 1

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0364 to Hallett Dock Company for furnishing class five and screened limestone, be amended to increase the amount by \$5,000 for a new total of \$14,000, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 95-0989 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of soccer fields at Arlington Avenue in accordance with specifications on its low specification bid of \$425,795.59, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C404.

Resolution 95-0996 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Klassic Constructors, Inc., be and hereby is awarded a contract for installation of a picnic shelter and related items at Park Point in accordance with specifications on its low specification bid of \$15,647, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C405.

Resolution 95-0997 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the design for the 1996 street improvement program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, the city desires to hire consulting engineering firms to provide the services required to design streets in the Lower Hunter Park 1; Upper Woodland 1; Lower Lester Park 1 and Parkville; and

WHEREAS, L.H.B. Engineers and Architects, R.R.E.M., Inc., Salo Engineering, Inc., and Seaway Engineering Company, Inc., have submitted proposals for preliminary engineering services in connection with these projects.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects in the amount of \$105,251 for Lower Hunter Park 1, Seaway Engineering Company, Inc., in the amount of \$75,445 for Upper Woodland West 1, R.R.E.M., Inc., in the amount of \$45,001 for Lower Lester Park 1 and Salo Engineering, Inc., in the amount of \$42,063.22 for Parkville, to provide the city with such preliminary engineering services.

BE IT FURTHER RESOLVED, that the cost of preliminary engineering services, estimated at \$267,760.22, \$105,251 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9606, Object 5303; \$75,445 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9601, Object 5303; \$45,001 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9603, Object 5303; and \$42,063.22 will be payable from the Street Improvement Fund 440, Dept./Agency 038, Organization 9602, Object 5303.

Resolution 95-0999 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute Agreement No. 73980 (Public Document No. 95-1113-11) with the Minnesota department of transportation providing for the payment of a lump sum of \$51,000 to the city of Duluth for construction costs and related engineering for culvert reconstruction under Highway 23 (Superior Street at 57th Avenue East); said sum to be deposited in the P.I. fund.

Resolution 95-01002 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

WHEREAS, the Minnesota department of public safety has continued to promote efforts to reduce alcohol related traffic fatalities and injuries and youth access to alcoholic beverages during the Badges in Business program through education and enforcement; and

WHEREAS, the Minnesota department of public safety has established Badges in Business for 1995 to achieve the above stated purpose, promoting law enforcement and traffic safety; and

WHEREAS, the city is eligible to receive up to \$16,800 through September 15, 1996, in reimbursement for participation in Badges in Business to be conducted beginning on December 1, 1995, and extending through September 15, 1996, to offset any increased overtime law enforcement costs;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth enter into agreement with the state of Minnesota, department of public safety, for the following purposes, to wit: to reimburse the city for money spent for approved activities in connection with Badges in Business for additional law enforcement within said city to target underage purchasers of alcohol by

placing plain-clothes officers in liquor licensed establishments, acting as employees, and as Badges in Business support personnel, reducing youth access to alcohol.

Resolution 95-1001 was unanimously adopted.

Approved November 13, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR HARDESTY

95-058 - AN ORDINANCE SETTING THE MINIMUM FINE FOR PARKING IN A BUS STOP AT \$25, AMENDING SECTION 33-46 OF THE DULUTH CITY CODE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR TALARICO

95-057 (9278) - AN ORDINANCE AUTHORIZING THE SALE OF PARTS OF LOTS 11 AND 13, BLOCK 130, DULUTH PROPER, THIRD DIVISION, TO THOMAS J. NORMAN AND HARVEY D. PLASCH.

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

- - -

The meeting was adjourned at 8:50 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9278

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE SALE OF PARTS OF LOT 11 AND 13, BLOCK 130, DULUTH PROPER, THIRD DIVISION, TO THOMAS J. NORMAN AND HARVEY D. PLASCH.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to that certain real estate located in St. Louis County, Minnesota, hereinafter described, to the parties indicated for the consideration indicated, all sums to be deposited in the General Fund 100-700-1418-4640:

Harvey D. Plasch:

The easterly 38-1/3 feet of Lot 13, Block 130, Duluth Proper, Third Division, except right-of-way -- \$1,290.

Thomas J. Norman:

Lot 13, except the easterly 38-1/3 feet, and the easterly 26-2/3 feet of Lot 11, Block 130, Duluth Proper, Third Division, except right-of-way -- \$1,710.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: December 24, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 13, 1995
Approved November 13, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 16, 1995, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Absent: Councilor Dahlberg -- 1

- - -

MOTIONS AND RESOLUTIONS

Resolution 95-1012, providing for the issuance, sale and delivery of \$1,390,000 general obligation improvement refunding bonds, Series 1995E-1; establishing the terms and form thereof; and creating a debt service fund therefor; Resolution 95-1013, providing for the issuance, sale and delivery of \$1,955,000 general obligation equipment certificates of indebtedness, Series 1995D; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 95-1014, providing for the issuance, sale and delivery of \$1,040,000 general obligation sewer utility revenue refunding bonds, Series 1995E-2; establishing the terms and form thereof; and creating a debt service fund therefor; and Resolution 95-1015, awarding sale of \$2,430,000 general obligation refunding bonds, Series 1995E, of the city of Duluth, Minnesota, by Councilor Wheeler, were introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on these resolutions.

Todd Torvinen, finance director, spoke in support of the resolutions and introduced Wayne Burgraff.

Wayne Burgraff, Evensen Dodge, reviewed details of the bond sales, noting that the city received very good bids. He added that the city has achieved savings of over \$800,000 from three different refunding issues this year.

Resolutions 95-1012, 95-1013, 95-1014 and 95-1015 were adopted as follows:

BY COUNCILOR WHEELER:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$1,425,000 General Obligation Improvement Bonds, Series 1987, dated December 1, 1987, and its \$1,325,000 General Obligation Improvement Bonds dated August 1, 1988 (collectively referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$1,390,000 General Obligation Improvement Refunding Bonds, Series 1995E-1 (the "Bonds"), to refund that portion of the Prior Bonds maturing on and after February 1, 1997 (the "Refunded Bonds"), of which \$1,375,000 in principal amount is prepayable on February 1, 1996 (the "Redemption Date").

Section 2. Terms of Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

2.01 The Bonds to be issued hereunder shall be dated December 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1997	\$180,000	See Exhibit A
1998	190,000	
1999	185,000	
2000	205,000	
2001	200,000	
2002	220,000	
2003	210,000	

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of

the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
 STATE OF MINNESOTA
 COUNTY OF ST. LOUIS

CITY OF DULUTH
 GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND
 SERIES 1995E-1

R-1 \$ _____

Interest			
<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	December 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,390,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

resolutions adopted by the governing body of the City on November 16, 1995 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$1,425,000 General Obligation Improvement Bonds, Series 1987, dated December 1, 1985, and the \$1,325,000 General Obligation Improvement Bonds dated August 1, 1988. The Bonds are payable from special assessments levied against properties specially benefitted by local improvements. The principal and interest on the Bonds will be payable from a special fund of the City entitled "1995 Improvement Refunding Bond Account."

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date
12/___/95

Registered Owner
Cede and Co.
c/o The Depository Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer I.D.
No.: 13-2555119

Signature of
Bond Registrar

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 A. The Bonds are payable from the 1995 Improvement Refunding Bond Account (the "Debt Service Fund") hereby created within the City's Special Assessment Debt Service Fund, and the proceeds of special assessments described in the Prior Resolutions, defined in Section 3.03, are pledged to the Debt Service Fund.

B. The proceeds of the Bonds not including (i) any capitalized interest financed from Bond proceeds; (ii) any amount over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; (iii) accrued interest; and (iv) any proceeds to pay costs of issuance of the Bonds, paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated and allocated to the Debt Service Fund heretofore established for the Refunded Bonds (the "Prior Debt Service Fund") in amounts which together with available funds therein shall be used solely to redeem the Prior Bonds on the Redemption Date. Upon redemption of the Prior Bonds on the Redemption Date, the Prior Debt Service Fund shall be terminated, and all monies remaining therein not required to refund

the Prior Bonds shall be transferred to the Debt Service Fund. If any payment of principal or interest on the Bonds shall become due when there is not sufficient money in the Debt Service Fund to pay the same, the Treasurer shall pay such principal or interest from the general fund of the City, and the general fund shall be reimbursed for such advances out of the proceeds of the taxes levied by this Resolution, when collected. The City Treasurer is authorized to pay the cost of issuance of the Bonds.

C. There is hereby appropriated to the Debt Service Fund all capitalized interest financed from Bond proceeds, if any, any amount over the minimum purchase price of the Bonds paid by the Purchaser and all accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.02 The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it has assessed against benefitted property not less than 20% of the cost of the projects financed by the Prior Bonds. The City Council further represents that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

3.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the resolutions authorizing and approving the Refunded Bonds (the "Prior Resolutions").

3.04 It is hereby determined that the estimated collections of special assessments levied against benefitted properties pledged for payment of the Bonds will produce sums not less than 5% in excess of the amounts needed to meet when due the principal and interest payments on the Bonds, and accordingly, no tax is levied by this resolution for that purpose; but under the provisions of Minnesota Statutes, Sections 475.61 and 475.74, the City's liability on the Bonds is not limited to the foregoing sources of payment, and the City Council will and shall levy upon all taxable property within the corporate limits of the City, and cause to be extended, assessed and collected, any taxes found necessary for full payment of the principal and interest, without limitation as to the rate or amount.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolutions and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to prepay all of the principal of and interest on the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for Redemption attached hereto as Attachment A and Attachment B, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent of the Refunded Bonds and to publish notice as provided in the Prior Resolutions.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full

faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. Continuing Disclosure.

5.01. A. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"), the City hereby makes the following covenants and agreements for the benefit of the holders from time to time of the outstanding Bonds.

B. If the City fails to comply with any provisions of this Section 5, the holders of any of the outstanding Bonds may take whatever action at law or in equity as may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section 5. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 5 constitute a default under the Indenture, the Bonds or under any other provision of this resolution.

5.02. The City will provide, in the manner set forth in Section 5.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

(i) on or before a date six months after the end of each fiscal year of the City, which is presently December 31, commencing with the fiscal year ending December 31, 1996 (each a "Reporting Date"):

(a) The audited financial statements of the City and the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Minnesota. Such financial statements shall be prepared in accordance with generally accepted accounting principles for governmental entities as prescribed by the Governmental Accounting Standards Board. If and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, the statements shall note the discrepancies therefrom.

(b) To the extent not included in the financial statements referred to in paragraph (a) hereof, the information for such fiscal year of the type contained in those sections of the Official Statement for the Bonds titled as Tables 9 through 24, inclusive, which information may be unaudited.

Any or all of the information may be incorporated by reference from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 5.03 or to the SEC. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the information each document so incorporated by reference.

(ii) In a timely manner, notice of the occurrence of any of the following events or conditions with respect to the Bonds, if material:

(a) Principal and interest payment delinquencies;

(b) Non-payment related defaults;

(c) Unscheduled draws on debt service reserves reflecting financial difficulties;

- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (g) Modifications to rights of security holders;
- (h) Bond calls;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the securities;
- (k) Rating changes.

(iii) In a timely manner, notice of the failure of the City to provide the information required under Section 5.02(i) at the time specified thereunder.

5.03. The City agrees to make available the information described in Section 5.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate: the information described in Section 5.02(i), (ii) and (iii) to each of the then nationally recognized municipal securities information repositories under the Rule, to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule (the "State Depository"), if any, and to the Municipal Securities Rulemaking Board, as provided in Section 5.02.

5.04. The covenants of the City in this Section 5 shall remain in effect so long as any Bonds are outstanding. This Section 5 may be amended or supplemented by the City from time to time, without notice to (except as provided in Section 5.03) or the consent of the holders of the Bonds, by a resolution of the City Council filed in the office of the City Clerk accompanied by an opinion of Bond Counsel to the effect that such amendment or supplement is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule. This Section 5 is intended to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Section 6. Tax Covenants.

6.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

6.02 A. The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 60 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

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C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

D. The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

Resolution 95-1012 was unanimously adopted.

Approved November 16, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32 and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment certificates of indebtedness to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the certificates of indebtedness.

1.02 The City Council adopted Resolution Nos. 95-0828 and 95-0948, declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,955,000 to finance the purchase of capital equipment authorized by the Act. It is hereby certified that the amount of the certificates of indebtedness to be issued by the City pursuant to this Resolution is less than 0.25 percent of the market value of the taxable property of the City.

1.03 The City Council hereby determines that it is necessary and expedient to issue \$1,955,000 General Obligation Equipment Certificates of Indebtedness, Series 1995D, of the City (the "Certificates") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Certificates and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Certificates will have a useful life of more than five years.

1.04 The City Council has solicited proposals for the sale of the Certificates in the principal amount of \$1,955,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,945,225, accrued interest on the total principal amount from December 20, 1995, to the date of delivery of the Certificates and upon condition that the Certificates mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The Mayor and the City Clerk are authorized and directed to execute on the part of the City a contract for the sale of the Certificates in accordance with the Purchaser's proposal. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms, Execution and Delivery of the Certificates.

2.01 The Certificates to be issued hereunder shall be dated December 20, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Certificates shall mature on December 20 in the respective years and amounts stated and shall bear interest at the annual rates as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1996	\$360,000	3.80%
1997	375,000	4.00
1998	390,000	4.10
1999	405,000	4.20
2000	425,000	4.30

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 20 and December 20 in each year (each referred to herein as an "Interest Payment Date"), commencing June 20, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on the 5th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 The Certificates shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Certificates shall cease to be an officer before delivery of the Certificates, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Certificate, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in the form of the Certificate, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City Council hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Certificates (such bank or its successor is herein referred to as the "Bond Registrar"). No Certificate shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Certificate shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

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C. Additional matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of the like aggregate principal amount, as requested by the transferor.

2.08 Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. Each Certificate shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Certificates called for redemption or to make any such exchange or transfer of the Certificates during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Certificates.

2.09 The City and the Bond Registrar may treat the person in whose name any Certificate is registered as the owner of such Certificate for the purpose of receiving payment of principal of and interest on such Certificate and for all other purposes whatsoever, whether or not such Certificate be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Certificates shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Certificates shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION EQUIPMENT CERTIFICATE
OF INDEBTEDNESS, SERIES 1995D

R-1 \$ _____

Interest

Rate
%

Maturity Date
December 20, ____

Date of Original Issue
December 20, 1995

CUSIP

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 20, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on June 20 and December 20 of each year (each referred to herein as an "Interest Payment Date") commencing on June 20, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Certificate on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business 15 days preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Certificate, the presentation or surrender of this Certificate, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Certificate to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Certificate is one of a series issued by the City in the aggregate amount of \$1,955,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32 and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 16, 1995 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

The Certificates of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized

in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Certificate in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Certificate does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Certificate shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Certificate to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Certificate registered in the name of the owner named above, in the principal amount stated above, and this Certificate is one of the Certificates of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Certificates, dated as of the original date of delivery of and payment for the Certificate.

City Clerk

REGISTRATION CERTIFICATE

This Certificate must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Certificate shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Certificate and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/20/95	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Account of the General Fund to which there shall be credited \$1,955,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for "capital equipment," as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 A. There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due, as follows:

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<u>Levy Year</u>	<u>Collection Year</u>	<u>Tax Levy</u>
1995	1996	\$461,953
1996	1997	463,339
1997	1998	463,339
1998	1999	462,300
1999	2000	465,439

B. A separate debt service account is hereby created and designated as the "1995 G.O. Equipment Certificates Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Certificates; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the Treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited all of the proceeds of the Certificates in excess of \$1,955,000, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Certificates.

3.03 If the balance in such account in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Certificates, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into such account. Said taxes shall be irrevocable until the Certificates and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and the amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Certificates and the interest thereon, in accordance with the terms set forth in this Resolution.

3.05 Proceeds of the Certificates on deposit in the Acquisition Account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Section 475.66; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Certificates when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Certificates that the City will (i) take all action on its part necessary to assure that the interest on the Certificates will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Certificates and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Certificates to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Certificates and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Certificates shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to

acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Certificates were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Certificates or \$100,000. To this effect, any proceeds of the Certificates and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Certificates) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Certificates and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Certificates, or to cause or permit them to be used, in such a manner as to cause the Certificates to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Certificates, the following schedule will be met: (i) at least 15% of the gross proceeds of the Certificates will be allocated to expenditures for the governmental purpose of the Certificates within six months of the date of issue of the Certificates; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Certificates, and that 100% of the available proceeds of the Certificates will be allocated within 30 months from the date of issue of the Certificates.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure.

5.01. A. To provide for the public availability of certain information relating to the Certificates and the security therefor and to permit underwriters of the Certificates to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"), the City hereby makes the following covenants and agreements for the benefit of the holders from time to time of the outstanding Certificates.

B. If the City fails to comply with any provisions of this Section 5, the holders of any of the outstanding Certificates may take whatever action at law or in equity as may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section 5. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 5 constitute a default under the Indenture, the Certificates or under any other provision of this resolution.

5.02. The City will provide, in the manner set forth in Section 5.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

(i) on or before a date six months after the end of each fiscal year of the City, which is presently December 31, commencing with the fiscal year ending December 31, 1996 (each a "Reporting Date"):

(a) The audited financial statements of the City and the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Minnesota. Such financial statements shall be prepared in accordance with generally accepted accounting principles for governmental entities as prescribed by the Governmental Accounting Standards Board. If and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, the statements shall note the discrepancies therefrom.

(b) To the extent not included in the financial statements referred to in paragraph (a) hereof, the information for such fiscal year of the type contained in those sections of the Official Statement for the Certificates titled as Tables 9 through 24, inclusive, which information may be unaudited.

Any or all of the information may be incorporated by reference from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 5.03 or to the SEC. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the information each document so incorporated by reference.

(ii) In a timely manner, notice of the occurrence of any of the following events or conditions with respect to the Certificates, if material:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (g) Modifications to rights of security holders;
- (h) Bond calls;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the securities;
- (k) Rating changes.

(iii) In a timely manner, notice of the failure of the City to provide the information required under Section 5.02(i) at the time specified thereunder.

5.03. The City agrees to make available the information described in Section 5.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate: the information described in Section 5.02(i), (ii) and (iii) to each of the then nationally recognized municipal securities information repositories under the Rule, to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule (the "State Depository"), if any, and to the Municipal Securities Rulemaking Board, as provided in Section 5.02.

5.04. The covenants of the City in this Section 5 shall remain in effect so long as any Certificates are outstanding. This Section 5 may be amended or supplemented by the City from time to time, without notice to (except as provided in Section 5.03) or the consent of the holders of the Certificates, by a resolution of the City Council filed in the office of the City Clerk accompanied by an opinion of bond counsel to the effect that such amendment or supplement is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule. This

Section 5 is intended to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Section 6. Certificates of Proceedings.

6.01 The City Clerk is directed to file in the office of the County Auditor of St. Louis County a certified copy of this Resolution, and such other information as the County Auditor may require, and to obtain from the County Auditor and provide to bond counsel a certificate stating that the Certificates herein authorized have been duly entered on the County Auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Certificates and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Certificates, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates, and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The Mayor and the City Clerk are hereby authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as for the date of the Official Statement.

6.04 In the event of the absence or disability of the Mayor or the City Clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Certificates, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 95-1013 was unanimously adopted.

Approved November 16, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$1,015,000 General Obligation Sewer Utility Revenue Bonds, dated June 1, 1980, and its \$1,500,000 General Obligation Sewer Utility Revenue Bonds dated August 1, 1988 (collectively referred to as the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon before the due date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$1,040,000 General Obligation Sewer Utility Revenue Refunding Bonds, Series 1995E-2 (the "Bonds"), to refund that portion of the Prior Bonds maturing on and after February 1, 1997 (the

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"Refunded Bonds"), of which \$1,025,000 in principal amount is prepayable on February 1, 1996 (the "Redemption Date").

1.04 The City has heretofore issued and sold General Obligation Sewer Utility Revenue Bonds dated June 1, 1979, now outstanding in the amount of \$225,000, dated October 1, 1991, now outstanding in the amount of \$700,000, dated November 1, 1992, now outstanding in the amount of \$195,000, dated June 1, 1995, now outstanding in the amount of \$2,000,000, and General Obligation Sewer Utility Revenue Refunding Bonds, dated June 1, 1995, now outstanding in the amount of \$2,735,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated June 1, 1979, October 1, 1991, November 1, 1992, and June 1, 1995.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated December 1, 1995, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates set forth on Exhibit A:

Year	Amount	Interest Rate
1997	\$155,000	See Exhibit A
1998	160,000	
1999	180,000	
2000	130,000	
2001	125,000	
2002	145,000	
2003	145,000	

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1996. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 A. The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The City Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to

be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the City Clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The City Clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution.

2.06 A. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by Bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

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2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY
REVENUE REFUNDING BOND, SERIES 1995E-2

R-1 \$ _____

Interest

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, _____	December 1, 1995	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 1995, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1996. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full

payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,040,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to authorizing resolutions adopted by the governing body of the City on November 16, 1995 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$1,015,000 General Obligation Sewer Utility Revenue Bonds, dated June 1, 1980, and the \$1,500,000 General Obligation Sewer Utility Revenue Bonds, dated August 1, 1988. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the Bonds of this series, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds of this issue.

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's

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Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

City Clerk

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Norwest Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date

Registered Owner

Signatures of
Bond Registrar

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12/___/95

Cede and Co.
c/o The Depository Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer I.D.
No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

the within Certificate and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

Section 3. Covenants, Accounts and Representations.

3.01 The City Council covenants and agrees with the holders of the Bonds issued hereunder and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay

the principal and interest due on the Bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

3.02 The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided herein and in Sections 3.04 and 3.05, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

3.03 A. The proceeds of the Bonds not including (i) any capitalized interest financed from Bond proceeds; (ii) any amount over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56; (iii) accrued interest; and (iv) any proceeds to pay costs of issuance of the Bonds, paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated and allocated to the debt service funds heretofore established for the Refunded Bonds (the "Prior Debt Service Funds") in amounts which together with available funds therein shall be used solely to redeem the Prior Bonds on the Redemption Date. Upon redemption of the Prior Bonds on the Redemption Date, the Prior Debt Service Funds shall be terminated, and all monies remaining therein not required to refund the Prior Bonds shall be transferred to the Debt Service Fund. The City Treasurer is authorized to pay the cost of issuance of the Bonds.

B. It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Funds shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the Clerk is hereby authorized and directed to certify such fact to and request the County Auditor to cancel any and all tax levies made by the resolutions authorizing and approving the Refunded Bonds (the "Prior Resolutions").

3.04 Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Service Sewer Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said funds. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds over the minimum purchase price of the Bonds paid by the Purchaser as additional interest pursuant to Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The Treasurer shall transfer from the Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

3.05 Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the Operating Account and in said Debt Service Fund, may be used for necessary capital expenditures for the improvement

of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.06 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolutions and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to prepay all of the principal of and interest on the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for Redemption attached hereto as Attachment A and Attachment B, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agents of the Refunded Bonds and to publish notice as provided in the Prior Resolution.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this Section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Refunded Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. Continuing Disclosure.

5.01. A. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"), the City hereby makes the following covenants and agreements for the benefit of the holders from time to time of the outstanding Bonds.

B. If the City fails to comply with any provisions of this Section 5, the holders of any of the outstanding Bonds may take whatever action at law or in equity as may appear necessary or

appropriate to enforce performance and observance of any agreement or covenant contained in this Section 5. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 5 constitute a default under the Indenture, the Bonds or under any other provision of this resolution.

5.02. The City will provide, in the manner set forth in Section 5.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

(i) on or before a date six months after the end of each fiscal year of the City, which is presently December 31, commencing with the fiscal year ending December 31, 1996 (each a "Reporting Date"):

(a) The audited financial statements of the City and the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Minnesota. Such financial statements shall be prepared in accordance with generally accepted accounting principles for governmental entities as prescribed by the Governmental Accounting Standards Board. If and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, the statements shall note the discrepancies therefrom.

(b) To the extent not included in the financial statements referred to in paragraph (a) hereof, the information for such fiscal year of the type contained in those sections of the Official Statement for the Bonds titled as Tables 9 through 24, inclusive, which information may be unaudited.

Any or all of the information may be incorporated by reference from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 5.03 or to the SEC. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the information each document so incorporated by reference.

(ii) In a timely manner, notice of the occurrence of any of the following events or conditions with respect to the Bonds, if material:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (g) Modifications to rights of security holders;
- (h) Bond calls;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the securities;
- (k) Rating changes.

(iii) In a timely manner, notice of the failure of the City to provide the information required under Section 5.02(i) at the time specified thereunder.

5.03. The City agrees to make available the information described in Section 5.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate: the information described in Section 5.02(i), (ii) and (iii) to each of the then nationally recognized municipal securities information repositories under the Rule, to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule (the "State

Depository"), if any, and to the Municipal Securities Rulemaking Board, as provided in Section 5.02.

5.04. The covenants of the City in this Section 5 shall remain in effect so long as any Bonds are outstanding. This Section 5 may be amended or supplemented by the City from time to time, without notice to (except as provided in Section 5.03) or the consent of the holders of the Bonds, by a resolution of the City Council filed in the office of the City Clerk accompanied by an opinion of bond counsel to the effect that such amendment or supplement is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule. This Section 5 is intended to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Section 6. Tax Covenants.

6.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

6.02 A. The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 60 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code.

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

D. The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

Resolution 95-1014 was unanimously adopted.

Approved November 16, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

BE IT RESOLVED by the City Council of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. The City Council of the City of Duluth, St. Louis County, Minnesota (the "City"), has by Resolution Nos. 95-0948, 95-1012 and 95-1014, authorized the issuance and sale of \$2,430,000 General Obligation Refunding Bonds, Series 1995E, consisting of:

(a) \$1,390,000 General Obligation Improvement Refunding Bonds, Series 1995E-1; and

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(b) \$1,040,000 General Obligation Sewer Utility Revenue Bonds, Series 1995E-2 (the "Bonds"), approved the Official Terms of Offering, authorized and directed the solicitation of proposals for the sale of the Bonds and established the terms and conditions of the sale of the Bonds.

Section 2. The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$2,430,000, and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of FBS Investment Services, Inc. of Minneapolis, Minnesota, and associates named in such proposal, who offered to purchase the Bonds at a cash price of \$2,412,990, upon condition that the Bonds mature and bear interest at the time and annual rates set forth in Section 3. The proposal is accepted and the Mayor and the City Clerk are authorized to execute on the part of the City a contract for the sale of the Bonds in accordance therewith. The City Treasurer is directed to deposit the good faith check of the successful bidder.

Section 3. The Bonds to be issued hereunder shall each have an original issue date of December 1, 1995, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be in fully registered form. The Bonds, and each series, shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as follows:

Year	Series 1995E-1 Bonds	Series 1995E-2 Bonds	Total Both Issues	Interest Rate
1997	\$180,000	\$155,000	\$335,000	4.00%
1998	190,000	160,000	350,000	4.10%
1999	185,000	180,000	365,000	4.20%
2000	205,000	130,000	335,000	4.30%
2001	200,000	125,000	325,000	4.40%
2002	220,000	145,000	365,000	4.50%
2003	210,000	145,000	355,000	4.60%

Section 4. The City Clerk is directed to file a certified copy of the Resolutions authorizing the Bonds with the St. Louis County Auditor.

Section 5. The Bonds, when prepared and executed, shall be delivered by or under the direction of the City Treasurer of the City of Duluth to The Depository Trust Company on behalf of the purchaser thereof for release upon receipt of the purchase price, premium, if any, and accrued interest.

Section 6. The officers of the City and the County Auditor are authorized and directed to prepare and furnish to the purchaser of the Bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds, as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

Resolution 95-1015 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Approved November 16, 1995
GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 20, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1120-01 Scott Danielson, et al. (four signatures), by Neal J. Hessen, attorney, submitting petition to vacate a portion of South 49th Avenue East. -- Assessor

95-1120-02 Kenwood Lutheran Church petitioning to vacate certain street and alleyway property located in the Myers and Whipple's Division of Duluth. -- Assessor

95-1120-11 Enita Erickson submitting letter opposing the proposed rezoning of the Miller Hill area (95-047-O and 95-056-O). -- Received

95-1120-19 Dave Goldberg submitting letter supporting the proposed Opus rezoning (95-047-O). -- Received

95-1120-03 Metropolitan interstate committee submitting October 1995 Miller Hill corridor traffic study. -- Received

95-1120-16 Dan M. Rau submitting letter opposing the proposed Opus rezoning (95-047-O). -- Received

95-1120-04 Regional Environmental Action League submitting correspondence regarding the Miller Hill Corridor traffic study. -- Received

95-1120-05 The following submitting letters opposing the proposed Simon Properties/Miller Hill Mall rezoning (95-056-O): (a) Edna Jahr; (b) Eleanor Shipka; (c) Wallace and Katherine Zick. -- Received

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REPORTS OF OFFICERS

95-1120-06 Assessor submitting:

(a) Affidavits of mailing of notices of public hearings by the special assessment board on November 28, 1995, regarding the proposed improvements of:

(1) Fourth Street Alley from 24th to 25th Avenues East;

(2) 11th Street Alley from Ninth to Tenth Avenues East;

(b) Letter for confirmation of assessment rolls levied to defray the assessable portions of Kennebec Avenue from Baylis Street northerly (sanitary sewer and water main) (Contract Nos. 5276, 1194091); Olney Alley from 63rd Avenue West to 250 feet westerly (sanitary sewer) (Contract No. 5273); Cherie Lane from 180 to 270 feet east of Woodbury Lane (gas main) (Contract No. 1194052). -- Clerk

(c) Letter of sufficiency regarding petition to construct sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly. -- Received

95-1120-07 Community development and housing division manager submitting:

(a) HUD community development quarterly report; (b) 1996-2000 HUD consolidated plan. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1120-10 Duluth transit authority: (a) Minutes of October 25, 1995 meeting; (b) September 1995 income statement; (c) September 1995 financial statement. -- Received

- 95-1120-08 Heritage preservation commission minutes of September 13, 1995 meeting.
-- Received
95-1120-09 Seaway Port authority of Duluth: (a) Minutes of: (1) August 25; (2) September 26; (3) October 16, 1995 meetings; (b) Financial statements for: (1) July 1995; (2) August 1995. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Mike Farrell stated concerns about compulsive and problematic gambling in the community.

- - -

RESOLUTION TABLED

Councilor Wheeler moved to remove from the table Resolution 95-0922, authorizing the financing of an addition and improvements to the East Superior Street parking ramp, which motion was seconded and unanimously carried.

In response to councilors, Administrative Assistant Nollenberger said that information regarding the number of confirmed commitments for contract parking is in the process of being evaluated. Regarding financing for the booth, he said bonds will not be used for financing because it is not a large enough cost to warrant a bond issue.

Councilor Wheeler moved to table the resolution for further information, which motion was seconded and unanimously carried.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

RESOLVED, that Henry A. Anderson Agency be and hereby is awarded a contract for furnishing and delivering boiler insurance for the city of Duluth and the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$8,651, terms net 30, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1654, Object 5360.

Resolution 95-1004 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that Reliable Computer be and hereby is awarded a contract for furnishing and delivering refurbished I.B.M. printer and tape drives for the data processing division in accordance with specifications on its low specification bid of \$23,365.88, terms net 30, FOB destination, \$10,650 payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B505 and \$12,715.88 payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B506.

Resolution 95-1005 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

WHEREAS, the following organizations have applied to the Minnesota gambling control board for premises permits; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, copies of said applications were also filed with the city of Duluth as required by Minnesota Statutes 349.213, Subdivision 2, and were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said licenses.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing premises permits to the following organizations.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. American Legion Post #71	5814 Grand Avenue	October 30, 1995
2. Hermantown Youth Soccer Association	Mr. Lucky's Bar & Billiards	November 7, 1995
3. Welch Center	Tappa Keg Inn	November 2, 1995
4. Pequaywan Area Trail	Incline Station	November 9, 1995
5. Church of Holy Family	2426 West Third Street-bingo	November 9, 1995

Resolution 95-1021 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the Rotary Club of Duluth has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Rotary Club of Duluth, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 95-1022 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH PUBLIC ARTS COMMISSION

Debra Hannu for a term expiring September 30, 1998, replacing Marilyn Bowes.

Resolution 95-0991 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointments by Mayor Doty be and the same are hereby confirmed:

TREE COMMISSION

David J. Aucter (professional) for a term expiring August 31, 1998.

John F. Hedtke for a term expiring August 31, 1998.

Nancy Nelson for a term expiring August 31, 1998.

Timothy Bates for a term expiring August 31, 1997.

John Pastor (professional) for a term expiring August 31, 1997.

Janet Corica for a term expiring August 31, 1996.

James Hakala for a term expiring August 31, 1996.

Paul H. Monson for a term expiring August 31, 1996.

Resolution 95-0994 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to City Contract No. 17389, with Artspace Projects, Inc., and housing and redevelopment authority of Duluth, substantially in the form of that on file in the office of the city clerk as Public Document No. 95-1120-22. This amendment reduces the number of studio apartments which must comply with federal HOME program provisions from 39 to two and extends the date of completion from December 31, 1995, to February 29, 1996.

Resolution 95-1006 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 95-0382, passed on May 1, 1995, entered into an agreement with the housing and redevelopment authority of Duluth, Minnesota, under which the authority agreed to operate the city of Duluth property rehabilitation program and other housing rehabilitation programs to be paid for out of 1995 Federal Program Fund 263 - community development - HRA housing rehabilitation program, Account Number 6351; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute Amendment No. 1, on file with the city clerk as Public Document No. 95-1120-12, to the HUD-funded HRA housing rehabilitation program agreement which changes the total agreement compensation amount from \$850,000 to \$1,050,000, payable out of federal HUD community development block grant (CDBG) program funds as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

<u>Amount</u>	<u>Fund Number</u>	<u>Account Number</u>	<u>Program Year</u>	<u>Project Title</u>
\$ 7,824	262	6801	1992	HRA housing rehabilitation
11,620	263	6151	1993	HRA housing rehabilitation
4,400	263	6251	1994	HRA housing rehabilitation
176,156	263	6351	1995	HRA housing rehabilitation

\$200,000 Total

Resolution 95-1011 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 92-0796, passed on October 13, 1992, entered into an agreement with the housing and redevelopment authority of Duluth, Minnesota, hereinafter referred to as the "agency," whereby the agency agreed to operate and administer the HUD-funded city of Duluth single room occupancy (SRO) housing rehabilitation program to be paid for out of 1992 Federal Program Fund 262 - community development - SRO housing loan fund, Account Number 6806; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution 93-0907, passed on November 15, 1993; and

WHEREAS, Amendment No. 2 to the agreement was authorized by city council Resolution 94-1034, passed on December 12, 1994; and

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 3, on file with the city clerk as Public Document No. 95-1120-13, to the HUD-funded SRO rehabilitation and/or acquisition program agreement which extends said agreement to the 31st day of December, 1996.

Resolution 95-1016 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 93-0364, passed on May 24, 1993, entered into an agreement with the housing and redevelopment authority of Duluth, Minnesota, hereinafter referred to as the "agency," whereby the agency agreed to operate and administer the HUD-funded city of Duluth single room occupancy (SRO) housing rehabilitation program to be paid for out of 1993 Federal Program Fund 263 - community development - SRO housing loan fund, Account Number 6157; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution 94-1033, passed on December 12, 1994; and

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 2, on file with the city clerk as Public Document No. 95-1120-14, to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

HUD-funded SRO rehabilitation and/or acquisition program agreement which extends said agreement to the 31st day of December, 1996.

Resolution 95-1017 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 94-0503, passed on June 13, 1994, entered into an agreement with Spirit Valley Citizens Neighborhood Development Association (SVCNDA), Inc., of Duluth, Minnesota, hereinafter referred to as the "agency," whereby the agency agreed to implement the HUD-CDBG funded SVCNDA housing rehabilitation program project to be paid for out of 1994 Federal Program Fund 263 - community development - SVCNDA Housing Account No. 6255.

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 1, on file with the city clerk as Public Document No. 95-1120-15, to the HUD-CDBG funded SVCNDA housing program agreement which extends the term of the agreement for an additional one year period at no increase in the overall compensation to be paid under the terms of the agreement.

Resolution 95-1018 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with A&L Partnership for the extension of the skywalk through the former Chinese Lantern building.

Resolution 95-1023 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

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. 95-1120-17, with Benedek Broadcasting Corporation for the extension of the skywalk through the KDLH building.

Resolution 95-1024 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley which lies under the former Lowell School, located at 155 West Central Entrance, legally described as:

that portion of the platted alley through Block 30, Duluth Heights, Sixth Division, lying adjacent to Lots 1 - 12 and Lots 29 - 40, Block 30, Duluth Heights, Sixth Division; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved the vacation petition at its November 14, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of that portion of the platted alley through Block 30, Duluth Heights, Sixth Division, lying adjacent to Lots 1 - 12 and Lots 29 - 40, Block 30, Duluth Heights, Sixth Division, as described above, and as more particularly described on Public Document No. 95-1120-18.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the alley to be vacated.

Resolution 95-1027 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of property legally described as:

Blackman Avenue between Robeson Street and Partridge Street, Connecticut Avenue between Robeson Street and Rice Lake Road, Madison Avenue between Robeson Street and Rice Lake Road, Grant Avenue between Allen Street and Kelly Street, Broadway Avenue between Allen Street and Partridge Street, Virginia Avenue between Allen Street and Partridge Street, Allen Street between Grant Avenue and Virginia Avenue, Cortez Street between Grant Avenue and Virginia Avenue, Robeson Street between Blackman Avenue and Virginia Avenue, Partridge Street between Blackman Avenue and Virginia Avenue, Kelly Street between Connecticut Avenue and Grant Avenue in the plats of Triggs and Kennedy's Addition and Gray's Addition; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved unanimously this vacation petition at its November 14, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the east 1/2 of Blackman Avenue between the north right-of-way line of Robeson Street extended and the south right-of-way line of Partridge Street extended, Connecticut Avenue between the north right-of-way line of Robeson Street extended and the northerly right-of-way line of Rice Lake Road, Madison Avenue between the north right-of-way line of Robeson Street extended and the northerly right-of-way line of Rice Lake Road, Grant Avenue between the centerline of Allen Street and the south right-of-way line of Kelly Street extended, Broadway Avenue between the centerline of Allen Street and the south right-of-way line of Partridge Street extended, Virginia Avenue between the centerline of Allen Street and the south right-of-way line of Partridge Street extended, the south 1/2 of Allen Street between the west right-of-way line of Grant Avenue extended and the east right-of-way line of Virginia Avenue extended, Cortez Street between the west right-of-way line of Grant Avenue extended and the east right-of-way

line of Virginia Avenue extended, Robeson Street between the centerline of Blackman Avenue and the east right-of-way line of Virginia Avenue extended, Partridge Street between the centerline of Blackman Avenue and the east right-of-way line of Virginia Avenue extended, Kelly Street between the west right-of-way line of Connecticut Avenue extended and the east right-of-way line of Grant Avenue extended in the plats of Triggs and Kennedy's Addition and Gray's Addition.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portions of the streets and avenues to be vacated.

Resolution 95-1028 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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Resolution 95-1029, by Councilor Prettner, granting special use permit to Engineers Realty, Inc., extension of select waste disposal landfill facility permit, was introduced for discussion.

Councilor Prettner moved to amend the resolution in paragraph (a) to read as follows: "That this operational permit shall be valid until October 31, 1995, and then extended on a month to month basis with planning commission authorization to not later than May 31, 1996.....," which motion was seconded and unanimously carried.

Councilor Talarico moved to amend the resolution to add a paragraph (j) as follows: "That no municipal solid waste shall be processed at the landfill facility owned by Engineers Realty, Inc., as described in this permit," which motion was seconded. He stated that he has heard concerns that Engineers Realty has a building that has been used for the processing of municipal solid waste, and he wants to make it clear that this permit does not authorize processing of solid waste.

In response to Councilor Atkins, Councilor Talarico said this permit does not allow processing municipal waste and that Engineers Realty would need a different permit to do so.

Councilor Atkins questioned the necessity of the amendment. He felt it confuses the issue to make the amendment to a permit dealing with closure of the landfill.

Councilor Prettner supported the amendment, stating that Engineers Realty has been continually in violation of their permitting.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

John Klaers, Engineers Realty, requested that the council table the resolution in order to give Engineers Realty an opportunity to discuss the conditions listed in the resolution with planning staff. He reviewed the process Engineers Realty has gone through with the board of zoning appeals and the planning commission regarding this permit.

Councilor Bohlmann moved to table Councilor Talarico's amendment, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins and Bohlmann -- 2

Nays: Councilors Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Councilor Talarico moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

The amendment carried upon the following vote:

Yeas: Councilors Dahlberg, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 7

Nays: Councilors Atkins and Bohlmann -- 2

Councilor Prettner moved to table the amended resolution for one week, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER:

WHEREAS, Neighborhood Housing Service of Duluth, Inc., has submitted to the city council a request for a special use permit for an office building of a civic, religious or charitable organization on property described as Duluth Proper, First Division, East Fourth Street, Lot 44, and located at 224 East Fourth Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood, if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Neighborhood Housing Services of Duluth, Inc., to allow for the operation of an office building of a civic, religious or charitable organization at 224 East Fourth Street, on the condition that the permitted uses be limited to and conducted in accordance with the application and plot plans as submitted and dated October 20, 1995, and identified as Public Document No. 95-1120-20, and the terms and conditions of Section 50-32 of the City Code.

Resolution 95-1030 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

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Resolution 95-1031, by Councilor Prettner, co-sponsoring and authorizing a resource investigation grant application for Miller Creek in cooperation with the Miller Creek task force, was introduced for discussion.

Councilor Prettner noted that the grant requires that there be a single sponsor, and moved to refer the resolution to the administration for redrafting, which motion was seconded and unanimously carried.

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BY COUNCILOR DAHLBERG:

RESOLVED, that Arrowhead Chemical be and hereby is awarded a contract for furnishing and delivering 21 drums of hydrant antifreeze for the water and gas department in accordance with specifications on its low specification bid of \$8,252.69, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 95-1009 was unanimously adopted.

Approved November 20, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Phillips Getschow Company, Inc., be and hereby is awarded a contract for approximately 260 hours of emergency welding repairs to the steam lines for the Duluth Steam Cooperative in accordance with specifications on its low specification bid of \$9,986.60,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

terms net 30, FOB job site, payable out of Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5310.

Resolution 95-1010 was unanimously adopted.
Approved November 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that various contractors be and hereby are awarded a contract for furnishing and delivering snow train equipment rental on an as needed basis for the street and park maintenance division in accordance with specifications for an estimated amount of \$10,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 95-0998 was unanimously adopted.
Approved November 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0052 to Commercial Electric Company to include additional electrical services, be amended to increase the amount by \$6,332.80 for a new total of \$16,732.80, \$6,332.80 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2145, Object 5530.

Resolution 95-1007 was unanimously adopted.
Approved November 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0214 to Strgar-Roscoe-Fausch for increasing Contract No. C-17303 beyond the initial scope of work and addition meetings with the citizen participation process, be amended to increase the amount by \$11,750 for a new total of \$41,750, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5303.

Resolution 95-1008 was unanimously adopted.
Approved November 20, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech & Ojard Consulting Engineers, for the sum of not to exceed \$5,000, from Fund 411, Ag. 035, Org. 2162, for providing certain engineering services to the city of Duluth in connection with the 11th Avenue West alley stabilization, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1120-21.

Resolution 95-1019 was unanimously adopted.
Approved November 20, 1995
GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR PRETTNER

95-047 (9279) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, §1959, AS AMENDED, ZONING DISTRICT MAP NOS. 22, 23 & 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-1-B SINGLE FAMILY TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED AT THE INTERSECTION OF TRINITY ROAD (US HWY 53) AND CENTRAL ENTRANCE (TH 194) (OPUS CORP).

Councilor Prettner moved to remove the ordinance from the table, which motion was seconded and unanimously carried. She noted that this ordinance was tabled in August in order to gain results of a traffic study and to have the planning division review environmental concerns and determine the appropriate use for the site.

Darrell Lewis, planning division manager, reviewed that this ordinance is a reduction of about 25 percent in the size of the original Opus proposal. He said Opus Corporation has requested that the ordinance be amended to modify a small area of the proposed development to allow them to have more separation from their building and the highway frontage and to straighten out the project so that it is more perpendicular. Mr. Lewis said their request will rotate the project and will not encroach into the wetlands area or change the setback distances from the residential properties, and he said the planning division does not object to their request.

In response to Councilor Hardesty, Mr. Lewis said the purpose of the modification for Opus is to allow greater latitude in design.

Councilor Keenan stated concern about encroaching into the wetlands and the natural buffer.

In response to Councilor Keenan, Mr. Lewis said that what he feels is the important criteria would not be changed with the Opus request. He said the primary wetlands will not be affected and encroachment on the neighborhood remains the same. He added that since there is sufficient reason to believe there is not wetlands in the area in question, he feels that it should be left open to further consideration.

The rules were suspended upon a unanimous vote to hear speakers on this ordinance.

Joanie Rengo opposed the development, noting that she felt there were unkept promises by developers and environmental problems to neighborhoods in other developments. She stated concern about increased traffic problems as a result of this development.

Buck Stover, representing building trades members, supported the Opus proposal, stating it will provide jobs and increase real estate and sales tax revenues.

Joel Sipress objected to overdevelopment in the Miller Mall area, stating concern about the effect on neighborhoods with the loss of neighborhood businesses. He stated further concern about increased traffic and costs to fix roads.

Jay Scott, Opus Corporation, stated their request for adjustment in the boundary line is important for the project to move forward. He said the change will provide flexibility to do further study as it pertains to setbacks and wetlands so that they can design a project that effectively preserves the good quality wetlands. He stated that Opus is committed to being an environmentally responsible developer nationwide.

Joan Morrison opposed the project, saying she feels the city needs businesses in other areas of Duluth, and that the wilderness should be protected.

Harry Munger voiced environmental and traffic concerns. He referred to the Miller Trunk highway corridor traffic analysis study, and disagreed with the staff report that indicates that the

transportation system is adequate to meet the needs of the development. He stated belief that all environment and traffic issues should be resolved before approving development proposals.

Ron Krank, Opus Corporation, noted the importance of the request to amend the plan to add one additional acre, and pointed out that even with that addition, the project will still be five acres smaller than originally proposed, specifically that it will be approximately 60,000 square feet less, and there will be 350 less cars on the site.

Bill Burns, attorney for Opus Corporation, said Opus participated in the traffic study and is prepared to negotiate an equitable contribution for improvements. He noted that Opus has asked for no support from taxpayers for the project, and said he feels there are more than adequate safeguards in future plan approvals. He said Opus has endorsed amendments proposed by the planning staff, and added that he feels the project will be an asset to the community.

In response to Councilor Wheeler, Mr. Burns said the ordinance requires Opus to come back to the council for further approval, and neighbors will have input during that process. He further responded that the setbacks required are significant, and that has required a significant reduction in the size of the project. He said Opus Corporation has requested that the council recognize that a portion of the site is developable commercially, and that Opus recognizes that if this ordinance passes, the size, location and scope of the project is subject to C-5 review.

In response to Councilor Hardesty regarding project timelines, Mr. Burns said that if this ordinance is approved, there will be a final wetland delineation, which will occur during the EAW process, and then planning commission review of the site plan. He said Opus is committed to moving forward rapidly, and hopes the facility will be ready for tenants to move into in the spring of 1997.

Councilor Hardesty felt the timeline gives the council an opportunity to review the traffic study and to include any preconditions in the C-5 plan regarding traffic.

Dan Rau read a letter he previously submitted to the council (Public Document No. 95-1120-16).

Neil Vanderport opposed the development, stating that he feels that this piece of property should remain undeveloped.

Dave Grandaw, business manager of bricklayers and allied craft, advocated rezoning for the Opus proposal, and said that he feels most residents of the city are in favor of growth.

Craig Olson, business manager of painters local and secretary of building trades local, supported the project, noting that local contractors will be employed.

Councilor Prettner commended the developers and the quality way in which they advocated for their project, and the neighborhood for keeping the council abreast of their concerns. She reviewed that Opus has asked for a rezoning of the property to fit better with the land, and said she feels it is appropriate to rezone a portion of the property while still allowing for a buffer to protect the neighborhood. She noted that if this rezoning is approved, an EAW and C-5 site plan would follow, and the council can have input in the site plan regarding such things as noise, lighting, landscaping, impact on neighborhood and traffic. Councilor Prettner moved to amend the ordinance to replace the map with the new one requested by the applicant, which motion was seconded.

In response to Councilor Prettner, Mr. Scott said the next phase of the process includes engineering, architectural and full environmental studies, and will cost between \$100,000 and \$200,000 to complete.

In response to Councilor Atkins, Mr. Lewis said the traffic study is on the table before the planning commission at this time waiting for final site plan approval of the proposed developments.

Councilor Prettner's amendment carried upon a unanimous vote.

Councilor Bohlmann opposed the ordinance, noting that neighbors are opposed to further development in that area, and that she felt there should be no further development until traffic issues are resolved.

Councilor Atkins noted the administration's commitment to move forward in the legislative session for a special service district to plan for traffic improvements.

Councilor Hardesty agreed that traffic concerns should be addressed before the site plan is approved. She said she can support using part of the property for commercial development, and expressed hope that part could also be preserved, which she felt could enhance the development.

Councilor Talarico opposed the ordinance, stating that he feels it is a policy question, and said that he feels the rezoning is not supported by the citizens.

Councilor Wheeler supported the ordinance, stating that the best use for the property is commercial. He supported the reduction in size of the project, the significant setbacks and the protection of wetlands.

President Keenan said he will support the ordinance at this time, and will very closely review the site plan presented to the council.

Councilor Prettner moved passage of the ordinance, as amended, and the same was adopted upon the following vote: (Rescinded by special election 4/16/96)

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Wheeler and President Keenan -- 7

Nays: Councilors Bohlmann and Talarico -- 2

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BY COUNCILOR PRETTNER

95-056 (9280) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF LAND FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (SIMON PROPERTIES/MILLER HILL MALL).

Councilor Prettner moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Prettner moved to amend the ordinance to renumber Section 2 to become Section 3 and add a new Section 2 to read as follows:

"Section 2. That this ordinance shall be subject to the following conditions:

(a) That an environmental easement that prohibits all development for the northerly 100 feet of the southerly 200 feet for lot 31 is dedicated to the city;

(b) That the southerly 300 feet of the C-5 zoning district of this rezoning action is retained as a landscaped buffer," which motion was seconded.

Councilor Prettner noted that the amendment extends the buffer between the neighborhood by 500 feet. She felt the area is proper for commercial development but that it has encroached as far as it needs to on the neighborhood. She said she believes that the amendment effectively closes the door on the developer coming back for any further development south of the project boundary.

The rules were suspended upon a unanimous vote to hear speakers on this ordinance.

Skip Hendrickson opposed the ordinance, stating that there are many unanswered questions about the proposed project. He said Simon Properties has a record of failure to implement past site requirements, and he feels the company has little regard for unresolved environmental issues. He said the current proposal will destroy 23 acres of wildlife habitat and further compromise the Chambersburg neighborhood. He referred to a planning staff report, which states that the requested change is in conflict with the land use designation of the Miller Hill corridor plan. He said the developer has not been successful in securing a commitment from Dayton's to build in Duluth. He said that voting no on this ordinance will assure that uncertain issues regarding this matter will be resolved before future requests for expansion are brought forth, and will give the developer the opportunity to present a proposal that is acceptable to all concerned.

Betty Fleissner opposed the ordinance, noting the past history of the developer in the area. She said traffic is a major concern and that water runoff and retention have not been addressed. She stated concern about damage to area homes during construction, and said many questions have not been answered.

Ron DeGrio suggested that a committee be formed to help the administration and council follow the planning process of proposed developments to ensure that important issues are not overlooked.

Bill Westholm referred to the Miller Hill corridor plan, which indicates that at the current rate of development, there will be a decrease in the residential quality of the neighborhood, that there will be few amenities, such as parks, that there will be a filling of wetlands, increasing flooding and decreasing quality of the creeks, all of which he said has happened. He stated concerns about traffic congestion and spoke of the importance of green space to the community. He felt the key issue is the buffer zone, and said he would like to see the current 700 foot buffer remain in place.

Councilor Prettner clarified that with the amendment, the buffer area would be a minimum of 600 feet from the closest property.

Patty Priley opposed the ordinance, stating that there has been no compromises offered by the developer, and she feels the developer is in violation of the MPCA regarding retention ponds. She felt the current buffer should remain, that expansion will destroy the buffer, and expressed concern about damage to residences when blasting the rock ledge during construction.

Pat Connell opposed the ordinance, noting that Simon Properties let a permit that protects the environment expire for more than three years. She expressed concern about the corporation not working with the neighborhood.

Rick Holmstrom opposed the rezoning, noting that the neighborhood has not opposed all mall development. He said the 700 foot buffer currently in place is very important to the neighborhood.

Frank Stokes expressed opposition to extending any kind of roadways through the neighborhoods leading to mall area developments.

Greg Price expressed concern about the danger of water surges in the creeks resulting from development, specifically in Lincoln Park. He suggested that the Garfield Avenue area would be better for retail development.

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Councilor Prettner moved to suspend the rules to continue this meeting past 11:00 p.m., which motion was seconded and unanimously carried.

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John Forrest spoke in favor of additional jobs created by this development and growth of the community for the future.

Richard Fredricks felt issues regarding the environment, traffic, destruction of the natural buffer and devaluation of property should be addressed before any development occurs.

Buck Stover spoke in favor of the development, stating that Simon Properties has made a commitment to hire local labor for the construction.

Bob Spaulding, Simon Properties, expressed intent of Simon Development to work with the city to alleviate traffic concerns. Regarding earlier statements about Simon Properties being in violation of their permit, he said the permit is intended to protect the water quality of Miller Creek, and sampling data indicates that Simon is in compliance with the effluent quality of the water that leaves the Miller Hill property and enters Miller Creek. He noted that Simon Properties has voluntarily done temperature studies of the creek, which information will be provided to the MPCA.

Joe Stallsmith, Simon Properties, addressed water retention and runoff concerns. He said Simon Properties will endeavor to correct problems by attempting to capture the water to a retention facility, and if that is not feasible, they will make design modifications to the curb line to keep the water in the drainage system. He provided a brief update on the MPCA concerns with the mall's discharge permit.

Councilor Wheeler referred to a September 25, 1991, certified letter addressed to Simon Properties from the MPCA regarding permit requirements for additional storm water retention. He noted that those requirements have not been met and he believes that Simon is not in compliance with the permit.

Councilor Hardesty expressed concern about allowing expansion when the current runoff problem has not been resolved.

Mr. Spaulding stated that the permit requires that a plan be submitted within 90 days to deal with that issue, and Simon plans to meet that deadline.

Councilor Downs stated concerns regarding water retention and traffic. In response to Councilor Downs, Mr. Spaulding said that if the ordinance is approved, construction will probably not begin until the fall of 1996. He pointed out that the amendment proposed reduces the size of the project by more than 30 percent, and that the project will be redesigned and they will request a reduction in the parking ratio. Regarding traffic, Mr. Spaulding expressed Simon's intention to pay its fair share of expenses incurred for improvements necessary to the expansion.

In response to Councilor Downs, Mr. Spaulding said that Simon Properties would agree to an extension until December 11 of the requirement of the council to act on this issue within 60 days.

Bob Eaton, attorney for Simon Properties, noted the concessions Simon has made, specifically in moving boundary lines and downsizing its project. He said Simon's failure to provide the plan that Councilor Wheeler referred to was an oversight on Simon's part.

Councilor Dahlberg supported expansion of businesses in Duluth.

Councilor Prettnier pointed out that the current decision before the council is regarding land use. She felt her amendment assures the neighborhood that the developer will not request any further encroachment into the neighborhood, and noted that the developer needs to comply with all environmental standards and C-5 site review standards. She felt this zoning change would allow for a high degree of quality control of the project and is the best option with the appropriate buffer and environmental easements. She said the developer will be accountable to neighborhood issues at the time the C-5 plan comes to the council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Prettner moved to withdraw her amendment and instead submit the following amendment:

That Section 2 becomes Section 3 and a new Section 2 be added to read as follows:

"Section 2. That this ordinance shall be subject to the following conditions:

(a) That an environmental easement that prohibits all development in the 100 foot strip south of the zoning boundary line as shown on the attached map is dedicated to the city;

(b) That the southerly 300 feet of the C-5 zoning district of this rezoning action is retained as a landscaped buffer;

(c) That the C-5 site plan be reviewed and approved by the city council before any development occurs," which motion was seconded.

Councilor Atkins suggested adding to the amendment language that would indicate that the retention pond issue will be resolved.

Councilor Wheeler felt the C-5 zoning should not be approved until after a plan is submitted to the MPCA regarding runoff. He did not favor delaying the vote on the ordinance.

Councilor Hardesty said she is not willing to rezone this piece of property because she is not sure that the creek won't be impacted and the property can support extended use of paved surfaces. She felt the protection of the creek and the residential buffer has not been assured, and that neighbors should have time to review the proposed changes.

Councilor Prettner moved to amend her amendment to change paragraph (c) to paragraph (d) and to add a paragraph (c) as follows: "That the environmental issues related to water runoff and the retention pond are adequately resolved," which motion was seconded.

Councilor Talarico supported the amendment and the extension until December 11 as suggested by Councilor Downs so that the proposed changes can be provided to the neighborhood for review.

Councilor Prettner's amended amendment was adopted upon a unanimous vote.

Councilor Bohlmann said she will not support the ordinance, because she felt there is not enough protection to the neighborhoods. She noted that there are neighborhood problems with inadequate water pressures and sewage capacity.

The rules were suspended upon the following vote to hear a speaker on the ordinance:

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Hardesty, Prettner, Talarico and Wheeler

-- 7 Nays: Councilor Downs and President Keenan -- 2

Skip Hendrickson clarified buffer distances from his home.

President Keenan said he will not support the ordinance, stating that he does not believe Simon has been a good steward in protecting the environment.

Councilor Prettner moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner and Talarico -- 5

Nays: Councilors Bohlmann, Hardesty, Wheeler and President Keenan -- 4

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The following entitled ordinance was read for the second time:

BY COUNCILOR HARDESTY

95-058 (9281) - AN ORDINANCE SETTING THE MINIMUM FINE FOR PARKING IN A BUS STOP AT \$25, AMENDING SECTION 33-46 OF THE DULUTH CITY CODE.

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

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The meeting was adjourned at 12:15 a.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9279

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO.'S 22, 23 & 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF R-1-B SINGLE FAMILY TO C-5 PLANNED COMMERCIAL, PROPERTY LOCATED AT THE INTERSECTION OF TRINITY ROAD (US HWY 53) AND CENTRAL ENTRANCE (TH 194) (OPUS CORP.).

The city of Duluth does ordain:

Section 1. That Plate Nos. 22, 23 and 28 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAPS)
(refer to pages 695, 696, 697)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 31, 1995)

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

Yeas: Councilors Atkins, Dahlberg, Downs, Hardesty, Prettner, Wheeler and President Keenan -- 7

Nays: Councilors Bohlmann and Talarico -- 2

Passed November 20, 1995
Approved November 20, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9280

BY COUNCILOR PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF LAND FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (SIMON PROPERTIES/MILLER HILL MALL).

The city of Duluth does ordain:

Section 1. That Plate No. 22 of the zoning district map as contained in the appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)
(refer to page 698)

Section 2. That this ordinance shall be subject to the following conditions:

(a) That an environmental easement that prohibits all development in the 100 foot strip south of the zoning boundary line as shown on the attached map is dedicated to the city;

(b) That the southerly 300 feet of the C-5 zoning district of this rezoning action is retained as a landscaped buffer;

(c) That the environmental issues related to water runoff and the retention pond are adequately resolved;

(d) That the C-5 site plan be reviewed and approved by the city council before any development occurs.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 31, 1995)

Councilor Prettner moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Dahlberg, Downs, Prettner and Talarico -- 5

Nays: Councilors Bohlmann, Hardesty, Wheeler and President Keenan -- 4

Passed November 20, 1995

Approved November 20, 1995

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9281

BY COUNCILOR HARDESTY:

AN ORDINANCE SETTING THE MINIMUM FINE FOR PARKING IN A BUS STOP AT \$25, AMENDING SECTION 33-46 OF THE DULUTH CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 33-46 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 33-46. Penalties.

(a) Violations of the provisions of Articles VII and VIII of this Chapter shall be punished as set forth in this Section;

(b) Violations of the following sections or subsections shall be punishable by a fine of not less than \$10:

- (1) Section 33-95, government area parking violations except meters;
- (2) Section 33-97(a), no parking zone violations;
- (3) Section 33-97.8, alternate side parking violations;
- (4) Section 33-87(a), truck zone violations;
- (5) Section 33-87(b), loading zone violations;
- (6) Section 33-82(a)(1), parking on a sidewalk;
- (7) Section 33-82(a)(2), parking in front of a driveway;
- (8) Section 33-82(a)(3), parking within an intersection;
- (9) Section 33-82(a)(5), parking on a crosswalk;
- (10) Section 33-82(a)(6), parking within 20 feet of an intersection crosswalk;
- (11) Section 33-82(a)(7), parking within 30 feet of a stop sign or traffic control device;
- (12) Section 33-82(a)(8), parking within seven feet of an alley or driveway;
- (13) Section 33-82(a)(9), parking within 50 feet of a railroad crossing;
- (14) Section 33-82(a)(10), illegal parking near a fire station;
- (15) Section 33-82(a)(11), illegal parking near street obstruction;
- (16) Section 33-82(a)(12), double parking;
- (17) Section 33-82(a)(13), parking on a bridge or in a tunnel;

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- (18) Section 33-82(a)(14), no stopping zones;
- (19) Section 33-82(a)(15), parking on boulevards;
- (20) Section 33-83, illegal alley parking;
- (21) Section 33-85, 24 hour parking limit;
- (22) Section 33-84, time limit parking;
- (23) Section 33-93, facing wrong way;
- (24) Section 33-93, parking parallel to curb;
- (25) Section 33-90, parked with for sale sign;
- (26) Section 33-92, failure to set parking brake or turn wheels to the curb;
- (27) Section 33-94, angle parking violation;
- (28) Sections 33-124 through 33-130, dealing with residential permit parking;
- (29) Any other parking offense in violation of any Section contained in Article VII of Chapter 33;
- (30) Section 33-109, overtime parking at a parking meter;
- (31) Section 33-106(a), improper parking at a single meter;
- (32) Section 33-106(b), improper parking at a tandem meter;
- (c) Violations of the following sections or subsections shall be punishable by a fine of not less than \$15:
 - (1) Section 33-82(a)(4), parking too close to a fire hydrant;
- (d) Violations of the following sections or subsections shall be punishable by a fine of not less than \$20:
 - (1) Section 33-88, parking in a taxi stand;
 - (2) Section 33-82(a)(16), parking in a fire lane;
 - (3) Sections 33-97.1 through 33-97.7, snow emergency violations;
 - (4) Section 33-91, leaving keys in the ignition;
 - (5) Section 33-87(d), unattached semi trailer parked on street;
- (e) Violations of the following sections or subsections shall be punishable by a fine of not less than \$25:
 - (1) Section 33-88, parking in a bus stop.
- (f) Violations of the following sections or subsections shall be punishable by a fine of not less than \$40:
 - (1) Section 33-89, improper roadway clearance.

Section 2. That this ordinance shall taken effect and be in force 30 days from and after its passage and publication. (Effective date: December 1, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Dahlberg, Downs, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 20, 1995
Approved November 20, 1995
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 27, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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The minutes of the council meetings held on April 3, 10, 17 and 24, 1995, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1127-09 Klaers, Powers & Associates submitting letter opposing the proposed special use permit for Engineers Realty, Inc. (95-1029R). -- Received

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REPORTS OF OFFICERS

95-1127-01 Assessor submitting:

(a) Affidavit of mailing of notice of public hearings by the special assessment board on November 28, 1995, regarding the proposed improvement of Arrowhead Road from 200 feet west of Kenwood Avenue to Dodge Street, Kenwood Avenue from Cleveland Street to Howard Gnesen Road and Howard Gnesen Road from Kenwood Avenue to Victoria Street. -- Clerk

(b) Letter of sufficiency regarding petition to vacate that portion of 49th Avenue East lying adjacent to London Addition, Block C, Lot 14, and London Addition, Block D, Lot 1;

(c) Letter of sufficiency regarding petition to vacate an alley and street in Myers and Whipples Addition. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

95-1127-02 Board of zoning appeals minutes of October 24, 1995 meeting. -- Received

95-1127-03 Duluth housing trust fund board minutes of October 4, 1995 meeting. -- Received

95-1127-04 Duluth SRO housing commission minutes of October 11, 1995 meeting. -- Received

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Resolution 95-1040, by Councilor Atkins, appointing Marcia Hales to fill the vacancy in the third district council seat, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Roy St. George voiced support for this appointment.

Resolution 95-1040 was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, Third District Councilor Chris Dahlberg submitted his resignation from such position effective November 26, 1995; and

WHEREAS, under the provisions of Section 4 of the Duluth City Charter the city council has the responsibility of filling such vacancy by appointing an eligible person to such position; and

WHEREAS, Marcia Hales received the largest number of votes for councilor, third district, at the municipal general election held on November 7, 1995, and will be assuming the office as a duly elected councilor for the third district on January 2, 1996;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby appoints Marcia Hales to fill the vacancy in the third district councilor position, such appointment to be effective immediately.

Resolution 95-1040 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

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RESOLUTION TABLED

Councilor Prettner moved to remove from the table Resolution 95-1029, granting special use permit to Engineers Realty, Inc., extension of select waste disposal landfill facility permit, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to hear a speaker on this resolution.

Joseph Balach felt it is incumbent upon the city to initiate a remedial investigation study and an environmental assessment study of this site.

Councilor Prettner noted that the MPCA has required, prior to the closure of the site, an evaluation of the groundwater to define the source or the area of origin of the identified pollutants.

Councilor Talarico moved to amend the resolution to change the language in paragraph (a) to read as follows:

"A permit will be issued from this time until May 31, 1996, and after that time then extended on a month to month basis with the planning commission authorization of those permits to not later than October 31, 1996," which motion was seconded.

Councilor Atkins expressed concern about the corporation's ability to close the landfill with the deadlines proposed because of possible weather related delays.

The amendment carried upon the following vote:

Yeas: Councilors Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Atkins -- 1

Councilor Talarico reviewed that the purpose of this permit is to allow Engineers Realty to fill in their landfill only, it does not allow sorting of any municipal waste.

In response to Councilor Bohlmann, Patrick Stojevich, Engineers Realty, said there are two separate permits issued at their site. He added that the permit being considered tonight deals with the demolition debris landfill that the company is currently filling and wants to complete and cap. He said their other permit is for their Twin Ports environmental building where they are authorized to sort separate demolition material and recyclable materials, and that neither permit authorizes mixed municipal solid waste. He said that Engineers Realty is in agreement with the resolution as amended except for paragraph (f) requiring monthly reports to the city engineer because the reports are very time consuming and the surveys required for the reports are very costly.

Councilor Atkins felt that Engineers Realty should not be required to provide monthly reports because the landfill will be closed in October and it must be capped at the level required by state law.

President Keenan said the monthly reports were strongly encouraged by planning staff in order to monitor the progress of the closure.

Councilor Atkins moved to amend the resolution to delete paragraph (f), which motion was not seconded.

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Councilor Hardesty said she supports monthly reports because Engineers Realty has failed to meet permit requirements in the past.

Resolution 95-1029, as amended, was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, Engineers Realty, Inc., has submitted to the city council a request for a special use permit for extension of select waste disposal landfill facility permit on property described as approximately six acres in part of SE $\frac{1}{4}$, Section 4, and part of the NE $\frac{1}{4}$, Section 9, Township 48, Range 15 and located at 1100 Gary Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Engineers Realty, Inc., to allow for the extension of the operation of a select waste disposal landfill facility at 1100 Gary Street, as identified as Public Document No. 95-1127-08, subject to the following conditions:

(a) A permit will be issued from this time until May 31, 1996, and after that time then extended on a month to month basis with the planning commission authorization of those permits to not later than October 31, 1996;

(b) That the applicant remain in perpetual compliance with presently approved excavation, removal or processing permit issued by the board of zoning appeals through the term of this special use permit;

(c) That the excavation and processing take place only in the specified area as shown on the approved plans;

(d) That upon the completion of the closure and capping of the facility, that the growth of vegetation shall be substantially underway before the completion of the project is certified by the planning commission to the MnPCA;

(e) That, in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit, or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of this permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(f) That Engineers Realty, Inc., beginning June 1, 1996, submit monthly to the city engineer a report from a registered engineer showing the current vertical and horizontal limits of the excavation in relation to the limits specified in the permit, including an updated map of the excavation area, with the understanding that city staff can inspect the site as need;

(g) That the applicant install and maintain fencing and "No Trespassing Signs" and "Danger Keep Out" signs around the perimeter of the excavation area or, in the alternative, around the property perimeter;

(h) That prior to the completion of closure, the MnPCA require an evaluation of the ground water to define the source or the area of origin of the identified pollutants that have clouded this location and this landfill operation. If this landfill is identified as the source of the pollution, that a remedial action plan be required prior to the release of any performance bond;

(i) That prior to the completion of closure the applicant resort to elevation 735-740 m.s.l., seed, mulch and maintain until the vegetation is established, the "pit" area that extends beyond

the east property line 1500 to 1750 feet south of the east quarter corner of Section 4. Also, that the northeasterly face of the fill that drains to this "pit" be stabilized, seeded and mulched;

(j) That no municipal solid waste shall be processed at the landfill facility owned by Engineers Realty, Inc., as described in this permit.

Resolution 95-1029, as amended, was adopted upon the following vote:

Yeas: Councilors Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Atkins -- 1

Approved November 27, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following, on file in the city clerk's office as Public Document No. 95-1120-06(b), be and the same is hereby confirmed:

sanitary sewer and water main in Kennebec Avenue from Baylis Street northerly, Contract Nos. 5276 and 1194091; sanitary sewer in Olney Alley from 63rd Avenue West to 250 feet westerly, Contract No. 5273; and gas main in Cherie Lane from 180 to 270 feet east of Woodbury Lane, Contract No. 1194052.

Resolution 95-1032 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 1996, subject to departmental approvals:

Lucky Break, Inc. (Mr. Lucky's Bar & Billiards), 610 East Fourth Street, with Elfriede M. Fredrickson, CEO and 80 shares, Darrel L. Fredrickson, CFO and 20 shares, and Gary Curtis Backstrom, secretary and 99 shares.

Resolution 95-1025 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of janitor II, which were approved by the civil service board on November 8, 1995, and which are filed with the city clerk as Public Document No. 95-1127-05, are approved.

Resolution 95-1037 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

SISTER CITY COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Gale G. Kerns for a term expiring March 30, 1997, replacing Frank Jewell who resigned.
Resolution 95-1041 was unanimously adopted.
Approved November 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

BE IT RESOLVED, by the city of Duluth that the Miller Creek task force is hereby designated as the project representative for the proposed Clean Water Partnership Phase I resource investigation grant for the Miller Creek restoration project.

FURTHER RESOLVED, that the Miller Creek task force shall have the authority to represent the city of Duluth in all matters that do not specifically require action by the city of Duluth.

FURTHER RESOLVED, that the Miller Creek task force is hereby authorized to submit to the Minnesota pollution control agency a Clean Water Partnership Phase I resource investigation grant application for the Miller Creek restoration project.

FURTHER RESOLVED, that the city of Duluth would be responsible for the total project costs, with the assistance from any contributing sponsors as detailed in Part V of the aforesaid application.

FURTHER RESOLVED, that if the aforesaid grant is awarded, the 50 percent local match for the total project costs shall be paid from the Kohl's Miller Creek restoration fund.

Resolution 95-1031 was unanimously adopted.

Approved November 27, 1995

YVONNE M. PRETTNER, Acting Mayor

- - -

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth, Minnesota, hereinafter referred to as the "city," as authorized by Resolution 93-0800, passed on October 4, 1993, entered into an agreement with North Star Community Development Corporation (NSCDC), Inc., Duluth, Minnesota, hereinafter referred to as the "agency," whereby the agency agreed to operate and administer the HUD-funded NSCDC revolving loan fund project to be paid for out of 1992 Federal Program Fund 262 - community development - NSCDC project, Account Number 6811; and

WHEREAS, Amendment No. 1 to the agreement was authorized by city council Resolution 94-1066, passed on December 19, 1994; and

WHEREAS, both parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 2 (on file with the city clerk as Public Document No. 95-1127-06, to the HUD-funded NSCDC revolving loan fund program agreement which extends said agreement to the 30th day of June, 1997.

Resolution 95-1034 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. C-17416 with Blesener Dahlberg Architects, in an amount of \$7,000, from Capital Fund 450, Object C422, for providing certain additional architectural services to the city of Duluth in connection with Leif Erikson/London Road business district revitalization (Phase I), said services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1127-07.

Resolution 95-1039 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DAHLBERG:

RESOLVED, that Thompson Electric of Duluth, Inc., be and hereby is awarded a contract for electrical installation of a CNG station for the water and gas department in accordance with specifications on its low specification bid of \$5,766, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 95-1035 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering electronic parking meters and electronic parking meter mechanism for the traffic operations division in accordance with specifications on its low specification bid of \$54,801.70 including taxes, terms net 30, FOB destination, \$39,614.37 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2145, Object 5530 and \$15,187.33 reimbursable out of DEDA Capital Projects Fund 865, Dept./Agency 860, Organization 2001, Object 5530.

Resolution 95-1020 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the city of Duluth enter into a sub-grant agreement with the division of emergency management in the Minnesota department of public safety for the program entitled Infrastructure Program for FEMA 1064-DR-MINNESOTA; Gary L. Doty, mayor, and Jeffrey J. Cox, clerk, are hereby authorized to execute and sign such sub-grant agreements and amendments as are necessary to implement the project on behalf of the city of Duluth.

Resolution 95-1026 was unanimously adopted.

Approved November 27, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has entered into an agreement with the state of Minnesota department of transportation designating the commissioner of transportation to act as agent for the city of Duluth for the purpose of accepting a contract for the improvement of Elysian Avenue from Anoka Street to Winona Street; Oneida Street from 52nd Avenue East to 54th Avenue East; and 51st Avenue East from London Road to Superior Street (S.P. 118-080-15, Minn. Proj. No. IX DULT (021), City Job Nos. 8826FA93, 8822FA93, 8825FA93).

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth recommends acceptance by the commissioner of transportation of the state of Minnesota department of transportation of the following bid:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

S.P. No. 118-080-15 Improvement of Elysian Avenue, Oneida Street and
Minn. Proj. No. IX DULT (021) 51st Avenue East
\$524,965.25 Utility Systems of America
Resolution 95-1042 was unanimously adopted.
Approved November 27, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby established:

- one stall in front of 121 North Ninth Avenue East;
- one stall in front of 4024 West Sixth Street;
- two stalls in front of 1711 Greysolon Road (St. Paul's Episcopal Church);
- one stall on side of 2431 West Third Street (Zion Lutheran Church).

Resolution 95-1033 was unanimously adopted.
Approved November 27, 1995
GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 8:30 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

At this time, 7:00 p.m., President Keenan called the public hearing regarding the 1996 budget to order (Public Document No. 95-1204-04).

- - -

At this time, 7:30 p.m., President Keenan declared the hearing closed and the council meeting was called to order.

- - -

Duluth City Council meeting held on Monday, December 4, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Wheeler and President Keenan -- 9

Absent: Councilor Talarico -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1204-01 The following submitting letters regarding 1996 property taxes: (a) Axel and Hilda Anderson; (b) Donald and Patricia Breiland; (c) Richard Dietzmann and Melody Matteen; (d) Tom Johns; (e) Joyce E. Ostman; (f) Mark A. Reynolds. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1204-02 Duluth airport authority: (a) Balance sheets of: (1) August 31; (2) September 30; (3) October 31, 1995; (b) Minutes of October 17, 1995 meeting. -- Received

- - -

RESOLUTION TABLED

Councilor Downs moved to remove from the table Resolution 95-0899, approving the transfer of the on sale intoxicating liquor license and on sale Sunday license of Rockridge Development Corporation (The Tap Room), 600 East Superior Street, transferred to MCS Acquisition, Inc. (The Tap Room), same address, which motion was seconded and unanimously carried.

Resolution 95-0899 was adopted as follows:

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license, for the period ending August 31, 1996, subject to departmental approvals, and the payment of sales and property taxes:

MCS Acquisition, Inc. (The Tap Room), 600 East Superior Street, transferred from Rockridge Development Corporation (The Tap Room), same address, with John E. Bonneville, 51 percent stockholder, and Donovan Schwarzkopf, 49 percent stockholder.

Resolution 95-0899 was unanimously adopted.

Approved December 4, 1995

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR DOWNS:

RESOLVED, that Moore Business Equipment be and hereby is awarded a contract for furnishing and delivering a form detacher (burster) for the data processing division in accordance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

with specifications on its low specification bid of \$11,026.99, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B507.

Resolution 95-1047 was unanimously adopted.
Approved December 4, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby confirmed:

DULUTH PUBLIC ARTS COMMISSION

Ann Klefstad for a term expiring September 30, 1996, replacing Cheryl Fosdick who resigned.

Resolution 95-1048 was unanimously adopted.
Approved December 4, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, substantially in the form of the copy of which is on file in the office of the city clerk as Public Document No. 95-1204-03, to transfer from the county letter of credit to the city letter of credit those community development block grant (CDBG) monies which have been programmed for use but have not been expended by the city.

Resolution 95-1050 was unanimously adopted.
Approved December 4, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby establishes the following rates for season tickets for the use of municipal golf courses in 1996:

Unlimited season ticket

\$336.75	General admission
21.89	State tax
<u>3.36</u>	<u>City tax</u>
\$362.00	Total

Student season ticket

\$126.52	General admission
8.22	State tax
<u>1.26</u>	<u>City tax</u>
\$136.00	Total

7 day restricted season ticket

\$302.34	General admission
19.65	State tax
<u>3.01</u>	<u>City tax</u>
\$325.00	Total

Family season ticket

\$634.43	General admission
41.24	State tax
<u>6.33</u>	<u>City tax</u>
\$682.00	Total

5 day restricted season ticket

\$214.89	General admission
13.97	State tax
<u>2.14</u>	<u>City tax</u>

VIP season ticket

\$458.61	General admission
29.81	State tax
<u>4.58</u>	<u>City tax</u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$231.00 Total

\$493.00 Total

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

FURTHER RESOLVED, that all golf rates set in Resolution 94-1048 that are not amended in this resolution shall remain in force until amended by a subsequent city council resolution.

Resolution 95-1051 was unanimously adopted.

Approved December 4, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Resolution 95-0829 to Neumann Insulation Company, Inc., for insulation of steam line from CAB to old Washington School, be amended to increase the amount by \$6,408.72 for a new total of \$16,298.72, payable out of Steam Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 95-1049 was unanimously adopted.

Approved December 4, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-0990, by Councilor Talarico, authorizing the execution of a supplement to an agreement with Northland Estates, Inc., relating to street lighting operating costs, was introduced for discussion.

Councilor Hardesty moved to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HARDESTY:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for matching funds not to exceed 1/2 of the nonfederal share of construction costs for S.P. 118-080-16, Federal Project IX DULT (020); and

WHEREAS, the project has been approved by the arrowhead regional development commission for funding with interstate substitution funds; and

WHEREAS, the amount of the grant has been determined to be \$57,520.69.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby affirm that any construction costs qualified for Minnesota state transportation funds in excess of the grant will be appropriated for construction costs but not required, based on the final audit shall be returned to the Minnesota state transportation fund.

BE IT FURTHER RESOLVED, that whereas federal monies are being used to participate in the cost of the project, grant monies as matching funds shall be transferred directly to the agency and records of the city of Duluth shall so state.

Resolution 95-1043 was unanimously adopted.

Approved December 4, 1995

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

95-059 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1996.

- - -

BY COUNCILOR WHEELER

95-060 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1996 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR PRETTNER

95-061 - AN ORDINANCE PERTAINING TO ZONING REGULATIONS; REVISING OCCUPANCY REGULATIONS AND PARKING REGULATIONS AND PROVIDING FOR DAY CARE, RESIDENTIAL CARE AND ELDERLY CONGREGATE HOUSING; AMENDING SECTIONS 50-1, 50-20, 50-20.1, 50-20.2, 50-20.3, 50-20.4, 50-26, 50-30, 50-32.1, 50-32.2, 50-33, 50-35, 50-52, 50-56, 50-68, 50-72, 50-76, 50-115, 50-140, 50-141 AND 50-142, AND ADDING A NEW SECTION 50-26.1 TO THE DULUTH CITY CODE, 1995, AS AMENDED.

- - -

The meeting was adjourned at 7:40 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 11, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1211-03 Pilgrim Congregational Church, Peace & Justice Committee, submitting letter supporting the proposed human rights commission (95-065-O). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1211-02 Special assessment board: (a) Minutes of November 28, 1995 meeting; (b) Report, minutes, findings and recommendations regarding the proposed improvement of 11th Street Alley from Ninth to Tenth Avenue East; (c) Report, minutes, findings and recommendations regarding the proposed improvement of Fourth Street Alley from 24th to 25th Avenue East. -- Received

- - -

RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 95-0882(a), appointing two people to the Duluth community action program board, which motion was seconded and unanimously carried.

Councilor Bohlmann moved to divide the question to consider the appointment of Barbara Berg, who was interviewed, and to refer the other proposed appointee back to the administration because the individual did not appear for an interview, which motion was seconded and carried.

Resolution 95-0882(a) was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby appoints the following person to the Duluth community action program board:

Barbara E. Berg for a term expiring January 1, 1998, replacing Fletcher Hinds.

Resolution 95-0882(a) was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to refer Resolution 95-0882(b) to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Bohlmann moved to remove from the table Resolution 95-0977, confirming appointment of Roger Gunderson to Duluth transit authority replacing Mark Johns, which motion was seconded and unanimously carried.

Councilor Bohlmann noted that there was a very good interview with this individual and she recommended approval of his appointment.

Resolution 95-0977 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment by Mayor Doty be and the same is hereby

confirmed:

DULUTH TRANSIT AUTHORITY

Roger E. Gunderson for a term expiring June 30, 1998, replacing Mark Johns, who resigned.

Resolution 95-0977 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to remove from the table Resolution 95-0610, closing approximately 200 feet of 59th Avenue West immediately north of Waseca Street, which motion was seconded and unanimously carried.

Councilor Talarico moved to refer the resolution to the administration because this aspect was taken care of administratively, and therefore, does not need to be before the council, which motion was seconded and unanimously carried.

- - -

Councilor Talarico moved to remove from the table Resolution 95-0990, authorizing the execution of a supplement to an agreement with Northland Estates, Inc., relating to street lighting operating costs, which motion was seconded and unanimously carried.

Councilor Talarico stated that this resolution needs further administrative review and moved to refer it to the administration, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS

Resolution 95-1044, by Councilor Wheeler, approving the operation budget for the fiscal year January 1, 1996, to December 31, 1996, in the following amounts of \$1,540,371 for the Duluth airport authority; \$8,399,310 for the Duluth transit authority; and \$424,250 for the Duluth economic development authority, was introduced for discussion.

Councilor Wheeler moved to divide the question to consider the DEDA budget separately, which motion was seconded and unanimously carried.

Resolutions 95-1044(a) and 95-1044(b) were adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1996, to December 31, 1996, in the amounts of \$1,540,371 for the Duluth airport authority; and \$8,399,310 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authorities included in the resolution shall submit to the city council their respective proposed budgets in a prescribed format on or before September 1 of each year.

Resolution 95-1044(a) was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1996, to December 31, 1996, in the amount of \$424,250 for the Duluth economic development authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its respective proposed budget in a prescribed format on or before September 1 of each year.

Resolution 95-1044(b) was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Yeas: Councilors Atkins, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1
 Approved December 11, 1995
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1996, to December 31, 1996, for Duluth Steam District Number 2 in the amount of \$5,568,611 is hereby approved.

Resolution 95-1045 was unanimously adopted.

Approved December 11, 1995
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the 1996 tourism taxes of hotel-motel and food and beverage as estimated, be distributed in the following manner:

	3%	1%	1%	Add'l 2%		
	<u>Hotel-Motel</u>	<u>Hotel-Motel</u>		<u>Food & Bev</u>	<u>Hotel-Motel</u>	<u>TOTAL</u>
Duluth public arts commission				20,000	10,000	30,000
Sister cities				12,000	12,000	24,000
DECC	469,300					469,300
Convention and Visitors Bureau	252,700	52,800		335,400	69,100	710,000
Heritage and Arts Center		92,500		48,500	9,000	150,000
Spirit Mountain				35,000	35,000	70,000
Donations				20,000	20,000	40,000
Transfer to general fund	38,000	108,700		202,400	78,400	427,500
Transfer to debt service	_____	_____		<u>385,700</u>	<u>233,500</u>	<u>619,200</u>
	760,000	254,000		1,059,000	467,000	2,540,000

FURTHER RESOLVED, that the DECC allocation will be increased \$47,940 and Spirit Mountain increased \$13,621 for their 1996 cost allocation charges. The additional \$61,561 to be funded from prior year reserves (1995).

Resolution 95-1046 was unanimously adopted.

Approved December 11, 1995
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are hereby authorized to contract with David W. Griffiths and Associates, Inc., to conduct a feasibility study of consolidating the purchasing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

functions of the city, St. Louis County and ISD No. 709 at a cost of not to exceed \$9,250, which shall be paid from the General Fund 015-1511-5441 (budget/operations analysis).

Resolution 95-1000 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

RESOLVED, that A & E Business Products be and hereby is awarded a contract for furnishing and delivering 200 cases of copier paper for the various departments in accordance with specifications on its low specification bid of \$6,405.98, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS25.

Resolution 95-1052 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license, for the period ending August 31, 1996, subject to departmental approvals and the payment of sales and property taxes:

Holiday Inn of Tucumcari (Park Inn of Duluth), 250 Canal Park Drive, transferred from Red, Inc. (Park Inn International), same address, with Richard Sonntag, 86.977 percent stockholder, and Linda F. Sonntag, 13.023 percent stockholder.

Resolution 95-1067 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-1068, by Councilor Downs, issuing a temporary on sale intoxicating liquor license to ALS Association, a Minnesota Chapter, army national guard building, was introduced for discussion.

Councilor Downs moved to amend the third sentence after the words "approvals," to add the following: "and payment of a \$200 application fee," which motion was seconded and unanimously carried.

Resolution 95-1068, as amended, was adopted as follows:

BY COUNCILOR DOWNS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals and payment of a \$200 application fee:

ALS Association, a Minnesota Chapter (Eggebrecht ALS fundraiser), Army National Guard Building, 4015 Airpark Boulevard, for January 6, 1996, with David Kolquist, manager.

Resolution 95-1068, as amended, was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed specifications for the new civil service classification of writing specialist, which were approved by the civil service board on December 5, 1995, and which are

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

filed with the city clerk as Public Document No. 95-1211-01, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range and rates for said classification shall be 130, pay rate \$2,357 to \$2,794.

Resolution 95-1061 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

Resolution 95-1063, by Councilor Prettner, electing to be covered by amended Minn. Stat. §273.1399, Subdivision 6, was introduced for discussion.

Councilor Prettner reviewed the necessity of passing this resolution prior to the end of the year when the enabling legislation will expire to avoid a reduction in local government aid that the city receives.

To Councilor Bohlmann's questions, Administrative Assistant Nollenberger said that the purpose of this is so that the city's general fund does not incur any losses of state aid because of special service districts and that the funds of this would be covered by DEDA. Mr. Nollenberger reviewed that this new legislation is beneficial to the city at the "expense" of DEDA.

Councilor Atkins stated that while this is a good deal for the city, he questions whether the city would be responsible because of the use of funds from other districts and the issue of caps on tax increment financing on projects that may fail, as in the case of the Bayfront development district where funds from other districts are promised as collateral.

Resolution 95-1063 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, the city of Duluth is a political subdivision of the state of Minnesota, and the city council is the governing body of the municipality; and

WHEREAS, the 1995 Minnesota Legislature adopted an omnibus tax bill (Chapter 264) which bill contains a section relating to the LGA-HACA penalty, which section permits municipalities to be exempt from imposition of the LGA-HACA penalty if a municipality chooses to pay a local contribution for a portion of the tax increment district costs; and

WHEREAS, this amended section applies to tax increment districts for which certification was requested after June 30, 1994, and for which the tax increment financing plan was approved before July 1, 1995, if the governing body of the municipality elects, by resolution, to be covered by the section by no later than December 31, 1995; and

WHEREAS, the request for certification for Tax Increment District No. 17 was made October 4, 1994, and the tax increment financing plan was approved September 10, 1994.

NOW, THEREFORE, BE IT RESOLVED, that the city council, as governing body of the city of Duluth, elects to be covered by amended Minn. Stat. §273.1399, Subd.6, and seeks an exemption to the extent provided from the imposition of the LGA-HACA penalty for projects in Tax Increment District No. 17.

FURTHERMORE, RESOLVED, that the specific means of providing a qualifying local contribution as required by statute will be approved by the city council at the time financing of a project is undertaken within the district.

Resolution 95-1063 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan --

6

Nays: Councilors Atkins, Bohlmann and Hales -- 3

Approved December 11, 1995

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

- - -

BY PRESIDENT KEENAN:

RESOLVED, that Cushman Motor Company, Inc., be and hereby is awarded a contract for furnishing and delivering a riding rotary mower for the Lester Park golf course in accordance with specifications on its low specification bid of \$13,804.22, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E529.

Resolution 95-1036 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Arrowhead Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering 14,000 pounds of tripolyphosphate for the Duluth steam cooperative in accordance with specifications on its low specification bid of \$8,540, terms net 30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5216.

Resolution 95-1053 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Arrowhead Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering ten 55 gallon drums of cyclohexylamine for the Duluth steam cooperative in accordance with specifications on its low specification bid of \$6,231.85, terms net 30, FOB destination, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5216.

Resolution 95-1054 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that T.R. Star, Inc., be and hereby is awarded a contract for furnishing and delivering a computer software system designed to manage meter reading routes for the water and gas department in accordance with specifications on its low specification bid of \$40,416.75, terms net 30, FOB job site, \$20,208.37 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5200 and \$20,208.38 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5200.

Resolution 95-1058 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by resolution of intent numbered 95-0852 the council did request the administration to prepare plans and specifications for the permanent improvement including excavation, gravel base and a bituminous surface on Fourth Alley from 24th Avenue East to 25th Avenue East (City Job. No. 8928RS95); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the special assessment board has submitted its report to this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

council, pursuant to Section 45-79, Duluth City Code of 1959; and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$28,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5283, Object 5530, and reimbursed as follows: \$8,000 P.I. storm sewer share and \$20,000 assessable and that \$20,000 of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board, and which report is on file in the office of the city clerk as Public Document No. 95-1211-02, and which description is hereby incorporated herein by reference to said Public Document No. 95-1211-02; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter, and that said improvement is hereby ordered.

Resolution 95-1056 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 95-1057 was unanimously adopted.

Approved December 11, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for matching funds not to exceed 1/2 of the nonfederal share of construction costs for S.P. 118-080-15, Federal Project IX DULT (021); and

WHEREAS, the project has been approved by the Arrowhead Regional Development Commission for funding with interstate substitution funds; and

WHEREAS, the amount of the grant has been determined to be \$32,761.51.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby affirm that any construction costs qualified for Minnesota state transportation funds in excess of the grant will be appropriated for construction costs but not required, based on the final audit shall be returned to the Minnesota state transportation fund.

BE IT FURTHER RESOLVED, that whereas federal monies are being used to participate in the cost of the project, grant monies as matching funds shall be transferred directly to the agency account and records of the city of Duluth shall so state.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-1060 was unanimously adopted.
Approved December 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, pursuant to Sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purposes of recovering from users the cost of operation, maintenance (including replacement) and debt service of the city's wastewater facilities, and to recover Western Lake Superior Sanitary District wastewater facility user charges made to the city, there is established and shall be collected beginning with the meter readings made on January 2, 1996, and thereafter, a customer charge and user charges based upon the volume of waste water discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

Customer charge	\$5.06 per month
User charge - Class I	\$2.0652/ccf
User charge - Class II	\$2.8749/ccf
User charge - Class III	\$3.5855/ccf
Miles, Inc.	\$6.6207/ccf
Chroma	\$3.9471/ccf
Kemp	\$4.4469/ccf

RESOLVED FURTHER, that the rate regulations established and approved by Resolution 95-0040 are rescinded as of January 2, 1996.

Resolution 95-1065 was unanimously adopted.
Approved December 11, 1995
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

west side of Lincoln Park Drive from Third Street to 400 feet northerly.

BE IT FURTHER RESOLVED, that the following no parking 2 a.m. - 6 a.m. zone is hereby established:

east side of Lincoln Park Drive from Third Street to 400 feet northerly.

Resolution 95-1059 was unanimously adopted.
Approved December 11, 1995
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

95-063 - AN ORDINANCE AMENDING ORDINANCE NO. 9227 TO CHANGE THE 1995 CITY BUDGET.

- - -

BY COUNCILOR WHEELER

95-064 - ORDINANCE REPEALING ARTICLE II, DIVISION 9, OF CHAPTER 20 OF THE DULUTH CITY CODE RELATING TO THE COMMUNITY INVESTMENT TRUST FUND.

- - -

BY COUNCILOR PRETTNER

95-062 - AN ORDINANCE DESIGNATING THE FORMER LINCOLN LIBRARY BUILDING AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

BY PRESIDENT KEENAN

95-065 - AN ORDINANCE ESTABLISHING A HUMAN RIGHTS COMMISSION IN THE CITY OF DULUTH; ADDING AN ARTICLE XXIV TO CHAPTER 2, DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

95-059 (9282) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1996.

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

- - -

BY COUNCILOR WHEELER

95-060 (9283) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1996 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Wheeler moved to amend the ordinance by increasing the planning division appropriation by \$25,000, thus changing it from "\$350,500" to "\$375,500," which in turn would raise the departmental appropriation from "\$826,800" to "\$851,800." Councilor Wheeler reviewed that this will provide additional funding for a comprehensive land use plan, which motion was seconded.

Councilor Prettner stated that she supports the need for this, but not at this time, and that the council has made promises to have a youth center position filled if funds are available. She continued that county cuts, problems with nutrition programs, and other factors will affect the availability of funds. She added that the planning division isn't adequately staffed at this time to accomplish this task.

Councilor Wheeler said that the city council has spent a large amount of time on planning issues. He continued to explain that after a recent development issue, the council voted unanimously to put together a cleaner and more straightforward development plan. Councilor Wheeler noted that staff and the planning commission spend a lot of time on development issues and the sooner this comprehensive planning gets done, the easier it will be for all, and that there is a high dividend early on in this process.

Councilor Atkins supported the amendment and felt the council should not quibble about a small amount of money, compared to what is in the total budget, and that there is a need to inform developers how to get from point A to point B.

Councilor Hales and Councilor Downs reviewed that the public has strongly requested priority to park planning. They noted that there will be a need for additional dollars for additional staffing to have this land use study done, noting that the planning department will be working on the park planning and will be using their staff for that priority.

Councilor Wheeler stated that when the council did budget planning earlier in the year, the land use plan was in the top ten on the priority list and that the administration has the responsibility to figure out what dollars to adjust to cover this expenditure.

The rules were suspended upon a unanimous vote to hear speakers on the ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Ken Hogg voiced his support for Councilor Wheeler's amendment. He reviewed the history of development battles that lay around for many years, and urged the administration and council to find some way to start on this and that it not be a funding of one project or the other.

Councilor Hardesty said that she supports the priority of a youth coordinator, but would also support the concept of the need for land use planning, but not with the dollars that are available this year.

Councilor Wheeler's amendment failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Hales and Wheeler -- 4

Nays: Councilors Downs, Hardesty, Prettner, Talarico and President Keenan -- 5

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

- - -

BY COUNCILOR PRETTNER

96-061 (9284) - AN ORDINANCE PERTAINING TO ZONING REGULATIONS; REVISING OCCUPANCY REGULATIONS AND PARKING REGULATIONS AND PROVIDING FOR DAY CARE, RESIDENTIAL CARE AND ELDERLY CONGREGATE HOUSING; AMENDING SECTIONS 50-1, 50-20, 50-20.1, 50-20.2, 50-20.3, 50-20.4, 50-26, 50-30, 50-32.1, 50-32.2, 50-33, 50-35, 50-52, 50-56, 50-68, 50-72, 50-76, 50-115, 50-140, 50-141 AND 50-142, AND ADDING A NEW SECTION 50-26.1 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Prettner moved to amend the ordinance as follows:

(a) In Section 50-32.2:

(1) In the third sentence, after the words "Notice of the public hearing shall be published and mailed to all property owners" add the phrase "within 350 feet of the subject property at least";

(2) In the fourth sentence, after the words "subject property boundary" add the words "or any defect in the notice"; and at the end of that sentence add "provided that a bona fide attempt to comply with this Section has been made. In its report, the planning commission may recommend that the applicant be required to furnish a performance bond guaranteeing that all conditions of the special use permit be recommended are met";

(b) In Section 50-140, paragraph (a), sixth sentence, after the words, "Failure to give said notice" insert the words "to all individual property owners or any defect in the notice" and at the end of the same sentence after the words "city council" add the words "provided that a bona fide attempt to comply with this Section has been made";

(c) In Section 50-140, paragraph (b), in the second to last sentence, after the words "necessary public" insert the words "and/or private."

Councilor Prettner's amendments were seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

Councilor Prettner moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Downs -- 1

- - -

The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9282

BY COUNCILOR WHEELER:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1996.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 1996 is hereby determined to be the sum of \$7,910,691, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, set forth in the following sections, via:

Section 2. There will be levied for the support of the general fund the sum of - - - - -
----- 5,103,991

Section 3. For the payment of interest on debt, there will be levied for the interest fund the sum of - - - - -
----- 189,100

Section 4. For the payment of principal on debt, there will be levied for the sinking fund the sum of - - - - -
----- 1,244,100

Section 5. For the payment of interest and principal on the transit bonds, there will be levied for the transit bond fund the sum of - - - - -
----- 74,100

Section 6. 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 - - - - -
----- 232,100

Section 7. That pursuant to Minnesota Statutes, Section 469.053, Subd. 4, there will be levied for the purpose of providing funds for the Seaway Port authority fund of the city of Duluth, the sum of - - - - -
----- 146,400

Section 8. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of - - - - -
----- 920,900

Section 9. That this ordinance shall take effect immediately upon passage and approval. (Effective date: December 11, 1995)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed December 11, 1995
Approved December 11, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9283

BY COUNCILOR WHEELER:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1996 APPROPRIATING 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, 1996, the city council hereby budgets, deter-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

mines 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 director of administrative services.

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 item upon approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$1,455,000 from the public utility fund to the general fund for administrative services; comprised of \$1,390,000 or five percent of the gross revenues of the gas utilities, from the public utility fund, gas division, to the general fund; and \$65,000 from public utility fund, steam division, to the general fund.

Section 3. That the mayor, the administrative assistant or the director of administrative services may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year 1996. 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 this 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 010 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 in the sewer division, and 540 in the steam 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 finance director, or his designee, 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 1996.

010 - LEGISLATIVE AND EXECUTIVE

1101	City council - total	\$ 138,500
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1102	Mayor's office - total	150,600
1103	Administrative assistant - total	176,100
1104	Attorney's office - total	904,300
	Total legislative and executive	<u>\$ 1,369,500</u>

015 - ADMINISTRATION

1510	Administrative services - total	\$ 1,107,200
1511	Budget - total	191,400
1512	City clerk - total	580,000
1513	Data/word processing - total	963,500
1514	Other functions	1,048,800
	Total administration department	<u>\$ 3,890,900</u>

020 - PLANNING AND DEVELOPMENT DEPARTMENT

1200	Planning - total	\$ 350,500
1202	Business development - total	476,300
	Total planning department	<u>\$ 826,800</u>

030 - FINANCE

1321	Director's office - total	\$ 126,700
1322	City assessor's office - total	558,300
1324	City auditor's office - total	1,292,400
1325	Purchasing office - total	245,100
1327	City treasurer's office - total	348,100
	Total finance and records	<u>\$ 2,570,600</u>

100 - FIRE DEPARTMENT

1501	Fire administration - total	\$ 322,100
1502	Firefighting operations - total	10,043,400
1503	Fire prevention and training - total	511,000
1504	Building inspection - total	1,036,700
	Total fire department	<u>\$ 11,913,200</u>

200 - POLICE DEPARTMENT

1610	Administration - total	\$ 1,475,300
1620	Operations - total	6,086,800
1630	Support services - total	2,616,700
	Total police department	<u>\$ 10,178,800</u>

300 - LIBRARY

1701	Director's office - total	\$ 483,600
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

1702	Library services - total	2,396,400
1703	Buildings and equipment - total	251,700
	Total library	<u>\$ 3,131,700</u>

400 - PARKS AND RECREATION

1810	Director's office - total	\$ 273,000
1812	Recreation and senior services - total	842,700
	Total parks and recreation	<u>\$ 1,115,700</u>

500 - PUBLIC WORKS

1910	Director's office - total	\$ 332,500
1920	Maintenance - total	5,243,600
1925	Bridges - total	552,500
1930	Engineering services - total	2,148,100
1950	Property management - total	3,159,300
	Total public works	<u>\$ 11,436,000</u>

700 - TRANSFERS

Total transfers	\$ 4,780,978
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PUBLIC ENTERPRISE

503	Golf fund - total	\$ 1,404,000
504	Zoo fund - total	1,463,100

PUBLIC UTILITIES

510	Water fund - total	\$ 8,026,700
520	Gas fund - total	26,161,500
530	Sewer fund - total	13,022,064
540	Steam fund - total	3,457,960

Section 8. That the administrative services director shall provide the council with monthly budget reports and 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 this ordinance shall take effect January 1, 1996.

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed December 11, 1995

ATTEST:
JEFFREY J. COX, City Clerk

Approved December 11, 1995
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9284

BY COUNCILOR PRETTNER:

AN ORDINANCE PERTAINING TO ZONING REGULATIONS; REVISING OCCUPANCY REGULATIONS AND PARKING REGULATIONS AND PROVIDING FOR DAY CARE, RESIDENTIAL CARE AND ELDERLY CONGREGATE HOUSING; AMENDING SECTIONS 50-1, 50-20, 50-20.1, 50-20.2, 50-20.3, 50-20.4, 50-26, 50-30, 50-32.1, 50-32.2, 50-33, 50-35, 50-52, 50-56, 50-68, 50-72, 50-76, 50-115, 50-140, 50-141 AND 50-142, AND ADDING A NEW SECTION 50-26.1 TO THE DULUTH CITY CODE, 1995, AS AMENDED.

The city of Duluth does ordain:

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

Sec. 50-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by the following Sections.

Section 2. That each of the definitions listed in Section 50-1 be retitled to provide a separate ordinance section for each definition and further that the definitions be renumbered, alphabetized and amended as set forth in this Section:

Sec. 50-1.1. Accessory building or use.

A building or use subordinate in use, area or purpose to the principal building or use on the same lot and serving a purpose naturally and normally incidental to such principal building or use. Where an accessory building is attached to the principal building in a substantial manner by a wall or roof, it shall be considered part of the principal building.

Sec. 50-1.2. Alley.

A public thoroughfare less than 30 feet in width.

Sec. 50-1.3. Alley line.

The established side line of an alley easement.

Sec. 50-1.4. Apartment.

A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family.

Sec. 50-1.5. Apartment hotel.

A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and news stands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Sec. 50-1.6. Basement.

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than five feet of its height below the ceiling is above the grade of the adjoining ground.

Sec. 50-1.7. Bed and breakfast homestay.

A building designed as a single family dwelling containing no more than five habitable units providing lodging accommodations by prior arrangements, for compensa-

tion. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Sec. 50-1.8. Bed and breakfast inn.

A building designed as a single family dwelling containing habitable units providing lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public.

Sec. 50-1.9. Building.

Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Sec. 50-1.10. Building, height of.

The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

Sec. 50-1.11. Clinic.

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or physicians and dentists in practice together.

Sec. 50-1.12. Club.

A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Sec. 50-1.13. Composting.

The controlled microbial degradation of organic waste to yield a humus like product.

Sec. 50-1.14. Construction debris.

Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Sec. 50-1.15. Day care facility.

A licensed private or public establishment, which, for gain or otherwise, regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, in a place other than the dependent's domicile.

Sec. 50-1.16. Demolition debris.

Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Sec. 50-1.17. District.

Any section of the city within which the zoning regulations are uniform.

Sec. 50-1.18. Dwelling.

Any building or portion thereof which is designed for or used for residential purposes.

Sec. 50-1.19. Dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only; occupied by the owner or by another family for periods of occupancy exceeding one week, and which is physically separated from any other habitable unit that may be located in the same building.

Sec. 50-1.20. Dwelling, one-family.

A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point, and placed on a permanent foundation which complies with the Minnesota State Building Code.

Sec. 50-1.21. Dwelling, two-family.

A building containing two dwelling units designed for exclusive occupancy by two families and occupied by two families.

Sec. 50-1.22. Dwelling, group.

One or more buildings containing dwelling units and arranged around two or three sides of a court which opens onto a street or place.

Sec. 50-1.23. Dwelling, multiple-family.

A building containing three or more dwelling units.

Sec. 50-1.24. Dwelling, townhouse.

A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Sec. 50-1.25. Efficiency dwelling unit.

A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Sec. 50-1.26. Elderly person.

An individual, married or single, 62 years of age or more.

Sec. 50-1.27. Elderly congregate housing.

A building used exclusively as a residential rooming house for occupancy by elderly persons.

Sec. 50-1.28. Family.

One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.

Sec. 50-1.29. Filling station.

Any building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting.

Sec. 50-1.30. Frontage.

All the property on one side of a street between two streets which intersect such street (crossing or terminating), measured along the line of the street, or if the street is deadened, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

Sec. 50-1.31. Garage, private.

An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, which vehicle shall not exceed a two ton capacity.

Sec. 50-1.32. Garage, public.

A building or portion thereof, other than a private storage or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

Sec. 50-1.33. Garage, storage or parking.

A building or portion thereof designed or used exclusively for storage of motor driven vehicles, and within which motor fuels and oils may be sold, but no vehicles are equipped, repaired, hired or sold.

Sec. 50-1.34. Grade.

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(b) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

(c) For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

Sec. 50-1.35. Habitable room.

Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

Sec. 50-1.36. Habitable unit.

Any habitable room or group of habitable rooms which provide sleeping facilities alone or in combination with required cooking, eating or living facilities.

Sec. 50-1.37. Hazardous waste.

Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid or contained gaseous form which because of its quality, concentration, or chemical, physical, or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Sec. 50-1.38. Home occupation.

Any uses customarily incidental and subordinate to the principal residential use conducted within a dwelling and not in any accessory building, provided that no retail business of any sort is involved; no stock in trade is kept or commodities sold, except such as are made on the premises; no person not a member of the family residing on the premises is employed therein; no mechanical equipment is used except such as is

permissible for purely domestic or household purposes; and not more than 1/4 of the floor area of one story of the dwelling is devoted to such home occupation. Provided, however, that such home occupation shall not require internal or external alterations, or involve special construction or features; that the occupation shall be conducted entirely within the dwelling; that the entrance to the space devoted to such occupation be from within the building with no separate exterior entrance; and that no display pertaining to such occupation be visible from the street; and provided further, that only one sign or device not exceeding one square foot in area which may contain the name and title only shall be permitted in connection with each such home occupation and shall be attached to the dwelling and not illuminated. No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television. In particular, a home occupation includes the following: artist's studio; dressmaking; office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with musical instruction limited to not more than two pupils at the same time. However, a home occupation shall not be interpreted to include barbershops, beauty parlors, tourist homes, restaurants or tea rooms.

Sec. 50-1.39. Hotel or motel.

A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation for periods of less than a week.

Sec. 50-1.40. Landscape plan.

An accurate scale drawing which indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development. The landscape plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location and size of all existing and proposed buildings and other structures; walls and fences; existing coniferous trees having a height of eight feet or greater and existing deciduous trees having a trunk diameter of more than four inches, provided that boundaries for areas containing groups of such trees may be delineated as "prime tree stands" without identifying individual trees if the species and average tree size within such areas is indicated, and if there will be no construction of buildings or roadways within such areas; marshes, swamps and other wetlands; rock outcrops and severe slopes of 25 percent or greater; floodplains; the location, size and specific type of all proposed landscaping material; existing and proposed drainageways; existing and proposed contours at an interval of not less than two feet; vehicular, pedestrian and service access, including parking areas; areas to be conveyed, dedicated or reserved as common open areas, including public parks and recreational areas; drainage improvements such as culverts, retention/detention basins, major drainage swales and stormwater pipes in excess of six inches; north arrow; scale; title; and date.

Sec. 50-1.41. Laundromat.

An establishment providing hometype washing, drying or ironing machines for use on the premises.

Sec. 50-1.42. Loading space.

A space within the main building or on the same lot therewith, providing for the off street standing, loading or unloading of trucks and trailers.

Sec. 50-1.43. Lot.

Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required herein, and having its principal frontage upon a street or upon an officially approved place.

Sec. 50-1.44. Lot frontage.

Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

Sec. 50-1.45. Lot, corner.

A lot abutting upon two or more streets at their intersection.

Sec. 50-1.46. Lot, double frontage.

A lot having a frontage on two streets as distinguished from a corner lot.

Sec. 50-1.47. Lot of record.

A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of St. Louis County or a parcel of land described by metes and bounds the description of which has been recorded in the office of the register of deeds of St. Louis County or of the county auditor.

Sec. 50-1.48. Nonconforming use.

Any building or land lawfully occupied by a use at the time of passage of this Chapter or amendment thereto which does not conform after the passage of this Chapter or amendment thereto with the use regulations of the district in which it is situated.

Sec. 50-1.49. Nursing, rest or convalescent facilities.

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Sec. 50-1.50. Parking area.

An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

Sec. 50-1.51. Parking lot.

An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented or sold.

Sec. 50-1.52. Parking space.

A surfaced area, enclosed or unenclosed, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

Sec. 50-1.53. Petroleum soil treatment.

The storage and placement of petroleum contaminated soil on or into the soil surface, by methods such as land treatment (soil farming), composting or aerobic treatment cells for the purpose of biodegradation treatment of organic waste components. Terms herein shall have the meanings as defined in state of Minnesota rules on petroleum contaminated soil.

Sec. 50-1.54. Place.

An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

Sec. 50-1.55. Power transmission line.

A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

Sec. 50-1.56. Premises.

A lot, together with all buildings and structures existing thereon.

Sec. 50-1.57. Residential care facility.

A public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with 24 hour a day care, food, lodging, training, education, supervision, rehabilitation and treatment.

Sec. 50-1.58. Rooming house, commercial.

A building containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis.

Sec. 50-1.59. Rooming house, residential.

A building designed as a single family dwelling containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis.

Sec. 50-1.60. Site plan.

An accurate scale drawing which indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development. The site plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location, size and floor elevation of all existing and proposed buildings and other structures; walls and fences; outdoor storage, yards and space between buildings; vehicular, pedestrian and service access, including curb cuts; stormwater drainage directions; off street parking and loading areas, including the location and type of curbs, number of parking spaces and dimensions; signs and lighting, including location, size, height and method of illumination; relationship to buildings on adjacent properties; street names, including adjacent streets; street dedications and improvements; utility and other easements; waste disposal facilities; the existing and intended use of each building or part of a building; total acreage of the site; north arrow; scale; title; and date.

Sec. 50-1.61. Solid waste.

Has the meaning given it in Minnesota Statutes, Section 116.06, Subdivision 22.

Sec. 50-1.62. Solid waste disposal facility.

Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

Sec. 50-1.63. Solid waste facility.

A waste facility permitted by the city of Duluth, the Western Lake Superior Sanitary District and the state of Minnesota that is designed or operated for the purpose of

disposing of solid waste on or in the land, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility.

Sec. 50-1.64. Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Sec. 50-1.65. Story, half.

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Sec. 50-1.66. Street.

A thoroughfare 30 or more feet in width, dedicated to the public or privately owned and approved by the city council.

Sec. 50-1.67. Street line.

The established side line of a street easement or right-of-way.

Sec. 50-1.68. Structure.

Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground, including but without limiting the generality of the foregoing, backstops for tennis courts, fences or pergolas, but excluding signs as defined in Chapter 44 of this Code.

Sec. 50-1.69. Structural alterations.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Sec. 50-1.70. Tourist home.

A dwelling in which accommodations are provided or offered for one or more, but not exceeding ten, transient guests for compensation.

Sec. 50-1.71. Trailer.

Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels and/or axles have been removed.

Sec. 50-1.72. Trailer camp.

Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer camp and its facilities or not. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

Sec. 50-1.73. Truck.

Every motor vehicle designed, used or maintained primarily for the transportation of property.

Sec. 50-1.74. Useable open space.

Open space, other than required building setback areas, which is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive

recreational purposes such as pedestrian walkways or trails which have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if such buildings or other facilities are used for noncommercial, recreational or cultural purposes which are compatible with useable open space objectives and have been specifically approved as part of the development plan.

Sec. 50-1.75. Wind energy conversion systems (WECS).

An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill or wind turbine.

Sec. 50-1.76. Yard.

An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Sec. 50-1.77. Yard, front.

A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in Subsection (c) of Section 50-22. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where lines are equal, the front yard shall be the line which is the front by reason of the established pattern of the platting or development along the street(s) and/or avenue.

Sec. 50-1.78. Yard, rear.

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches and the rear lot line. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

Sec. 50-1.79. Yard, side.

A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

Sec. 50-1.80. Yard waste.

The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

Sec. 50-1.81. Yard waste compost facility.

A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product and residual resulting from the composting process.

Section 3. That Section 50-20 and the table comprising Sections 50-20.1 through 50-20.4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-20. Generally.

The height and area requirements for the districts regulated by this Chapter shall be those set out in the following schedule:

	Minimum lot area per family		Minimum lot frontage (in ft.)		Minimum depth front yd. (in ft.)	either side yard (in ft.)	Minimum width of aggregates of side yds. (in ft.)	Minimum depth of rear yard (in ft.)	Maximum height of buildings ft.
	1* sewered areas	2* unsewered areas	1* sewered areas	2* unsewered areas					
Sec. 50-20.1.									
"S"	Suburban	5 acres (see Sec. 50-20.12)	250		60	25	50	50	30
"R-1-a"	1 Family residential	14,000 sq. ft.	75	200	35	8	18	25	30
	2 Family residential	10,500 sq. ft.	120	200	35	10	20	25	30
"R-1-b"	1 Family residential	1F., 7,000 sq. ft.	50	200	30	6	14	25	30
		2F., 6,000 sq. ft.	90	200	30	8	18	25	30
"R-1-c"	1 Family residential	1F., 5,000 sq. ft.	50	200	25	6	14	25	30
		2F., 4,500 sq. ft.	75	200	25	8	18	25	30
Sec. 50-20.2.									
"R-2"	2 Family residential	1F., 5,000 sq. ft.	50		25	6	14	25	30
		2F., 3,000 sq. ft.	50		25	6	14	25	30
	Townhouse dwelling	2,500 sq. ft.	70		25	10	22	25	30
"R-3"	Apartment residential	1F., 5,000 sq. ft.	50		(see Sec. 50-20.9)	7 (see Sec. 50-20.5)	15 (see Sec. 50-20.5)	(see Sec. 50-20.9)	
		2F., 2,500 sq. ft.	50						
		M.F., 1,500 sq. ft.	50						
		(see Sec. 50-20.11)							
	Townhouse dwelling	2,200 sq. ft.	50						
"R-4"	Apartment residential	1F., 5,000 sq. ft.	50		(see Sec. 50-20.9)	(see Sec. 50-20.13)		(see Sec. 50-20.9)	120 (see Sec. 50-20.14)
		2F., 2,500 sq. ft.	50						
		M.F., 500 sq. ft.	50						
		(see Sec. 50-20.11)							
	Efficiency dwelling unit	380 sq. ft.	50						
	Townhouse dwelling	2,200 sq. ft.	50						
Sec. 50-20.3.									
"C-1"	Commercial	see Art. XIV	2 Ac	200	25	none	---	25	35
"C-2"	Highway commercial	see Art. XV	2 Ac	200	25	(see Sec. 50-20.6) none	---	25	45
"C-3"	Shopping center	see special regulations as contained in Art. XVI				(see Sec. 59-20.6)			
"C-4"	Business center commercial	see Art. XVII				none	---	none	see Art. XVII
"C-5"	Planned commercial	see special regulations in Art. XXIII	25		see Art. XXII	see Art. XXIII	see Art. XXIII	(see Sec. 50-20.7) see Art. XXIII	see Art. XXIII
Sec. 50-20.4.									
"M-1"	Manufacturing	see Art. XVIII			25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
"M-2"	Manufacturing				25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
"W-1"	Waterfront				25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
"I-P"	Industrial park	see special regulations in Art. XXII	see Art. XXII		see Art. XXII	see Art. XXII	see Art. XXII	see Art. XXII	see Art. XXII

*1 For parcels which are served with municipal public sewer service.
*2 For parcels which are not served with municipal public sewer service.

Section 4. That Section 50-26 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-26. Required parking spaces.

In all districts except the "C-3" shopping center, the "C-4" center commercial, and "IP" industrial park districts, there shall be provided, at the time any building or structure is erected or structurally altered, except as provided in Section 50-27, off street parking spaces in accordance with the following requirements:

(a) Bed and breakfast homestay: Two parking spaces for the primary dwelling unit plus one space for each additional habitable unit, plus one parking space for each two seats in the dining area in excess of two seats per habitable unit;

(b) Bed and breakfast inn: Two parking spaces for the primary dwelling unit plus one space for each habitable unit, plus one parking space for each two seats in the dining area in excess of two seats per habitable unit, plus one parking space per employee on the largest shift;

(c) Bowling alley: Five parking spaces for each alley;

(d) Business, professional or public office building, studio, bank or dental clinic: Three parking spaces plus one additional parking space for each 400 square feet of floor area over 1,000;

(e) Church or temple: One parking space for each eight seats in the main auditorium;

(f) College or high school: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater;

(g) Community center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet;

(h) Dance hall, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used therefor;

(i) Day care facility: Two parking spaces plus one parking space per employee on the largest shift;

(j) Dwellings three stories or less: One parking space for each dwelling unit. Whenever a two-family dwelling is permitted in a "R-1-a," "R-1-b" or "R-1-c" residential zone at least one of the required parking spaces shall be within a private garage located on the same lot as the dwelling;

(k) Elderly congregate housing: Two parking spaces per three habitable units;

(l) Fraternity or sorority: One parking space for each six beds;

(m) Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces, plus one additional parking space for each 300 square feet of floor area over 1,000;

(n) Golf club: One parking space for every 400 square feet of clubhouse area;

(o) Medical related facilities:

(1) Medical clinic: Five spaces per 1,000 square feet of gross floor area used for administrative, office, examination and treatment;

(2) General hospital: One space for each bed plus one space for each employee normally present on any single weekday shift;

(3) Nursing facilities: A minimum of one space for every four beds;

(4) Outpatient facilities: Two spaces for each examination and each treatment room, plus one space for each employee normally present on a weekday shift;

(p) Hotel or motel: One parking space for each habitable unit, plus one space per employee working on the largest shift, plus one parking space for each 200 square feet of commercial nonlodging floor area contained therein;

(q) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment: One parking space for each two employees on the maximum working shift, but no less than one space for every 1,000 square feet of floor area;

(r) Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms;

(s) Multiple dwelling over three stories or apartment hotel: Two parking spaces for each three dwelling units or suites;

(t) Private club or lodge: One parking space for every 400 square feet of floor area;

(u) Residential care facility: Two parking spaces plus one parking space per employee on the largest shift;

(v) Restaurant, night club, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of floor area;

(w) Retail store, billiard parlor or personal service establishment, except as otherwise specified herein: One parking space for each 200 square feet of floor area;

(x) Rooming house, commercial: One parking space for each two habitable rooms;

(y) Rooming house, residential: Two parking spaces per three habitable units;

(z) Sanatorium, convalescent home, home for the aged or similar institutions: One parking space for each six beds;

(aa) Seasonal camp or cabin: One parking space for each two beds or for each cabin or sleeping unit, whichever is greater;

(bb) School, except high school or college: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater;

(cc) Sports arena, stadium or gymnasium (except school): One parking space for each five seats or seating spaces;

(dd) Theater or auditorium (except school): One parking space for each five seats or bench seating spaces;

(ee) Tourist home, cabin or motel: One parking space for each sleeping room or suite.

Section 5. That a new Section 26.1 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 50-26.1. Parking design standards.

The design of required off street parking areas and space shall meet the following standards:

(a) Parking space size: The following schedule shall constitute minimum standards for parking spaces for the identified type, small car or standard size cars, and for the intended tenure of parking, short term or long term:

<u>Size of car</u>	<u>Short term</u> <u>(four hours and less)</u>	<u>Long term</u> <u>(more than four hours)</u>
<u>Small</u>	<u>8.5 feet x 15.0 feet</u>	<u>7.5 feet x 15.0 feet</u>
<u>Standard</u>	<u>9.0 feet x 17.0 feet</u>	<u>8.0 feet x 17.0 feet</u>

The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 feet. Such area shall be considered part of the parking space and reserved as such. It shall include no trees, posts, signs, light poles or other encroachments that would prevent a vehicle from fully utilizing the space. Such space shall not be included in required open space, landscape area requirements or required pedestrian walkways or sidewalks;

(b) Aisle widths: The following schedule indicates the minimum aisle widths to be used in a parking area based on the angle of parking provided and whether the aisle serves one way or two way traffic:

<u>Angle of parking</u>	<u>Width of aisle</u>	
	<u>One way traffic</u>	<u>Two way traffic</u>
<u>Parallel/no parking</u>	<u>10 feet</u>	<u>21 feet</u>
<u>30 degree</u>	<u>10 feet</u>	<u>21 feet</u>
<u>45 degree</u>	<u>12 feet</u>	<u>23 feet</u>
<u>60 degree</u>	<u>18 feet</u>	<u>25 feet</u>
<u>75 degree</u>	<u>20 feet</u>	<u>25 feet</u>
<u>90 degree</u>	<u>22 feet</u>	<u>25 feet</u>

(c) Small car percentage: In any parking area containing over five parking spaces, a percentage of the total spaces may be designed and marked for small cars according to the following schedule:

<u>Duration and size of parking area</u>	<u>Maximum percentage of small car parking spaces</u>
<u>Short term (four hours and less)</u>	
<u>Less than 100 spaces</u>	<u>30%</u>
<u>100 to 149 spaces</u>	<u>35%</u>
<u>150 or more spaces</u>	<u>40%</u>
<u>Long term (more than four hours)</u>	
<u>Less than 100 spaces</u>	<u>40%</u>
<u>100 to 149 spaces</u>	<u>45%</u>
<u>150 or more spaces</u>	<u>50%</u>

Section 6. That Section 50-30 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-30. Location of required parking spaces in front yards; front yard permits.

Off street parking space may be located within the required front yard of any "C" or "M" district, but no parking lot shall be located nearer than 50 feet to any "S" or "R" district and no off street parking shall be permitted in the required front yard of any "R" district, unless a front yard parking permit is applied for and approved by the planning commission. This Section does not prohibit parking in a driveway designed primarily for access to the dwelling or the garage. The following minimum standards shall be met prior to issuance of a front yard parking permit:

(a) Where parking available to the existing use of the property is inadequate, no feasible alternatives to front yard parking exists on the site to mitigate the parking inadequacy and the proposal will not have detrimental impacts on other properties;

(b) The proposed individual parking space shall exceed the minimum requirements of this ordinance but in no case be greater in size than ten feet by 20 feet;

(c) The proposed parking space shall be located in its entirety upon the property and shall not encroach into any public right-of-way or across any property line;

(d) No more than one front yard parking space per dwelling unit shall be permitted upon a lot with the additional restriction that no more than 50 percent of the required front yard may be used for front yard parking irrespective of the number of spaces allowed by the preceding provision;

(e) A parking space shall be located no closer than four feet to a side lot line; unless the adjoining property owner has signed an affidavit agreeing to a lesser spacing;

(f) No parking space shall be located nearer than 25 feet to the side street right-of-way line of a corner lot;

(g) All parking shall be designed such that it is perpendicular to the street paralleling the front yard. No right angle, diagonal or similar parking configurations shall be allowed;

(h) The entire parking space and all drive areas leading to it shall be surfaced in a dust free, hard surface type material such as concrete or bituminous. Aggregate materials, compressed aggregates or other similar type surfaces shall not be permitted.

Section 7. That Section 50-32.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-32.1. Application; fees; information.

All applicants for special use permits shall submit to the city clerk the following information and the required fees at least three weeks in advance of the planning commission meeting at which consideration will be given:

(a) Completed application form provided by the secretary of the planning commission;

(b) Required application fees as set forth in Section 50-33;

(c) Map and names and addresses of all property owners within 350 feet of the subject property boundary;

(d) Building floor plans and elevations when the proposal involves new building construction, expansion of an existing structure or renovations and change of use of an existing building;

(e) Detailed site plan drawn at a scale no less than 1"=50', including building locations, parking areas, drives, landscaping, signage and other physical features on the site;

(f) Other information as required in this Article or as deemed necessary by the planning commission secretary.

Section 8. That Section 50-32.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-32.2. Study and report by the planning commission.

All applications for special use permits shall be referred by the city clerk to the planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held before the planning commission. Notice of the public hearing shall be published and mailed to all property owners within 350 feet of the subject property at least one week in advance of the public hearing. Failure to give written notice to all property owners within 350 feet of the subject property boundary or any defect in the notice shall not invalidate any action of the planning commission or city council, provided that a bona fide attempt to comply with this Section has been made.

In its report, the planning commission may recommend that the applicant be required to furnish a performance bond guaranteeing that all conditions of the special use permit recommended are met.

Section 9. That Section 50-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-33. Application fee.

Before any action is taken either by the city planning commission or the city council, the applicant, except the state or any of its political subdivisions and except the federal government, shall pay to the city clerk a filing fee of \$150 for all special use permits other than low density planned developments and community unit plans. In the case of low density planned developments and community unit plans, such fee shall be \$240 for initial permits and \$120 for plan alteration reviews. The purpose of such fees is to help defray the cost of reviewing and hearing such applications. Any fee paid to the city clerk shall be refunded by the city clerk if the applicant for the permit withdraws his permit application prior to consideration of such application by the planning commission.

Section 10. That Section 50-35 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any "R" district;

(c) Beauty salon in an "R" district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) Bed and breakfast inns and homestays; but only in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those historically or architecturally unique residential properties, as so certified by the city's heritage preservation commission, which meet or exceed the criteria outlined herein, and only after it is determined that the single family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with houseguests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn;

(2) An application for this special use permit shall include the following:

(A) Documentation of historical or architectural uniqueness, certified by the city's heritage preservation commission;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65;

(D) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;

(E) Sign drawings showing location, dimensions and detail;

(F) Inspection reports from the city building official, city fire marshal and St. Louis County health department;

(3) Bed and breakfast inns and homestays may be granted special use permits subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) The proprietor shall be the owner and occupant of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted;

(D) Off street parking shall be provided as required in Section 50-26;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) from surrounding properties and rights-of-way. Scattered parking shall not be allowed;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast homestays. In bed and breakfast inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns not to exceed the approved seating capacity of the facility;

(G) There shall be no structural alterations to the interior or exterior of the buildings, except to provide handicapped accessibility (if such changes do not adversely affect the character and quality of the structure), and except those required by fire, health, building or other codes. Such exceptions shall be permitted only after written approval is obtained from the city planning commission, such approval to be obtained prior to the time any permit is issued or any construction or demolition is initiated;

(H) Any construction to restore buildings to historic condition, any construction of new buildings and any alterations to the grounds must be authorized by the city council through this special use permit process;

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(I) There shall be a limitation on the number of guest rooms permitted based on the character and size of the building;

(J) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(K) Guests' stays shall be limited to ten consecutive days;

(L) The bed and breakfast shall be a subordinate use to the primary single family use of the property;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

(g) Circus or carnival grounds, but not within 300 feet of any "R" district;

(h) Clinic of less than 10,000 square feet in floor area or institutions;

(i) Commercial, recreational or amusement development for temporary or seasonal periods;

(j) Commercial rooming house, but only in those districts where permitted as special use;

(k) Commercial services and recreational uses in the "IP" industrial park district, as further defined in Section 50-123 of this Chapter;

(l) Day care facility, but only in those districts where permitted as a special use;

(m) Elderly congregate housing facility, but only in those districts where permitted as a special use;

(n) Marina;

(o) Mini storage facilities; subject to compliance with the following criteria:

(1) Located in a "S" zone;

(2) On a parcel not less than 7-1/2 acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;

(3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);

(4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of nonilluminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

(5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

(6) There shall be a minimum structure setback of 100 feet from any property line;

(7) Storage area "unit" shall not exceed a 12 foot wall height and a floor area of 300 square feet;

- (8) Lighting shall be limited so as not to illuminate beyond property lines;
- (p) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the "R-4" district;
- (q) Petroleum soil treatment;
- (1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:
- (A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;
- (B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:
1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;
 2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;
- (C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;
- (D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;
- (E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;
- (2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above.
- (r) Power transmission line, review and approval to be provided for separately in each of two steps:
- (1) A general corridor special use permit;
 - (2) A final design special use permit, under the following conditions and procedures:
- (A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:
1. A statement demonstrating the need for the proposed line;
 2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures

and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;

2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

3. Lines shall meet or exceed the National Electric Safety Code;

4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;

5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses,

shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed), that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in "S," "M-1" and "M-2" zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In "S" and "M-1" zones the setback shall be 300 feet from all properties zoned other than "M-2." Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in "M-2" zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in "M-2" zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in "S" and "M-1" zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in "S" and "M-1" zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than "M-2";

(N) In "S" and "M-1" zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the "tower farm" within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the "S" suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a "S" district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in "S" districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood.

Section 11. That Section 50-52 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-52. Permitted uses.

A building or premises in the "S" suburban district shall be used only for the following purposes:

(a) Agricultural uses, such as field crops, truck gardening, berry or bush crops, tree crops, flower gardening, nurseries, or chards, aviaries and apiaries, including a greenhouse and a sales room for the sale of products grown on the premises;

(b) Farms devoted to the hatching, raising and marketing of poultry, rabbits and other small animals, fish and other creatures; provided, that no killing or dressing of poultry, rabbits or other small animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(c) Farms for grazing, breeding and raising horses, cattle, sheep, dogs or goats and goat or cattle dairies; provided, that all buildings and enclosures, including fences, for the feeding, breeding or milking, but not including pasturing and grazing, of such animals be located not less than 200 feet from any lot line;

(d) One-family dwelling;

(e) Church or other place of worship or Sunday school;

(f) Public school, elementary and high, parochial school or private school having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;

(g) Universities and colleges;

(h) Publicly owned or operated forest reserve, park, playground or community building;

(i) Country club or golf course, except a miniature course or driving range for commercial purposes;

(j) Kennel, veterinary hospital or riding stable; provided, that any building or enclosure so used shall be located not less than 100 feet from any lot line;

(k) Hospital or institution of an educational, religious, charitable or philanthropic nature; provided, that such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;

(l) Home occupation;

(m) Seasonal camp or cabin, buildings to be located not less than 200 feet from a "R" district;

(n) One roadside stand offering for sale only farm products produced on the premises; provided, that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

(o) Accessory building or use, customarily incident to the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building. One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(p) Residential care facility serving six or fewer persons;

(q) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children.

Section 12. That Section 50-56 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-56. Permitted uses.

A building or premises in the "R-1-a" one-family residential district shall be used only for the following purposes:

(a) One-family dwelling;

(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

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

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations

drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district; provided that such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district if the findings required by Section 50-47(b) of this Code are made by such board;

(c) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(d) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(f) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

(g) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;

(h) Home occupation;

(i) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building;

(j) Residential boat dockage under the following conditions:

(1) General provisions:

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

(B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and

2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such

spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(k) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(l) Residential care facility serving six or fewer persons;

(m) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;

(n) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(o) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV;

(p) Bed and breakfast homestay, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 13. That Section 50-68 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-68. Permitted uses.

A building or premises in the "R-2" two-family residential district shall be used only for the following purposes:

(a) Any use permitted in the "R-1-a" one-family residential district;

(b) Two-family dwelling;

(c) Townhouse dwelling, provided that each dwelling shall exhibit the characteristics of a series of single family dwellings which are arranged in an attached side by side fashion, and that such dwelling is designed to protect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Dispersion of dwellings. Regardless of ownership, no townhouse dwelling shall be constructed within 300 feet of any other townhouse dwelling;

(2) Modulation of roof lines. The roofs or portions thereof of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same plane, and any variation in height of such roofs or portions thereof shall be a minimum of three feet;

(3) Modulation of exterior walls. The exterior vertical walls of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same vertical plane, and the variation in setback of such exterior vertical walls shall be a minimum of three feet;

(4) Private open space. A private open space shall be provided at each end of all dwelling units by means of an extension of the vertical party or division walls; these extensions shall be provided by wood, brick or stone fences, evergreen vegetative materials, or the direct extension of the party or division walls; these extensions shall be for a minimum distance of six feet and shall have a minimum height of five feet;

(5) Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement shall be provided within all required yard areas, such trees to have a maximum average spacing of 20 feet;

(6) Parking and refuse storage areas. Parking areas shall contain a maximum of four adjacent parking spaces, such parking areas to be separated by landscaped islands which have a minimum width of eight feet being separated from parking areas by a poured concrete curb having a minimum height of six inches, and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement. Trees as specified in Subsection (5) above shall be placed along all sides of parking areas, such trees to have a maximum average spacing of 12 feet. Where parking or refuse storage areas are directly viewable from any exterior lot line at a height of six feet above such lot line, such areas shall be screened by wood, brick or stone fences, or vegetative materials, such fences or vegetative materials to have a minimum height of four feet, and to provide a minimum obstruction by opaque materials of 75 percent when viewed at an angle perpendicular to such fences or vegetative materials;

(7) Dwelling units must front on street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;

(8) Required drawings. All applications for building permits shall include the following information: a site plan and landscape plan as defined in this Code, such plans to be drawn at a scale of not less than 1/8 inch equals one foot; and a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot indicating the size and location of all windows and doors. Such drawings shall also contain notations on the type of exterior materials and details of all fences;

(9) Review by the secretary of the city planning commission. Each application for a building permit for a townhouse dwelling located in a two-family residential district shall be forwarded to the secretary of the city planning commission for review and certification that such application is in compliance with the terms of this Section;

(10) Limitations on variances. Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article for townhouse dwellings in "R-2" two-family residential districts shall be granted except variation of not more than ten percent of the dimensional requirements established in this Article;

(d) Day care facility serving 13 through 16 persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(e) Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to more than 14 children;

(f) Bed and breakfast homestay;

(g) Bed and breakfast inn containing no more than 12 habitable units in addition to the owner's dwelling unit, provided a special use permit is secured according to the procedures set forth in Article IV;

(h) Residential rooming house containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 14. That Section 50-72 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-72. Permitted uses.

A building or premises in the "R-3" apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the "R-2" two-family residential district;

(b) Apartment hotel;

(c) Multiple dwelling;

(d) Row or group dwellings, subject to the requirements of Section 50-38;

(e) Religious, educational, eleemosynary institutions of a philanthropic nature, but not a penal or mental institution;

(f) Nursing, rest or convalescent home;

(g) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business;

(h) Accessory building or use customarily incidental to any of the above uses, including a storage garage on a lot occupied by a multiple dwelling, apartment hotel, row or group house, rooming or boardinghouse, provided that any such accessory building shall be erected at the same time or after the construction of the principal building;

(i) Residential care facility;

(j) Day care facility;

(k) Elderly congregate housing facility;

(l) Residential rooming house;

(m) Commercial rooming house, provided a special use permit is secured according to the procedures set forth in Article IV;

(n) Bed and breakfast inn.

Section 15. That Section 50-76 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-76. Permitted uses.

A building or premises in the "R-4" apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the "R-3" apartment residential district;

(b) Hotels, in which services customarily incident to the operation thereof may be conducted for the convenience of the occupants of the hotel;

(c) Commercial rooming house.

Section 16. That Section 50-115 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-115. Initiation of amendments.

The city planning commission may, upon its own motion, propose and hear amendments to the district boundaries or to the text of this Chapter. Any person owning real estate may petition the planning commission to amend the district boundaries in which such real estate is located or which such real estate abuts. Such a petition shall be filed with the city clerk who shall immediately refer it to the city planning commission

for the hearing, report and recommendations required by this Article. Petitions of property owners shall be made on a form provided by the secretary of the planning commission and shall include a legal description of the property, a map and names and addresses of all property owners within 350 feet of the property, and other such information as determined necessary by the planning commission. After said public hearing, the planning commission shall forward to the city council a report and recommendations. Petitions for amendments from property owners shall be filed at least four weeks in advance of the planning commission meeting at which they are to be heard.

Section 17. That Section 50-140 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-140. Procedures.

(a) Plan review for the activities noted in Section 50-139 shall be performed by the city planning commission and city council. For projects on sites with a total area of five acres or less, approval of the planning commission only shall be required. Projects on sites of more than five acres shall first be reviewed by the commission and then forwarded to the city council for final approval. Consideration by the commission shall only be made after a complete application including all required supporting information is submitted at least two weeks prior to the meeting at which commission action is requested. The secretary of the commission shall send a notice of the time and date of the meeting at which the commission shall conduct plan reviews to all property owners within 350 feet of the proposed site. Failure to give said notice to all individual property owners or any defect in the notice shall not invalidate any action of the commission or city council, provided that a bona fide attempt to comply with this Section has been made. The commission and the city council may attach conditions to their approval to assure that the purpose of the "C-5" district are met and may deny such approval if the required findings of Section 50-141 of this Code cannot be made;

(b) Applications for such review and approval shall be accompanied by a site plan drawn at a scale no less than 1"=50', a landscape plan including all existing and proposed plant materials and sizes, elevation and floor plans of proposed new structures or additions to structures, drawings of all existing and proposed signs, detailed stormwater management plans, detailed erosion plans, detailed traffic analysis and plan for traffic control and improvements, a preliminary plat where the subject property is unplatted, involves the use of vacated and unplatted street right-of-way or involves the assemblage of multiple platted lots, a map and names and addresses of all property owners within 350 feet of the proposal site, and a written statement describing the proposed development or use. In addition, the commission or city council may subsequently require the provision of a performance bond or other form of security to insure the construction of necessary public and/or private improvements. The secretary of the commission may waive these requirements where the secretary deems them to be inapplicable in the case of minor expansion of existing approved projects or in the case of new projects on sites of less than one acre;

(c) Decisions of the commission shall be final unless an aggrieved party appeals to the city council within seven days after written notification of the action is given to the applicant by filing a notice of appeal with the city clerk. The filing of an appeal to the city council shall stay all proceedings in furtherance of the decision appealed from. The city council may affirm, modify or reverse the decision of the commission, but shall approve

development plans only if it first finds that the requirements specified in Section 50-141 of this Code will be satisfied;

(d) After the city planning commission or the city council has approved specific plans, all construction or other activities so approved shall be in accordance with the specific approved plans and shall thereafter be maintained in accordance with such plans. Subsequent changes or modifications in the plans or project shall be subject to review as initially required.

Section 18. That Section 50-141 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-141. Requirements of plan approval.

Plans for the activities specified in Section 50-139 of this Code shall be approved only after a finding that the following requirements will be satisfied. These provisions shall be applicable to all new developments, expansions to existing developments and shall retroactively apply to existing nonconforming portions of developments where the proposed expansion or combination of expansions exceed an increase of 30 percent of the total building floor area:

(a) The development, as designed, will not be materially detrimental to present and future land uses of adjacent properties because of traffic congestion, noise, visual blight, glare or other nuisance characteristics;

(b) There shall be a landscaped or naturally vegetated setback area adjacent to all "S" and "R" district boundaries no less than the distance required in the following table:

<u>Total project site area</u>	<u>Minimum landscape setback</u>
<u>less than .5 acres</u>	<u>20 feet</u>
<u>.5 to .9 acres</u>	<u>30 feet</u>
<u>1 to 4.9 acres</u>	<u>50 feet</u>
<u>5 to 9.9 acres</u>	<u>100 feet</u>
<u>10 to 19.9 acres</u>	<u>150 feet</u>
<u>20 to 39.9 acres</u>	<u>200 feet</u>
<u>40 acres or more</u>	<u>300 feet</u>

No parking or loading shall be permitted within such setback areas except approval may be given by the commission or council for an encroachment of up to 50 percent of the required area provided all property owners within a distance equal to double the required setback have given written approval of the requested encroachment and it is determined a lesser landscape setback will satisfy the intent of this Section. Within the landscaped setback area natural vegetation shall be maintained to the maximum extent possible. Where natural vegetation is disturbed it shall be replaced with materials that offer equivalent or superior visual screening effects:

(c) A minimum of five percent of all parking areas on the proposed site shall be landscaped islands. Islands shall have a minimum average width of four feet and shall include a minimum of one tree at least two inches in diameter at the time of planting. This provision shall be retroactively applied to all existing parking areas when a proposed expansion or combination of expansions exceed an increase equal to 30 percent of the original nonconforming parking area. Parking areas shall include at least one tree for every ten parking spaces within or at the edges of the parking areas:

(d) The location, size and number of curbcuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements required as a result of the proposal such as traffic signals, turning lanes, medians, signage and other types

of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the property owner. Any additional right-of-way or easements needed shall be provided by the property owner at no cost to the city;

(e) Development of the land shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration;

(f) The proposed development shall be designed to minimize pollutants in stormwater runoff to the lowest level possible applying the best available technology;

(g) The proposed development shall not create an excessive burden on existing and proposed public improvements in the area;

(h) Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be made;

(i) Wetlands, shorelands and floodplains shall be preserved as described in Chapter 51 of this Code;

(j) Curbing shall be provided to define parking and landscaped areas and to direct stormwater runoff;

(k) Building height restrictions and building setback requirements shall be established for each development plan to ensure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such restrictions and requirements:

(1) Maximum building height: 45 feet;

(2) Minimum front yard: 25 feet;

(3) Minimum side yards: the side yard abutting a street on a corner lot shall be 25 feet and side yards abutting residential uses in nonresidential districts shall be seven feet;

(4) Minimum rear yard: 25 feet.

Section 19. That Section 50-142 of the Duluth City Code, as amended, be amended to read as follows:

Sec. 50-142. Parking requirements.

Except as provided in this Section, off street parking spaces shall be provided in the "C-5" planned commercial district in accordance with the requirements for specific uses set forth in Article III of this Chapter. The city council may approve plans with fewer parking spaces than required by Article III in large multiple user projects over five acres where shared parking results in demands for fewer spaces. The city council in these circumstances may approve plans with reduced parking to as low as 80 percent of what is required in Article III. Parking spaces shall not be permitted within the required setback areas required in Section 50-141(k). Parking spaces shall not be permitted within the required landscape setback areas of Section 50-141(b) except as specifically permitted in said Section. If there is a conflict between these two sections, the most restrictive section shall apply.

Section 20. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 28, 1996)

Councilor Prettner moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Nays: Councilor Downs -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 11, 1995
Approved December 11, 1995
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 18, 1995, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

95-1218-06 The following submitted letters supporting contract with Gamblers Intervention Services (95-1072R): (a) Duluth AFL-CIO Central Labor Body; (b) Duluth AFL-CIO Community Services Program; (c) Chandra M. Mehrotra; (d) National Association of Letter Carriers, Zenith Branch No. 114. -- Received

95-1218-05 The following submitted letters supporting the proposed human rights commission (95-065-O): (a) Darrell L. Lewis; (b) Northland Gay Men's Center. -- Received

95-1218-13 The following submitted letters regarding the proposed USS Des Moines project (95-1089R): (a) Duluth Area Chamber of Commerce; (b) Mike Jaros, state representative. -- Received

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REPORTS OF OFFICERS

95-1218-01 Assessor submitting letter for confirmation of assessment roll levied to defray the assessable portion of 26th Avenue East from Superior Street to Jefferson Street, Contract No. 5262. -- Clerk

95-1218-02 Parks and recreation department director submitting board of directors for the Lake Superior zoological society minutes of November 6, 1995 meeting. -- Received

95-1218-03 Property manager submitting space use agreement for office for state auditor pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-1218-04 Planning commission secretary submitting recommendation and findings regarding the tax increment finance amendment to District No. 17, Bayfront Park and Mall Facilities. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Cindy Kosiak, AFSCME Council 96, commented on the dispute regarding senior program employees. She said the union wishes to work with the city to reestablish the program in a way that will work for the city, the employees and the seniors and allow services to continue for seniors at the present level.

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RESOLUTION TABLED

Councilor Atkins moved to remove from the table Resolution 95-0822, requesting the city's state legislative delegation to make its top legislative priority for the 1996 session the inclusion of \$17.5 million in the state bonding bill for the Lake Superior Zoo and the Lake Superior Center projects, which motion was seconded and unanimously carried.

Councilor Prettner felt the resolution is premature, stating that it has been the policy of the council to approve legislative priorities after meeting with the legislative delegation, which she noted has not occurred yet.

Resolution 95-0822 was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, the city's legislative program includes requests for inclusion of \$17.5 million in the state bonding bill for the Lake Superior Zoo and the Lake Superior Center projects; and

WHEREAS, both of these projects relate to environmental learning, which the council believes should be the city's top priority in the 1996 legislative session; and

WHEREAS, the council believes that completion of these projects is very important to the city of Duluth and northeastern Minnesota;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city's state legislative delegation to make its top legislative priority for the 1996 session the inclusion in the state bonding bill of \$17.5 million for the Lake Superior Zoo and the Lake Superior Center projects.

Resolution 95-0822 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 95-1218-08, and under which agreement the bureau will provide advertising and promotion services to the city during the year 1996 at a cost to the city of not to exceed \$710,000, payable from Fund 258.

Resolution 95-1079 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

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

Section 1. Certificates of indebtedness, purpose and authorization.

1.01 Pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue its certificates of indebtedness in anticipation of collection of taxes and state aids.

1.03 Pursuant to the authority herein recited, the City Council authorizes and directs the issuance, sale and delivery of certificates of indebtedness in anticipation of collection of taxes and state aids for the general fund of the City in the amount of \$8,950,000 to be dated January 24, 1996 (the "Certificates").

Section 2. Issuance and Sale of the Certificates. The terms and conditions of the Certificates and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Certificates and the sale thereof, and the City Council shall meet at the time and place fixed therein to consider proposals for the purchase of the Certificates.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Certificates as provided by Minnesota Statutes, Section 475.60, subdivision 2(9) pursuant to the terms of the Official Terms of Offering.

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Certificates shall be set forth in agreements and subsequent resolutions of this City Council.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-1084 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 95-1218-09, with Duluth-Superior Public Access Community Television, Inc., for providing cablecasting, training, production and administrative services relating to public access television for a sum of \$105,000 to be paid from General Fund 100-015-2050-5541.

Resolution 95-1064 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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Resolution 95-1072, authorizing a contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1996, at a cost to the city of \$67,319, and Resolution 95-1073, authorizing a contract with the Minnesota Council on Compulsive Gambling, Inc., for the operation of a compulsive gambling prevention and education program during 1996, at a cost to the city of \$94,730, by Councilor Downs, were introduced for discussion.

Councilor Hales said she cannot support the resolution for Gamblers Intervention Services because of her concern about starting new programs when there is not enough money to provide basic services to citizens. She noted the Minnesota Council on Compulsive Gambling has been in operation for several years and has been very successful.

Councilor Hardesty supported both programs, stating that together she feels they cover several aspects of gambling related issues. She said that a percentage of casino profits has been set aside to cover some of the costs that gambling produces, and she pointed out that the state is no longer funding prevention services related to gambling.

Councilor Atkins noted that the state wants to cut back in funding for gambling intervention programs yet at the same time it continues to expand the state lottery.

President Keenan said he feels compulsive gambling is a major problem in the community and that he will support both resolutions.

Councilor Talarico said services are not duplicated between the two organizations, and that the administration feels both organizations are needed. He felt that if the city is going to receive gambling profits, it also has the obligation to fund these types of programs.

Resolutions 95-1072 and 95-1073 were adopted as follows:

BY COUNCILOR DOWNS:

RESOLVED, that the city is hereby authorized to contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1996, at a cost to the city of \$67,319, which shall be payable from General Fund 015-1514 aid to other agencies.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-1072 was adopted upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Hales -- 1

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling prevention and education program during 1996, at a cost to the city of \$94,730, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 95-1073 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statute 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
VFW POST 6320	5103 Ramsey Street	December 5, 1995

Resolution 95-1087 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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Resolution 95-1088, by Councilor Downs, approving the issuance of lawful gambling premise permit, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution.

Peg Wetli, CLIMB Theatre, said their organization uses its funds to teach young people to understand the process that can lead to addiction.

Councilor Wheeler said he will vote against this resolution because he is opposed to Harbor Lites because it is an expansion of charitable gambling. He said he feels CLIMB Theater does an outstanding job, but that for him it is a moral issue and he feels that gambling should not be used as a method of taxing people.

Councilor Bohlmann said she opposes any increase in gambling licenses.

Councilor Atkins noted that, because of low profits, pull-tab operations are not expanding in the community. He suggested dealing with gambling on the preventative side by educating people on the pitfalls of gambling. He noted that the gambling profits received by the city would be difficult to replace.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-1088 was adopted as follows:

BY COUNCILOR DOWNS:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

WHEREAS, a copy of said application was also filed with the city of Duluth as required by Minnesota Statute 349.213, Subdivision 2, and was investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

WHEREAS, the city council approves of the issuance of said license.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
CLIMB Theatre	Harbor Lites	December 5, 1995

Resolution 95-1088 was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hales, Hardesty, Prettner, Talarico and President Keenan -- 7

Nays: Councilors Bohlmann and Wheeler -- 2

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of library technician trainee, which were approved by the civil service board on December 5, 1995, and which are filed with the city clerk as Public Document No. 95-1218-07, are approved.

Resolution 95-1069 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the civil service classification of job training planner I be amended to become the civil service classification of job training planner, which was approved by the civil service board on November 8, 1995, and which are filed with the city clerk as Public Document No. 95-1218-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be 130, pay rate \$2,357 to \$2,794.

Resolution 95-1075 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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At this time, 8:10 p.m., President Keenan called to order the public hearing regarding amendment to Development District No. 17 (Bayfront) and amendments to TIF's for Development District Nos. 1, 2, 3, 4, 5, 14 and 17 (Public Document No. 95-1218-16).

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

At this time, 8:20 p.m., President Keenan declared the hearing closed. He called to order the public hearing regarding the proposed human rights commission (95-065-O) (Public Document No. 95-1218-17).

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At this time, 8:55 p.m., President Keenan declared the hearing closed and the regular order of business was resumed.

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Resolution 95-1074, by Councilor Prettner, approving first amendment to development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 17, Bayfront park and mall facilities, and amendment to tax increment financing plans for tax increment development districts Nos. 1, 2, 3, 4, 5 and 14, was introduced for discussion.

Councilor Atkins said that the developer has not been able to put a plan together for the Bayfront outlet mall project. He noted that the legislature is looking at curtailing tax increment financing because some communities have used that tool for developments that were not in the best interests of their community. He felt the outlet mall project is too risky.

In response to Councilor Prettner, Robert Asleson, assistant city attorney, said the tax increment plan for Phase I of the outlet mall project is in place, and this amendment affects Phase II, the public amenities portion of the development.

Councilor Bohlmann felt the resolution is premature, and stated that she thought that the public portion of the project was to be funded by the developer and not the taxpayers of Duluth.

Councilor Hardesty said she will support the resolution because it will provide more assurance that the public amenity part of the development will occur if the outlet mall project goes forward.

President Keenan said he does not support the resolution because he feels the project will not be sufficient under its own funds and that funds from tax increment financing will be needed to pay for the public improvements.

Resolution 95-1074 was adopted as follows:

BY COUNCILOR PRETTNER:

WHEREAS, the city council of the city of Duluth, Minnesota (the "council") has determined that there is a need and opportunity for the redevelopment of a portion of Duluth's waterfront area, commonly referred to as the "Bayfront" area, for public uses and for private economic development purposes; and

WHEREAS, on September 12, 1994, the council approved Resolution 94-0808 entitled "Resolution approving development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 17, Bayfront Park and mall facilities, and amendment to tax increment financing plans for Tax Increment Development District Nos. 1, 2, 3, 4, 5 & 14"; and

WHEREAS, on November 15, 1995, the Duluth economic development authority approved the first amendment to development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 17, Bayfront Park and mall facilities, and amendment to tax increment financing plans for Tax Increment Development District Nos. 1, 2, 3, 4, 5 & 14 (the "amended plan") by its Resolution 95D-84; and

WHEREAS, said amended plan proposes the expansion of the geographical area of Tax Increment Financing District No. 17 and the amendment to the financing plans for the named districts to accommodate the development of phase II of the Bayfront Park and mall facilities and clarifies certain other financial aspects of said plan; and

WHEREAS, Brown and Associates (Brown) has expressed an interest in the construction of phase II outlet mall facility in the Bayfront area in conjunction with the construction of expanded public park and open space amenities thereon; and

WHEREAS, the amended development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 17, Bayfront Park and mall facilities, and amendment to tax increment financing plans for Tax Increment Development District Nos. 1, 2, 3, 4, 5 & 14 will afford maximum opportunity, consistent with the sound needs of the city of Duluth as a whole, for development by private enterprise and will enable the city to provide a suitable site, via providing funding for site work, landscaping, construction of park amenities and other attractive planning features, thereby further encouraging development in the area and providing jobs in economic development in Duluth; and

WHEREAS, the proposed development as amended, in the opinion of the city, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and, therefore, the use of tax increment financing is deemed necessary since the developers of the expanded project and the city could not completely finance the costs without the use of tax increment to assist with financing of the expanded project; and

WHEREAS, a substantial portion of the site of the expanded project is not located with an existing tax increment financing district and therefore amendment of Tax Increment Financing District No. 17 pursuant to Minnesota Statutes, Chapter 469, is necessary; and

WHEREAS, a copy of the proposed amended plan was submitted to the St. Louis County Board of Commissioners and the school board of Independent School District No. 709 on November 16, 1995, as augmented on December 6, 1995, and said boards have been notified that the amended plan was to be considered at a public hearing on the date hereof; and

WHEREAS, notice of such public hearing was published in a newspaper of general circulation in the city of Duluth on December 18, 1995, and the council held such public hearing on the date hereof regarding the approval and adoption of the amended plan; and

WHEREAS, members of the council have determined that the amended plan is consistent with, and in furtherance of the development objectives of the city of Duluth; and

WHEREAS, the council has performed all actions required by law to be performed prior to the approval of the amended plan.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the information presented to council, the information included in the amended plan, and the information provided at public hearing, the council hereby finds:

(a) That the adoption of the amended plan is in the public interest and to the benefit of the health, safety and welfare of the city of Duluth;

(b) That the amended plan conforms to the general plan for the development of the city of Duluth as a whole;

(c) That Tax Increment Financing District No. 17, as amended, is a "redevelopment district" as described in Minnesota Statutes, Section 469.174 Subdivision 10(a)(2);

(d) That the proposed site for the expanded project would not be available for development without the tax increment sought;

(e) That the amended plan will afford maximum opportunity consistent with the needs of the locality as a whole, for redevelopment by private enterprise;

(f) That the amended plan conforms to the general plan for the development of the locality as a whole; and

(g) That the project, as amended, would not, in the opinion of the council, reasonably be expected to occur within the reasonably foreseeable future solely through private investment and that therefore the use of tax increment financing is deemed necessary;

(h) That the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtraction of the present value of the projected tax increments for the maximum duration of the district permitted by the amended plan.

FURTHER RESOLVED, that the amended plan is hereby approved and adopted by the council in the form on file in the office of the city clerk as Public Document No. 95-1218-11, as of this date.

FURTHER RESOLVED, that said approval and adoption shall be subject to the consent of Municipal Bond Investors Assurance Corporation to the deletion of certain properties described in the amended plan from Tax Increment Financing District No. 2.

FURTHER RESOLVED, that the city hereby exercises its option under Minnesota Statutes § 273.1399, Subdivision 6, to make or have made on its behalf a qualifying local contribution equal to 7.5 percent of the increment from the district, as amended, confirming city Resolution 95-1063.

FURTHER RESOLVED, that the mayor and other officers of the city are authorized to take whatever steps are reasonable or necessary to implement and carry out the purposes of the amended plan.

Resolution 95-1074 was adopted upon the following vote:

Yeas: Councilors Downs, Hardesty, Prettner, Talarico and Wheeler -- 5

Nays: Councilors Atkins, Bohlmann, Hales and President Keenan -- 4

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

CONSIDERATION OF ORDINANCE

BY PRESIDENT KEENAN

95-065 (9285) - AN ORDINANCE ESTABLISHING A HUMAN RIGHTS COMMISSION IN THE CITY OF DULUTH; ADDING AN ARTICLE XXIV TO CHAPTER 2, DULUTH CITY CODE, 1959, AS AMENDED.

President Keenan moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

In response to Councilor Atkins regarding paragraph (i), Administrative Assistant Nollenberger said that any funding received would be subject to Charter provisions. Councilor Atkins said he wants to be sure that any outside monies are totally accounted for. He moved to amend the ordinance to add the following sentence to paragraph (i): "All outside monies or grants received by the commission are subject to the city's Charter provisions," which motion was seconded and unanimously carried.

Councilor Atkins felt language in paragraph (e) needs to be more specific to encourage participation by individuals who are not selected to serve on the commission. He moved to amend the ordinance in paragraph (e) to read as follows: "To form study groups and advisory committees to the commission..." which motion was seconded and unanimously carried.

Councilor Hardesty supported the ordinance, stating that she feels it is a positive step forward in history.

Councilor Wheeler also supported the ordinance, stating he feels the commission is a vehicle that can be used to make Duluth a better community in which to live.

Councilor Downs moved to amend the ordinance in Section 2-128 in the last sentence after the word "reappointed" to add the words "but no member shall serve more than two terms," which motion was seconded.

Councilor Prettner felt that members should be allowed to serve a third term after a period of absence after two consecutive terms.

In response to Councilor Wheeler, Mayor Doty said there is no official policy regarding the amount of time that individuals may serve on boards and commissions. He said he has established an unofficial policy to limit appointees to two full terms.

Councilor Wheeler felt the number of years to be served should be specified rather than the number of terms since the length of the initial term varies.

Councilor Talarico said this issue has been dealt with informally for several years. He requested clarification whether the intent is to allow members to serve two full three-year terms.

Councilor Downs moved to amend his amendment to change the language to read "two full terms," which motion was seconded.

In response to Councilor Wheeler, City Attorney Dinan said the informal policy can be changed but the proposed amendment would not allow variations.

Councilor Hales moved to call the question, which motion was seconded and unanimously carried.

Councilor Downs' amendment failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs and Hales -- 4

Nays: Councilors Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 5

Councilor Downs moved to amend the ordinance in Section 2-129, third line, after the word "bylaws" to add the phrase "and the bylaws shall be approved by the Duluth City Council," which motion was seconded.

In response to Councilor Prettner, Councilor Downs felt approval of the bylaws of the council is needed to determine if the commission is moving in the direction that the council intends.

Councilor Hardesty said she will not support the amendment because the council does not review bylaws of other boards and commissions, and she felt if the council controls boards and commissions their purpose is neutralized.

In response to Councilor Hardesty, Mr. Dinan said that most boards and commissions have bylaws and are authorized to adopt their own bylaws in their enabling legislation. He said the reason for bylaws is for rules of procedure, and noted that this ordinance specifies which bylaws are authorized to be established by this commission.

Councilor Talarico opposed the amendment, stating he has faith in this group and felt it should be allowed to conduct its business. He noted the council's power is to rescind the ordinance if there is abuse.

Councilor Downs' amendment failed upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Downs and Hales -- 4

Nays: Councilors Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 5

Councilor Atkins supported the ordinance, and pointed out that it is set up to serve everyone under the guidelines of Minnesota statutes. He said he believes there is discrimination in the city and felt this commission is needed so that individuals will have a place to bring their concerns and issues.

Councilor Bohlmann felt the ordinance should be more specific, and that as written it gives away all of the council's power. She said she would support the ordinance if the commission is an advisory commission to the council and the administration only.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Wheeler said the language is intentionally broad because the entire purpose of the human rights commission is to be inclusive of all needs, and said he feels the power should be given to the commission rather than elected officials. He moved to call the question, which motion was seconded and failed upon the following vote:

Yeas: Councilor Wheeler -- 1

Nays: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico and President Keenan -- 8

In response to Councilor Hales, Assistant City Attorney Smedberg provided a history of the creation of the commission, noting that the major issue of the task force was education vs. enforcement. He said the ordinance was drafted with broad language in order to give the commission the flexibility to try to mediate and to act primarily as an educational association as the task force recommended.

President Keenan moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Atkins, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

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BY PRESIDENT KEENAN:

RESOLVED, that the proper city officers hereby authorize an agreement with Architectural Resources, Inc., in an amount of \$12,000, from General Fund 100, Object 1428, for providing certain architectural services to the city of Duluth in connection with the Lakewalk east trail extension and parking facilities, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 95-1218-12.

Resolution 95-1062 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

WHEREAS, Article 11 of year of the city legislation from the state of Minnesota established a community resource program for the purpose of developing viable urban communities through the provision of needed services in targeted neighborhoods; and

WHEREAS, the state of Minnesota department of trade and economic development is authorized to make grants to cities of St. Paul, Minneapolis and Duluth to finance a local community resource program, approved in accordance with Article 11 of said legislation; and

WHEREAS, the city of Duluth desires to carry out a community resource program;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby makes a finding that the expenditures of program funds or described herein will serve the objectives of assisting the residents of the targeted neighborhoods.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to submit an application with appropriate documentation to the state of Minnesota department of trade and economic development for funding for the projects with those entities and at the corresponding funding levels as are set forth below:

COMMUNITY RESOURCE PROGRAM
1996 - 1997 FUNDING RECOMMENDATIONS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

\$ 15,447.15	West End/Lincoln Park District youth and family rec.
\$ 17,000.00	Copeland youth development/teen mentor project
\$ 10,000.00	Discovery Center of Duluth/summer outreach program
\$ 25,000.00	Family Resource Center - Central Duluth
\$ 10,000.00	Life House Youth Center
\$ 15,000.00	Truancy action project
\$ 10,000.00	Young parent program
\$ 20,000.00	Women's and children's program
\$ 25,000.00	Neighborhood youth services
\$ 10,000.00	YMCA community services/mentoring
\$ 10,000.00	YWCA Kids' Corner tutoring program
\$ 20,000.00	Growth and achievement project
\$ 10,000.00	HRA family self-sufficiency program
\$ 4,500.00	CRP self-sufficiency fund
<u>\$ 35,637.73</u>	Administrative costs
\$237,584.88	

BE IT FURTHER RESOLVED, that the city of Duluth and its officers are authorized to assure the state that its community resource program will be carried out in full compliance with the provisions of Article II of the said act.

Resolution 95-1077 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that St. Louis County social services be and hereby is awarded a contract for furnishing and delivering approximately 71,000 hot meals for a 12 month period beginning on January 1, 1996, for the parks and recreation department in accordance with the specifications of its proposal of \$2.32 per meal or approximately \$164,720, payable out of Federal Program Fund 272, Dept./ Agency 031, Organization 6306, Activity SD04, Object 0071; to be encumbered out of the 1996 budget.

Resolution 95-1078 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the St. Louis County social services hereby is awarded a contract for furnishing approximately 51,000 hot meals for eligible senior citizens and guests at two St. Louis County facilities located in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$3.40 per meal for eligible senior citizens and \$4 per meal for guests or approximately \$173,474, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6306, Object 0071.

Resolution 95-1080 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Resolution 95-1089, by Councilor Atkins, approving the city's 1996 legislative program, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear speakers on this resolution. Thomas Bulera spoke in support of the U.S.S. Des Moines project.

- - -

Councilor Atkins moved to suspend the rules to continue this meeting past 11:00 p.m., which motion was seconded and carried.

- - -

Kathryn Anderson spoke in opposition to requesting funds for the Des Moines project.

Tom Whittaker cited a public opinion poll which stated more Duluthians are in favor of the Des Moines project than opposed to it. He summarized reasons why the city council should endorse this attempt to obtain a start-up loan from the state as follows:

- (a) To recognize the contributions that veterans have made;
- (b) To provide a boost to the tourism industry;
- (c) Additional tax revenue; and
- (d) Additional revenues for city projects from shared profits.

Robert Kosuth opposed the Des Moines project because he felt an excessive amount of tax dollars goes for war related purposes.

Lance Reasor spoke in support of the Des Moines project, saying it will create a new tourist attraction and source of revenue for the city. He requested inclusion in the legislative package which would encourage the state to make a loan to the Minnesota department of trade and economic development so that department can loan the money to obtain the ship. He pointed out it is a loan, not a grant, and will be repaid. He reviewed that there are 40 similar attractions throughout the country that are successful, and said he views this as an opportunity to see part of a heritage that has preserved freedom.

William Meierhoff supported the project, saying it is a needed tourist attraction. He pointed out that the ship was a peacekeeper and not involved in war and said that he feels the ship belongs in Duluth because the city was involved in shipbuilding during World War II.

Councilor Prettner moved to divide the question to separate approval of the 1996 legislative program from the request for a loan for the U.S.S. Des Moines project, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Bohlmann, Hales, Hardesty, Prettner, Talarico and Wheeler -- 7

Nays: Councilor Downs and President Keenan -- 2

Councilor Prettner felt it is premature to approve the city's legislative program before meeting with legislators as has been past practice. She moved to table that portion of the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Prettner, Talarico and Wheeler -- 6

Nays: Councilors Atkins, Downs and President Keenan -- 3

Regarding the portion of the resolution regarding the U.S.S. Des Moines project, she stated concern that there may be repercussions to the city if the project is approved pertaining to the city's ability to get further economic development loans from the department of trade and economic development. She agreed with speakers regarding the large size of the ship, questioned what happens when the ship ceases to be an attraction in Duluth and felt it could become a financial burden to the city.

Councilor Wheeler said he does not support the project. He felt the ship is too large and not appropriate for the city because it is not part of the city's history and heritage. He questioned the financial viability of the project and noted that fundraising efforts have not been successful.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Councilor Downs said if the project is not successful the ship can be sold for scrap for a substantial amount of money. He commended the individuals who have worked very hard for this project for no personal benefit, and said he feels the ship would benefit other tourist attractions.

In response to Councilor Wheeler, Mr. Reasor said the navy would always retain the title to the ship and that it has a scrap value on the present market of about \$3.5 million.

Councilor Bohlmann opposed the project, saying the city cannot afford the ship and that it could become a burden to taxpayers. She felt that priority should be given to citizens for needed projects.

Councilor Atkins noted the city's reliance on tourism and said many jobs will be provided if this project goes forward. He felt the objection to this project is anti-war based.

Councilor Bohlmann responded that her opposition is not related to war but is for economic reasons.

Councilor Hardesty felt this project represents a very dramatic shift in the flavor of the Duluth waterfront and that it does not fit in.

President Keenan supported the effort to raise the funds, but said he will not support city funds being spent on the project.

Resolution 95-1089(b) failed upon the following vote (Public Document No. 95-1218-18):

Yeas: Councilors Atkins, Downs, Hales and President Keenan -- 4

Nays: Councilors Bohlmann, Hardesty, Prettnner, Talarico and Wheeler -- 5

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BY COUNCILOR HALES:

RESOLVED, that the following rates are established for appliance service work by the city of Duluth, department of water and gas, pursuant to City Code Section 48-46, and that all previous rates for the same service are hereby repealed.

For regular time hours:

First 1/2 hour or fraction thereof per service person - - - - - \$20.00

Each subsequent 1/4 hour or fraction thereof per service person - - - - - \$ 7.50

For overtime hours:

First 1/2 hour or fraction thereof per service person - - - - - \$25.00

Each subsequent 1/4 hour or fraction thereof per service person - - - - - \$10.00

For standby hours:

First one hour or fraction thereof per service person - - - - - \$60.00

Each subsequent 1/4 hour or fraction thereof per service person - - - - - \$15.00

BE IT FURTHER RESOLVED, that the water and gas department director may, by regulation, adjust amounts for annual contracts for heating system maintenance, based on average expected costs for such service.

Resolution 95-1071 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute Supplement No. 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

to Agreement No. 73627 (city clerk's Public Document No. 95-1218-14) with the Minnesota department of transportation providing for a change in the method of payment from a lump sum basis to an actual cost basis for the state's share of shared construction costs and related engineering to correct and stabilize erosion in Kingsbury Creek along Trunk Highway No. 2 west of Trunk Highway No. 35; said sum to be deposited in the P.I. fund.

Resolution 95-1070 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a preliminary engineering study of First Street and Michigan Street between 27th Avenue West and Superior Street for a purpose of scoping and report to identify proposed improvement related to Trunk Highway 23 turnback; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for this study; and

WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for preliminary engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$15,582, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5303. To be reimbursed by M.S.A. funding from T.H. 23 turnback.

Resolution 95-1082 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to repair the Aerial Lift Bridge; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design and construction repairs of the Aerial Lift Bridge northeast counter weight; and

WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for preliminary engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$45,000, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303. Engineering fees of up to 25 percent of the construction cost may be reimbursed by municipal state aid.

Resolution 95-1083 was unanimously adopted.

Approved December 18, 1995

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to reimburse the county of St. Louis an approximately \$35,691.71 for 1995 and \$40,000 per annum subsequently, payable

out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5445, for the boarding at the St. Louis County jail of persons charged with violations of the Duluth City Code, 1959, as amended; said boarding fee to be based on a charge of \$30 per booking with no additional charges for the first eight hours, and each additional hour subsequent to the first eight hours to be charged at \$1 per hour; the \$35,091.71 to be encumbered out of 1995 budget and \$40,000 to be encumbered out of 1996 budget.

Resolution 95-0880 was unanimously adopted.
Approved December 18, 1995
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

95-063 (9286) - AN ORDINANCE AMENDING ORDINANCE NO. 9227 TO CHANGE THE 1995 CITY BUDGET.

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

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BY COUNCILOR WHEELER

95-064 (9287) - AN ORDINANCE REPEALING ARTICLE II, DIVISION 9, OF CHAPTER 20 OF THE DULUTH CITY CODE RELATING TO THE COMMUNITY INVESTMENT TRUST FUND.

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

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BY COUNCILOR PRETTNER

95-062 (9288) - AN ORDINANCE DESIGNATING THE FORMER LINCOLN LIBRARY BUILDING AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

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The meeting was adjourned at 11:50 p.m.

MARTHA OSWALD, Deputy City Clerk, for
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9285

BY PRESIDENT KEENAN:

AN ORDINANCE ESTABLISHING A HUMAN RIGHTS COMMISSION IN THE CITY OF DULUTH; ADDING AN ARTICLE XXIV TO CHAPTER 2, DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XXIV be added to Chapter 2 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXIV. Human Rights Commission.

Sec. 2-128. Creation of commission; purpose; membership.

There is hereby established a human rights commission. The purpose of the commission is to promote cultural diversity in Duluth; to promote the elimination of hate,

prejudice and discrimination against persons or groups based on race, gender, religion or other status of the person or group; to educate the community on issues of discrimination and cultural diversity; to advise the city council and administration on human rights issues; and to promote the goals and objectives of the Minnesota Human Rights Act. The commission shall consist of 15 members who shall be appointed by the mayor with the approval of the city council. Appointments to the commission should reflect a broad cross section of the ethnic, cultural and other diversity of the community as defined in Minnesota Statutes, Section 363. Appointments should include, but are not limited to, both sexes, various economic levels including both persons receiving public assistance and members of the business and professional community, racial and ethnic minorities, various age groups including senior citizens and students, and both property owners and tenants. Of the first 15 appointments, five shall be for three years, five shall be for two years, and five shall be for one year. Thereafter, all appointments shall be for a term of three years. Any member or former member may be reappointed. Members shall serve without compensation.

Sec. 2-129. Officers; meetings; conduct of business.

Within 60 days after all its members are appointed, the human rights commission shall meet and elect a chairperson and a vice chairperson. The commission shall establish bylaws for the selection of any additional officers, the time, place and frequency of meetings, and rules for the conduct of its business.

Sec. 2-130. Powers and duties.

The human rights commission shall have the following powers and duties:

(a) To educate the community about its cultural diversity and how that diversity strengthens Duluth;

(b) To assess the human relations and civil rights needs of the community and to advise the administration and city council of the results of these assessments;

(c) To advise the administration and city council on matters concerning the Minnesota Human Rights Act;

(d) To cooperate with other groups and governmental agencies concerned with human rights;

(e) To form study groups and advisory committees to the commission, which may include persons who are not members of the commission, to assist in the accomplishment of its duties;

(f) To provide support and information services to persons in matters of discrimination and intolerance;

(g) To develop a community-wide readiness plan to address problems arising from discrimination or intolerance;

(h) To explore implementation of a no fault grievance procedure and mediation training and its applicability to the Duluth community;

(i) The commission shall have the power to seek outside funding sources in addition to resources supplied it by the city to assist it to complete its mission. All outside monies or grants received by the commission are subject to the city's Charter provisions.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 21, 1996)

President Keenan moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1995

Yeas: Councilors Atkins, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 8

Nays: Councilor Bohlmann -- 1

Passed December 18, 1995
Approved December 18, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9286

BY COUNCILOR WHEELER:

AN ORDINANCE AMENDING ORDINANCE NO. 9227 TO CHANGE THE 1995 CITY BUDGET.

The city of Duluth does ordain:

Section 1. That Ordinance 9227, passed and approved December 12, 1994, is hereby amended by appropriating general fund balance and increasing Budget Item 700 - transfers - transfers to golf, by \$174,178. Such an increase will be funded from general fund undesignated fund balance.

Section 2. That the ordinance shall also be changed by reducing Budget Item 700 - transfers - transfers to Duluth transit authority, by \$1,954,123 with such a decrease reflected in the reduction of the related revenues.

Section 3. That this ordinance shall take effect December 31, 1995.

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed December 18, 1995
Approved December 18, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9287

BY COUNCILOR WHEELER:

ORDINANCE REPEALING ARTICLE II, DIVISION 9 OF CHAPTER 20 OF THE DULUTH CITY CODE RELATING TO THE COMMUNITY INVESTMENT TRUST FUND.

The city of Duluth does ordain:

Section 1. That Article II, Division 9 of Chapter 20 of the Duluth City Code, 1959, as amended, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 21, 1996)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed December 18, 1995
Approved December 18, 1995
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9288

BY COUNCILOR PRETTNER:

AN ORDINANCE DESIGNATING THE FORMER LINCOLN LIBRARY BUILDING AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 28A of the Duluth City Code, 1959, as amended, the former Lincoln Library Building as a Duluth heritage preservation landmark; said landmark is described in Public Document No. 95-1218-15 on file with the city clerk and is described as follows:

Lots 365 & 367, Block 89, Duluth Proper Second Division located at 2229 West Second Street.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 28, 1996)

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

Yeas: Councilors Atkins, Bohlmann, Downs, Hales, Hardesty, Prettnner, Talarico, Wheeler and President Keenan -- 9

Nays: None -- 0

Passed December 18, 1995

Approved December 18, 1995

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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