



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
1996**

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 8, 1996, 6:00 p.m. in the Lake Superior Ballroom, Downtown Entertainment Convention Center, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0108-01 D.M.A. & Associates, Inc., submitting petition to reclassify West Duluth, Second Division, Block 68, Lots 8-16, including 1/2 of vacated alley from R-3 to M-1. -- Assessor

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REPORTS OF OFFICERS

96-0108-02 Assessor submitting letter of sufficiency to reclassify from R-3 to M-1, West Duluth, Second Division, Block 68, Lots 8-16, including 1/2 of vacated alley. -- Received

96-0108-03 Engineering division submitting December 1995 monthly project status report. -- Received

96-0108-04 Property manager submitting parking lot space rental rate changes pursuant to Section 2-31 of the Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

96-0108-05 Board of directors of trusts of Miller-Dwan Hospital and Medical Center minutes of: (a) October 19; (b) November 16, 1995 meetings. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- 96-0108-06 Board of zoning appeals minutes of November 28, 1995 meeting. -- Received
- 96-0108-07 City planning commission minutes of: (a) September 12; (b) October 10; (c) November 14, 1995 meetings. -- Received
- 96-0108-08 Civil service board minutes of November 8, 1995 meeting. -- Received
- 96-0108-09 Duluth airport authority: (a) Minutes of: (1) November 21; (2) December 1, 1995 meetings; (b) Unaudited balance sheet for November 30, 1995. -- Received
- 96-0108-11 Duluth transit authority: (a) October 1995 financial statement summary; (b) Minutes of November 29, 1995 meeting. -- Received
- 96-0108-10 Heritage preservation commission minutes of November 8, 1995 meeting. -- Received
- 96-0108-12 Technical design advisory committee for DWMX-D minutes of October 17, 1995 meeting. -- Received

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REPORTS OF COUNCILORS

President Keenan announced that the election of officers for 1996 would now take place. Councilor Prettner was elected president upon a unanimous vote. Councilor Hardesty was elected vice president upon a unanimous vote. Jeffrey Cox was elected secretary upon a unanimous vote.

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Councilor Keenan spoke of accomplishments of the council during the past year. He introduced councilors and President Prettner.

President Prettner thanked councilors for their support and introduced Mayor Doty.

Mayor Doty presented the 1996 State of the City Address (Public Document No. 96-108-13.)

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

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 1996, 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 1996, and which payments shall be payable from the General Fund 015-1514, aid to other agencies.

Resolution 96-0025 was unanimously adopted.

Approved January 8, 1996

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:

COMMISSION ON AGING

Duane C. Timo for a term expiring July 1, 1997, replacing Paul Rugg.

Resolution 96-0031 was unanimously adopted.

Approved January 8, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Scott Anderson, Kenneth Cayo and Deborah Landin-Bohbot for terms expiring November 1, 1998.

Resolution 96-0032 was unanimously adopted.

Approved January 8, 1996

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:

HERITAGE PRESERVATION COMMISSION

Marguerite A. Mason for a term expiring May 31, 1997, replacing Maryanne Norton who resigned.

Resolution 96-0033 was unanimously adopted.

Approved January 8, 1996

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:

DULUTH TRANSIT AUTHORITY

Joy Jorgensen (Superior, WI) for a term expiring June 30, 1997, replacing Pamela Brokaw who resigned.

Resolution 96-0035 was unanimously adopted.

Approved January 8, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462.A221, et seq (the "code"), the city of Duluth, Minnesota, is a suballocator of low income housing tax credits ("LIHTCs"); and

WHEREAS, on May 22, 1995, the city council of the city of Duluth, Minnesota, authorized an allocation of the city's LIHTCs suballocation to Artspace Projects, Inc. (the "developer"), for the Washington Studios Project (the "project") and to two other developers for separate projects; and

WHEREAS, on May 22, 1995, the city of Duluth, Minnesota, entered into a commitment of credit of \$58,933 in LIHTCs with the developer for the project; and

WHEREAS, on June 16, 1995, the city of Duluth returned to the Minnesota housing finance agency ("MHFA") the unused portion of its 1995 apportioned credits in the amount of \$13,819 in LIHTCs; and

WHEREAS, on December 29, 1995, construction costs for the project exceeded original estimates, thereby qualifying the developer for additional LIHTCs for the project; and

WHEREAS, on December 29, 1995, the MHFA, as a designated agency pursuant to Minnesota Statutes, Chapter 462A.223, exchanged a portion of its apportioned LIHTCs in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

amount of \$11,626 to make it available to the city of Duluth for allocation to the project, pursuant to Temporary Regulation Section 1.42-1T(c)(4)(iii) under the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth, Minnesota, hereby authorizes an additional \$11,626 in 1995 LIHTCs, which was received from the MHFA, to the developer for the 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.

Resolution 96-0036 was unanimously adopted.

Approved January 8, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

RESOLVED, that Jamar Company, Inc., be and hereby is awarded a contract for furnishing and installing insulation to the Hartley Building steamline system for the Duluth steam cooperative in accordance with specifications on its low specification bid of \$5,880, terms net 30, FOB job site, payable out of Steam Fund 540, Dept./Agency 920, Organization 1460, Object 5310.

Resolution 96-0022 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: None -- 0

Abstention: Councilor Hales -- 1

Approved January 8, 1996

GARY L. DOTY, Mayor

- - -

Mayor Doty introduced the 1995 employees of the month and announced the selection of Stefan Kunicki as employee of the year.

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, January 11, 1996, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 96-0037, by Councilor Wheeler, providing for the issuance, sale and delivery of \$8,950,000 general obligation tax and aid anticipation certificates of indebtedness of 1996 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.

Todd Torvinen, finance director, introduced Wayne Burgraff from Evensen Dodge.

Mr. Burgraff reviewed details of the sale and compared it to similar issues. He said the city received very good rates and recommended the award of the bid.

Councilor Bohlmann said she will not support the resolution because she believes it puts the city at risk of not receiving government aid in the future.

Resolution 96-0037 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 Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, the City is authorized to issue and sell general obligation tax and aid anticipation certificates of indebtedness in anticipation of collection of taxes and state aids. The City Council has, by Resolution No. 95-1084, adopted December 18, 1995, authorized the issuance and provided for the sale of \$8,950,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 1996 (the "Certificates") in anticipation of collection of taxes levied in the year 1995 for collection during the year 1996 and state aids receivable in 1996 for the general fund of the City (the "General Fund"), which is necessary for timely payment of anticipated expenditures from the General 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 Certificates, and has received an offer from Dain Bosworth Incorporated of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$9,001,283.50 plus accrued interest on the total principal amount from January 24, 1996, 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 receipts of General Fund Taxes and State Aids (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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 4. The Certificates to be issued hereunder shall be dated January 24, 1996, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 31, 1996 (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 4.25 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 366-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 15, 1996, 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 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 thereafter as possible to the account of Cede & Co. on the Maturity 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 Certificate holders and payments on the Certificates are set forth in the Representation Letter.

Section 7. 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 that 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 names(s) of the designated transferee(s), one or more new certificates of a like aggregate principal amount, as requested by the transferor.

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 of any Certificates during the 15 days next preceding the Maturity Date.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 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. Executed Certificates shall be furnished by the City without cost to the Purchaser. The Certificates, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the City Treasurer to the Purchaser thereof 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 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 AND AID ANTICIPATION CERTIFICATE
OF INDEBTEDNESS OF 1996

R-1 \$8,950,000

<u>Maturity</u>	<u>Date of</u>	<u>Original Issue</u>	<u>CUSIP</u>
<u>Interest Rate</u>	<u>Date</u>		
_____%	December 31, 1996	January 24, 1996	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: EIGHT MILLION NINE HUNDRED FIFTY THOUSAND
DOLLARS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 366-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 December 15, 1996, 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 \$8,950,000, pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, and pursuant to a resolution adopted by the City Council of the City on January 11, 1996 (the "Resolution").

It is hereby certified and recited that a sum of \$26,425,059 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 1995 for collection during the year 1996, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 1996; and that none of said amounts have at this time been collected and credited to the City's Fund; that heretofore no tax or aid anticipation certificates have been issued against said tax levies or state aids for such Fund; and that this Certificate is issued in anticipation of collection of said taxes and state aids.

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.

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 24th day of January, 1996.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 and Aid Anticipation Certificates of Indebtedness of 1996, 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>
1/24/96	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 14. A. The Treasurer shall credit \$8,950,000, 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 \$8,950,000, 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. The Treasurer shall pay the costs of issuance of the Certificates from the General Fund.

B. The City Council has appropriated \$150,000 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 \$5,103,991, based on notices from the Minnesota Department of Revenue, and the State Aids are reasonably expected to be \$21,321,068.

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 is the amount levied in Section 2 of Ordinance No. 9282, adopted by the City Council on December 11, 1995 (the "General Fund Taxes"), and the amounts of state aids from Local Government Aid and Homestead and Agricultural Credit Aid receivable from the State of Minnesota for the General Fund in 1996 (the "General Fund State Aids") (collectively the General Fund Taxes and the

General Fund State Aids are the "General Fund Taxes and State Aids"), 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 and State Aids 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 General Fund Taxes and State Aids, 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.

Section 19.

19.01. 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") for securities maturing in 18 months or less, the City hereby makes the following covenants and agreements for the benefit of the holders and beneficial owners from time to time of the outstanding Certificates.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

B. If the City fails to comply with any provisions of this Section 19, the holders or beneficial owners 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 19. 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 19 constitute a default under the Certificates or under any other provision of this resolution.

19.02. The City will provide, in the manner set forth in Section 19.03, either directly or indirectly through an agent designated by the City, the following information at the following times: 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.

19.03. The City agrees to make available the information described in Section 19.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate: to each of the then nationally recognized municipal securities information repositories under the Rule or to the Municipal Securities Rulemaking Board and to any state information depository then designated or operated by the State of Minnesota as contemplated by the Rule, if any.

19.04. The covenants of the City in this Section 19 shall remain in effect so long as any Certificates are outstanding. This Section 19 may be amended or supplemented by the City from time to time, without notice to (except as provided in Section 19.03) or the consent of the holders or beneficial owners 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, as amended. This Section 19 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 96-0037 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: Councilor Bohlmann -- 1

Approved January 11, 1996

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 16, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Absent: Councilor Keenan -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0116-06 Robert O. Carlson submitting letter regarding Superior Street parking (95-0922R). -- Received

96-0116-04 Citizens Coalition of Gary-New Duluth submitting letter opposing Engineers Realty, Inc., landfill permit application (96-0006R). -- Received

96-0116-17 Engineers Realty, Inc., submitting letter regarding their landfill permit application (96-0006R). -- Received

96-0116-15 Alden Lind submitting correspondence regarding various zoning issues. -- Received

96-0116-16 Park Point Community Club, Inc., submitting letter opposing spot rezoning of Park Point (96-002-O). -- Received

96-0116-01 Terry Wiens submitting letter regarding petition relating to proposed improvements to Rendle Avenue included in 1996 street improvement program (95-0565R(a)). -- Received

96-0116-05 The following submitting correspondence in support of Engineers Realty, Inc., landfill permit application (96-0006R): (a) Absalute Window; (b) William J. Anderson; (c) Azcon Corporation; (d) Ray Dahl Construction, Inc.; (e) Four Star Construction, Inc.; (f) Gary Builders Supply; (g) Harbor City Masonry; (h) Helen's Place; (i) Home Beautifier Company, Inc.; (j) Howard Waste Paper, Inc.; (k) Letourneau & Sons, Inc.; (l) Levine & Son, Inc.; (m) P.R.P. Repair; (n) Pirkola Construction; (o) Ray Riihiluoma, Inc.; (p) Stout Mechanical, Inc.; (q) TGR Sanitary Service; (r) World Wide Homes. -- Received

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REPORTS OF OFFICERS

96-0116-14 Mayor submitting letter appointing Councilor Yvonne Prettner acting mayor. -- Received

96-0116-02 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on January 23, 1996, regarding the proposed improvement of 11th Street Alley from Ninth Avenue East to Tenth Avenue East;

(b) Letter for confirmation of assessment roll levied to defray the assessable portion of permanent residential design alleys (St. Marie Alley from Carver Avenue to Douglas Avenue and Fourth Alley from 25th to 26th Avenues East) and 1994 street program (18th Avenue West from Michigan Street to First Street, Kent Road from Eighth Street to 19th Avenue East and Swan Lake Road from Arrowhead Road to 750 feet southerly). -- Clerk

96-0116-03 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for September and October 1995. -- Received

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REPORTS OF COUNCILORS

Councilor Hogg stated that he recently received a letter from the Rainbow Senior Center regarding senior nutrition and recreation program employees, and stated concern that the administration has not publicly responded to those concerns. He felt a committee meeting should be held regarding that issue.

City Attorney Dinan responded that the Charter defines the roles of the legislative body and administration, specifically noting that it is a violation of the Charter for the council to request that a particular individual be hired or fired. He noted that employees of Preferred Services have requested a meeting with councilors on this issue, and since their focus is to request that the council take a position on their employment, he would advise against such a meeting.

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

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Councilor Hogg moved to remove from the table Resolution 95-0457, 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, which motion was seconded and unanimously carried.

Councilor Hogg moved to remove the resolution from the agenda, which motion was seconded and unanimously carried.

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Councilor Hogg moved to remove from the table Resolution 95-1089(a) approving the city's 1996 legislative program, which motion was seconded and unanimously carried.

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

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Councilor Hales 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 unanimously carried.

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

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of 26th Avenue East from Superior Street to Jefferson Street (Contract No. 5262) be and the same is hereby confirmed.

Resolution 96-0034 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 55,000 gallons of various fuels for a one year period for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

the various departments and divisions in accordance with specifications on its low specification bid of approximately \$50,458.10, terms net 30, FOB job site, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0007 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance furnished by the Workers' Compensation Reinsurance Association for the period January 1, 1996, to December 31, 1996, at a cost of \$31,831.90, which shall be payable from the self-insurance fund.

Resolution 96-0014 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to renew an administrative services agreement with Employer Data Communications, Inc., to provide communication, implementation and management of a flexible benefits plan for city employees for 1996, in accordance with the provisions of Section 125 of the Internal Revenue Code, which agreement shall be substantially in the form of Public Document No. 96-0116-07, on file with the city clerk, at an estimated cost of \$10,225, which shall be paid from the General Fund 100, Agency 032, Org. 1479.

Resolution 96-0018 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$14,350, terms net 30, FOB job site, payable out of various funds, dept./agency various, organization various, object various.

Resolution 96-0021 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 94-0747 be amended to RSI, Inc., for remedial work at 19 contaminated underground fuel storage tank sites to increase the amount by \$46,360.30 for a new total of \$169,237.20, payable out of Self Ins. Fund 605, Dept./Agency 036, Organization 1751, Object 5441.

Resolution 96-0049 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0051, by Councilor Rapaich, approving the issuance of lawful gambling premises permits, was introduced for discussion.

Councilor Hogg said he feels the city should not expand its involvement and sponsorship of charitable gambling because of the substantial social costs associated with gambling. He said his position is that he will not support any new licensees or sites.

Councilor Wheeler said he will not support the Piedmont Hockey Association at Harbor Lites bingo hall in order to remain consistent with his initial vote against the bingo hall because of his opposition to expansion of gambling in the community. He moved to divide the question to consider that site separately, which motion was seconded and unanimously carried.

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

John Omundson, gambling manager for Piedmont Heights hockey, pointed out that Piedmont hockey has been operating at Harbor Lites bingo hall, so this would be a renewal of that license. In response to Councilor Wheeler, Mr. Omundson said they have not made a profit yet at that site, but they have reorganized and restructured and wish to continue their operation there.

Councilor Bohlmann felt there should be a limit on the number of charitable licenses issued, therefore she will not support the Harbor Lites location.

Resolutions 96-0051(a) and 96-0051(b) were adopted as follows:

BY COUNCILOR RAPAICH:

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 Statute 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. Piedmont Hockey Association	Terry's Place	1/4/96
	All American Club	1/4/96
2. Duluth Junior Football	Roby's Grandstand	1/2/96
3. Optimist Club	Curly's Bar	1/2/96
	Main Restaurant	1/2/96
4. Duluth Amateur Hockey	Midway Bar	1/8/96
5. Second Harvest Duluth - Northern Lakes Food Bank	The Reef	1/3/96
6. VFW Post #137	2024 West Superior Street	1/10/96

Resolution 96-0051(a) was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premise permit; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, 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>
Piedmont Hockey Association	Harbor Lites Bingo Hall	1/4/96

Resolution 96-0051(b) was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Rapaich, Talarico and President Prettner -- 6

Nays: Councilors Bohlmann and Wheeler -- 2

Absent: Councilor Keenan -- 1

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the Minnesota Conservation Federation 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 Minnesota Conservation Federation, 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 96-0052 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$259,315, terms net 30, FOB job site, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5212.

Resolution 96-0055 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that the proposed amendments to the specifications for the civil service classification of firefighter, which were approved by the civil service board on October 3, 1995, and which are filed with the city clerk as Public Document No. 96-0116-08, are approved. This classification remains represented by the firefighters' union and compensated at Range 226, \$2350 to \$3126 per month (1996 rates).

Resolution 96-0026 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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Resolution 96-0029, by Councilor Bohlmann, confirming appointment of John Peck replacing Nora Hakala and reappointment of James Peterson to housing and redevelopment authority, was introduced for discussion.

Councilor Bohlmann moved to divide the question to vote on the appointment and reappointment separately, which motion was seconded and unanimously carried.

Councilor Bohlmann moved to table Resolution 96-0029(a), confirming appointment of John Peck for a committee meeting, which motion was seconded and unanimously carried.

Resolution 96-0029(b) was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HOUSING AND REDEVELOPMENT AUTHORITY

James R. Peterson for a term expiring January 2, 2001.

Resolution 96-0029(b) was unanimously adopted.

Approved January 16, 1996

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 are hereby confirmed:

PLANNING COMMISSION

Jeff Jackson for a term expiring December 31, 1999, replacing Kenneth Hogg.

Ronald D. DeGrio for a term expiring December 31, 1999, replacing Chris Solon.

David Oberstar for a term expiring December 31, 1999.

Resolution 96-0030 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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>
95130	Jack Moon	Lot 4, 5, Blk 56, Portland Div. Town of Duluth (10-3830-7930)	N. Side of 2nd St. b/w 10th & 11th Avenues East (East Hillside)

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95140	St. Lo. County	Spauldings Div., Blk 2 Lots 27 & 29 (10-4550-360) & Duluth Proper 2nd Div., Blk 181 Lots 370, 372 & 374 (10-1220-7710)	W. Side of 23rd Ave. West on the lower side of 9th St. (West End)
95149	St. Lo. County	Lot 15, Blk 74, Gary Central Division (10-1790-5910)	W. Side of 108th Ave. West b/w Gary St. & Dickson St. (Gary-New Duluth)
95158	Daniel Williams	Lot 324, Blk 143, Duluth Proper 2nd Div (10-1220-90)	S. Side of 6th St. b/w Piedmont Ave. & 20th Ave. West (Lincoln Park Dist. (formerly West End))
95167	DeForest & Judith Malstrom	N. 100' of Lot 46, Duluth Proper 1st Div. (10-990-1080)	Lower side of 4th St. b/w 2nd & 3rd Avenues East (Central Hillside)
95168	Merlin & Marlene Carlson	Duluth Lands in the City, Sec. 09, Twn 050, Range 14, E½ of W½ of NE¼ of NE¼ of SW¼ (10-2710-2703)	W. Side of Blackman Ave. south of McFarlane Rd. ext. (Kenwood)
95170	St. Lo. County	Parkland Div., Blk 5 S'ly 50' of Lot 11 (10-3730-1290)	Lower side of Skyline Parkway b/w Chester Pkwy. & Kelly St. (East Hillside)
95176	St. Lo. County	Duluth Proper 3rd Div. Blk 33, N'ly 55' of Lots 82, 84 (10-1270-900)	SW corner of 4th St. & 5th Ave. West & Mesaba Ave. (Central Hillside)

BE IT FURTHER RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify from nonconservation to conservation and withhold from sale for Skyline Parkway view protection (as recommended 5-16-77):

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95170	St. Lo. County	Parkland Div., Blk 5 N'ly 50' of Lot 10 (10-3730-1280)	Lower side of Skyline Pkwy. b/w Chester Pkwy. & Kelly St. (East Hillside)

Resolution 96-0001 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, Kenneth Sievers has submitted to the city council a request for a special use permit for a dental clinic in an "R-1-c" residential district on property described as Lots 11 through 16, Block 5, Duluth Heights Fifth Division, and located at 210 West Central Entrance; 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 Kenneth Sievers to allow for the operation of a dental clinic at 210 West Central Entrance, on the condition that the project be limited to, developed and maintained in accordance with plans submitted by entitled "site plan" and "north/east elevations" dated November 13, 1995, as identified as Public Document No. 96-0116-09 with the following conditions:

(a) That prior to the issuance of any permits the following shall be reviewed and approved by the planning department and engineering division:

(1) Signage plans that prohibit left turn exits onto Central Entrance and directs traffic to the alley as a means of exiting the property;

(2) Storm drainage plans be approved.

Resolution 96-0002 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Weber Avenue between Cleveland and Buffalo Streets and the alley between Myers and Centre Streets legally described as:

Weber Avenue between Cleveland and Buffalo Streets and the alley between Myers and Centre Streets adjacent to Blocks 15, 16, 19 and 20, in the plat of Myers and Whipples 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 December 12, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of Weber Avenue between Cleveland and Buffalo Streets and the alley between Myers and Centre Streets described above, and as more particularly described in Public Document No. 96-0116-10.

BE IT FURTHER RESOLVED, that a utility easement, 20 feet in width, ten feet either side of the center line of Weber Avenue be retained and the full 16 feet of alley way be retained for utility easement.

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 avenue and alley to be vacated and the utility easements being retained.

Resolution 96-0004 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, Richard L. Williams has submitted to the city council a request for renewal of a special use permit for a privately owned and operated community building in a residential zone for property located at 101 West Peary Street; and

WHEREAS, the city council did, on November 21, 1994, adopt Resolution No. 94-0971, conditionally granting a special use permit for said community building; 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 the special use permit granted to Richard Williams to allow for the operation of a privately owned and operated community building located at 101 West Peary Street is hereby renewed on the following conditions:

(a) That the allowable uses within the privately operated community building shall include: social hall, meeting room, classroom, receptions area, kitchen and dining area, with the following conditions:

(1) The permit is issued for a period of five years, from the effective date of this resolution, following which renewal may be petitioned for and considered based on the performance of the terms of this permit;

(2) The following uses shall be permitted to be conducted within the basement level only of the building: social hall, meeting room, classroom and receptions;

(3) That no alcohol of any type be permitted on the premises;

(4) That the hours of operation be limited to 8 a.m. to 11 p.m. weekdays and 8 a.m. to 12 a.m. on Fridays and Saturdays;

(5) That the premises not be used for any other commercial use;

(6) That the signage be limited to the existing masonry display reader panel located on the corner of the property;

(7) That prior to any future renewal, that a plan for improving the parking area on the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

west side of the building be submitted (to include grading, surfacing and landscaping) and approved.

Resolution 96-0005 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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Resolution 96-0006, by President Prettner, granting a special use permit to Engineers Realty, Inc., for a select waste disposal, demolition debris landfill for property located at 1100 Gary Street (Del Zotto), was introduced for discussion.

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

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BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Louis Leustek & Sons for performance of wetland mitigation work on the Northwest Airlines Heavy Aircraft Maintenance Base site in the amount of not to exceed \$133,332, payable from Fund 420, Agency 040, Organization 4250, Object 5530.

Resolution 96-0038 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northeastern Minnesota Initiative Fund; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Quality Finer Foods, Inc.; and

WHEREAS, it 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 Quality Finer Foods, Inc.

Resolution 96-0039 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Gaylord Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering steel display shelving system for the library department in accordance with specifications on its low specification bid of \$8,670.73, terms net 30, FOB Michigan, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B521.

Resolution 96-0044 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, proper city officials are hereby authorized to enter into an agreement to accept \$45,284 in Wagner-Peyser Federal Social Security Act funds from the Minnesota department

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of economic security to implement a Minnesota workforce center (one-stop center) to provide services to Duluth employers and job seekers. Said services are to be implemented in accordance with the local integration plan. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0116-11.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund No. 268, Budget Item No. 6251.

Resolution 96-0054 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 190 tons of 25 percent hydrofluosilicic acid for the water and gas department in accordance with specifications on its low specification bid of \$31,160, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5236.

Resolution 96-0010 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Van Waters & Rogers, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,600 pounds of magnifloc 985N flocculent for the water and gas department in accordance with specifications on its low specification bid of \$14,058, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5239.

Resolution 96-0011 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Van Waters & Rogers, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 100,000 gallons of caustic soda (50 percent) for the water and gas department in accordance with specifications on its low specification bid of \$112,200, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5238.

Resolution 96-0012 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that LaRoche Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of anhydrous ammonia for the water and gas department in accordance with specifications on its low specification bid of \$13,600, terms

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5234.

Resolution 96-0013 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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. 96-0116-12; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020.

Resolution 96-0020 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that 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 per year, for years 1996 and 1997, which agreement is on file in the office of the city clerk as Public Document No. 96-0116-13; payment not to exceed \$50,000, payable from the Public Utility Gas Fund 556/Dept. 950/Obj. 5441.

Resolution 96-0041 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Larson Chevrolet and Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering approximately nine vehicles for the water and gas department in accordance with specifications on its low specification bid of \$156,937.34, terms N/30, FOB destination, payable out of Water and Gas Fund 510 & 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0045 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Groebner & Assoc., Inc., be and hereby is awarded a contract for furnishing and delivering three gas corrector instruments for the gas division in accordance with specifications on its low specification bid of \$9,216.51, terms N/30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0048 was unanimously adopted.
Approved January 16, 1996
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HALES:

RESOLVED, that Yax Electric, Inc., be and hereby is awarded a contract for furnishing and delivering thawing service for water main and service lines for the water and gas department in accordance with specifications on its low specification bid of \$6,000, terms net/30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5319.

Resolution 96-0050 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Lakeland Ford, Inc., be and hereby is awarded a contract for furnishing and delivering a cab and chassis for the water and gas department in accordance with specifications on its low specification bid of \$37,873.80, terms net 30, FOB destination, payable out of Water and Gas Fund 510 & 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0057 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Northstar Ford, Inc., be and hereby is awarded a contract for furnishing and delivering three cabs and chassis for the water and gas fleet in accordance with specifications on its low specification bid of \$61,878, terms net 30, FOB destination, payable out of Water and Gas Fund 510 & 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0058 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Minnesota Power Company, Inc., be and hereby is awarded a contract for relocating approximately 82 street lights for the 1995 street improvement program in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9500, Object 5530.

Resolution 96-0009 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0060 be amended to Eggebrecht Chevrolet for furnishing seven squad cars, to change the object code, \$125,692 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E604.

Resolution 96-0042 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Motorola, Inc., be and hereby is awarded a contract for furnishing and

on its low specification bid of approximately \$10,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5218.

Resolution 96-0008 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that United Development Achievement Center (UDAC) be and hereby is awarded a contract for approximately 387 hours to wash vehicles for the police department in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5409.

Resolution 96-0023 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Physio-Control, Inc., be and hereby is awarded a contract for furnishing and delivering nine defibrillators for the fire department in accordance with specifications on its low specification bid of \$55,719.90, terms N/30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 2100; \$20,000 payable from 1995 budget, Object B513, and \$35,719.90 payable from 1996 budget, Object B625.

Resolution 96-0047 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that Nederman, Inc., be and hereby is awarded a contract for furnishing and installing a vehicle exhaust system for the fire department, Station No. 6, in accordance with specifications on its low specification bid of \$7,971, terms 1%10 net 30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C424.

Resolution 96-0053 was unanimously adopted.

Approved January 16, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT PRETTNER

96-001 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-1-B, RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DULUTH TEACHERS' RETIREMENT ASSOCIATION).

- - -

BY PRESIDENT PRETTNER

96-002 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS

AMENDED, ZONING DISTRICT MAP NO. 30 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 1919 AND 1921 MINNESOTA AVENUE, FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (OWENS).

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

Lloyd Vienneau felt spot zoning is not in the best interests of the Park Point community and noted that there is a long range planning committee reviewing land use issues for that area.

In response to Councilor Hogg, Mr. Dinan said courts do not favor rezoning that is totally inconsistent with surrounding zones, but noted that he does not feel that this request is spot zoning because the application is to rezone to R-3 apartment residential and there is a C-2 zone immediately adjacent to it.

Noel Knudson stated concern about the prospect of several new developments proposed for Park Point, noting the potential for overdevelopment given the limitations of the sewer system and the two-lane roadway. He requested that the ordinance be tabled until a land use plan is developed for Park Point.

Gary Glass, Park Point long-range planning committee member, said the committee is looking at environmental issues. He also feels that some development is occurring on Park Point that is not necessarily in the best interests of the residents of that neighborhood and the citizens of Duluth.

Kevin Owens briefly reviewed his project, noting that the planning commission voted unanimously in favor of it. He noted that his proposal involves downsizing the property and reducing the use of that particular piece of land. He said the project is a move more toward residential use of the property, and that he does not feel that it would be considered spot zoning.

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BY PRESIDENT PRETTNER

96-003 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-1-B, SINGLE FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL (WEDIN).

- - -

BY COUNCILOR TALARICO

96-004 - AN ORDINANCE PERTAINING TO MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS; CHANGING TERMINOLOGY AND REGULATIONS; AMENDING SECTIONS 5-32, 5-33, 5-34, 5-37, 5-38, 5-39 AND 5-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 9:00 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 22, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Absent: Councilor Keenan -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0122-09 Minnesota pollution control agency submitting a completeness review regarding Engineers Realty, Inc., landfill permit application (96-0006R). -- Received

96-0122-11 Mellissa Freitag submitting letter regarding massage parlor laws (96-004-0). -- Received

96-0122-12 Gary E. Glass submitting letter regarding proposed reclassification of property located on Minnesota Avenue (96-002-O). -- Received

96-0122-01 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served on: (a) February 15, 1996, from Duluth Rotary Club; (b) February 17, 1996, from Widseth, Smith, Nolting & Associates, Inc. -- Received

96-0122-10 Sandra Timm submitting letter in support of Engineers Realty, Inc., landfill permit application (96-0006R). -- Received

96-0122-13 Robert J. Viau submitting copy of letter sent to Minnesota department of commerce, enforcement division, regarding city health insurance administration (96-0015R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0122-03 Duluth transit authority: (a) Minutes of January 2, 1996 meeting; (b) November 1995 income statement. -- Received

96-0122-02 Heritage preservation commission minutes of December 13, 1995 meeting. -- Received

96-0122-04 Special assessment board minutes of: (a) December 18; (b) December 22, 1995 meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Leo Hughes spoke in opposition to the U.S.S. Des Moines project.

- - -

Tom Bulera spoke in favor of the human rights commission and the U.S.S. Des Moines project.

- - -

RESOLUTION TABLED

Councilor Bohlmann moved to remove from the table Resolution 96-0029(a), confirming appointment of John Peck replacing Nora Hakala to housing and redevelopment authority, which motion was seconded and unanimously carried.

Resolution 96-0029(a) was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HOUSING AND REDEVELOPMENT AUTHORITY

John D. Peck for a term expiring January 2, 2001, replacing Nora Hakala.

Resolution 96-0029(a) was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to pay \$10,000 to the John Beargrease Sled Dog Marathon, Inc., for sponsorship and advertising promotion of the John Beargrease Sled Dog Marathon, which payment shall be payable from Fund 258 - donations.

Resolution 96-0067 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to renew its present agreement with the Epic Life Insurance Company (Epic) under which Epic provides administrative services to the city group health plan, which renewal will be effective for calendar year 1996, at a cost of \$189,000 plus a \$1.90/month pre-certification charge per contract, which shall be paid from the group health fund.

RESOLVED FURTHER, that the city is hereby authorized to renew its present agreement with Epic under which Epic provides stop loss insurance to the city group health plan, which renewal shall be effective for calendar year 1996, at a cost of \$285,072, which shall be paid from the group health fund.

Resolution 96-0015 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to renew an agreement with Delta Dental for 1996 for administrative services to the city in connection with its self-funded employee dental plan, at a rate of \$1.60/month for single coverage, \$3.18/month for employee plus spouse and \$4.78/month for employee plus two dependents, at an estimated total cost of \$28,284, which shall be payable from Fund 633.

Resolution 96-0016 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during 1996 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.30 per thousand per month for employees paid from the general fund and at a rate of \$.29 per thousand per month for retirees and for employees paid from other funds, at an estimated cost of \$138,780, which shall be payable from the General Fund 100, Agency 032, Organization 1480.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0017 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to employee health benefits during the year 1996, which agreement shall be substantially in the form of Public Document No. 96-0122-05, on file in the office of the city clerk, at a cost to the city of \$10,800 plus reimbursable expenses, which shall be payable from the group health fund - adm. acct.

Resolution 96-0019 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 equipment beginning January 1, 1996, through December 31, 1996, at an estimated annual cost of approximately \$64,000, 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 purchasing agent as Document No. C16764-96.

Resolution 96-0068 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 for a one year period beginning January 1, 1996, to December 31, 1996, at an estimated annual cost of \$50,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 96-0069 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 \$10,000, 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 96-0070 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

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 \$9,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309.

Resolution 96-0071 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering a complete auger assembly for the fleet services division in accordance with specifications on its low specification bid of \$8,513.50, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0072 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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 parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
93100	James D. Topie	S'y ½ Lot 8 and Lot 10, Block 1 Congdon Park Div. 2nd Rearrangement	west side of Lakeview Ave. b/w 4th St. and Hawthorne Road (Congdon Park)

Resolution 96-0060 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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 parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
95106	Darrin Nelson Jodi Braiedy	E'ly 18' of Lot 3, Blk 8, West End Central Division (10-4550-1760)	S. side of Hoover b/w 22nd & 23rd Aves. W. (Piedmont Heights)
95107	Kevin Lammi	Lot 30, Blk 15, Gary First Division (10-1800-3140)	W. side of Commonwealth Ave. b/w Dickson and Reis Sts. (Gary-New Duluth)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

95108	Delta Enterprises	S'ly 9' of N'ly 73' of W'ly 36' of Lot 435, Blk 80, D.P. 2nd Div. (10-1140-2772)	N. side of 1st St. b/w 27th & 28th Aves. W. (West End)
95111	St. Louis Co.	Lot 17, Blk 17, Ironton Division (10-2550-4850)	W. side of 88th Ave. W. b/w Swenson Ave & Park Pl. (Lower Smithville)
95114	Douglas E. Fox	N'ly 57' of Lots 11-12 Blk. 33, Lakeview Div. (10-2790-3530)	12th Ave E. below Skyline Pkwy. (East Hillside)
95118	Dave Dzuck	Lots 7-9, Blk 14, Gary First Div. (10-1800-2570)	E. side of Commonwealth Ave. b/w Reis & Dickson Sts. (Gary-New Duluth)

Resolution 96-0061 was unanimously adopted.
Approved January 22, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of West Second Street, at the rear of property located at 4303 West First Street in the Oneota Industrial Park, legally described as:

West Second Street adjacent to Lots 10 and 11, Block 1, 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 at its regular meeting held August 8, 1995.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of West Second Street adjacent to Lots 10 and 11, Block 1, Oneota Industrial Park as described above, and as more particularly described on Public Document No. 96-0122-06.

BE IT FURTHER RESOLVED, that the easements for utilities and railroad spur 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 portions of the right-of-way to be vacated and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

those areas being retained for utility and rail spur easement.

Resolution 96-0066 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico and President Prettner -- 7

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Absent: Councilor Keenan -- 1

Approved January 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Publiccorp under which that firm will provide professional services related to the city's 1996 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 96-0122-07, at a cost to the city of not to exceed \$41,000, which shall be payable from the General Fund 100-015-1510-5312, and \$6,000 of which shall be reimbursed by the Duluth economic development authority.

Resolution 96-0064 was unanimously adopted.

Approved January 22, 1996

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 approximately 258 feet of Gogebic Street adjacent to property described therein with Mychal J. and Lori S. Franklin; 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. 96-0122-08.

Resolution 96-0063 was unanimously adopted.

Approved January 22, 1996

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 \$50,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 96-0074 was unanimously adopted.

Approved January 22, 1996

GARY L. DOTY, Mayor

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Resolution 96-0040, by Councilor Hardesty, to establish a "no parking" zone on the south side of Fourth Street from Third Avenue East to Fourth Avenue East, was introduced for discussion.

Councilor Hardesty moved to table the resolution for further information, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR TALARICO

96-006 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2, 3 AND THE WEST 1/2 OF LOT 4, BLOCK 77, LONDON ADDITION, TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH.

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BY COUNCILOR TALARICO

96-007 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT TO BRIAN AND DEBRA CARLSON OVER A PORTION OF THE SE¼ OF SW¼ SECTION 29-49-15.

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BY COUNCILOR HARDESTY

96-005 - AN ORDINANCE REGULATING DRUG PARAPHERNALIA; ADDING A NEW CHAPTER 16 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT PRETTNER

96-001 (9289) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-1-B, RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DULUTH TEACHERS' RETIREMENT ASSOCIATION).

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

- - -

BY PRESIDENT PRETTNER

96-002 (9290) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 30 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 1919 AND 1921 MINNESOTA AVENUE, FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (OWENS).

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

Kevin Owens requested approval of his rezoning request, stating that it will result in a reduction in the use of the property. He said that currently he operates a 15 slip boat rental business and two rental homes on the piece of property, and that he proposes to develop a six unit condominium. He felt that concerns regarding traffic, sewage, building height and the environment have been addressed, and that the best use of the property is residential rather than commercial.

In response to Councilor Hogg, Mr. Owens responded that he currently operates under a special use permit which allows him to use the property zoned R-1 for commercial purposes and that if the residential development is approved, the commercial business will not be allowed.

Noel Knudson, member of the Park Point long-range planning committee, requested that this ordinance be tabled on the basis that there is no overall planning guide for Park Point development. He added that the planning department does not anticipate developing such a plan in the near future. He said that many variances have been granted on Park Point over the past few years, which he felt sends the message to the community and developers that

established zoning laws and building codes will be overturned by the planning commission or city council. He felt that that sets a dangerous precedent and will endanger the character of Park Point in the future.

Gary Glass, long-range planning committee member, stated that he does not believe that a hardship exists in order for the planning commission to approve variances and special use permits for this property. He felt that before this ordinance is approved, department of natural resources' (DNR) approval should be obtained. He stated that environmental issues of concern that have not been dealt with yet are filling of wetlands, dredging and the presence of contaminants in sediment material. He said safety issues that need to be dealt with are the close proximity of the proposed development to gasoline pumps and underground gasoline storage tanks, the possible impact from the sewage pump station and that the sheet pile adjacent to the commercial establishment may be an attractive nuisance to small children. He noted that the planning staff recommends that the variances not be granted.

Elisa Troiani questioned the aesthetic impact of the project and stated fear that approving this ordinance will set a precedent for other types of development, and that overdevelopment will destroy the character of Park Point. She did not agree with Mr. Owens' statement that the proposed development will be a reduction in the number of families utilizing the property.

John Pegors reported that sediment samples taken in the 1970's on neighboring property were found to be high in mercury and lead and other elements, indicating that sediments have suffered from the impact of industry upstream. He felt that the project should not be approved until adequate sampling is done of the sediments at the project site.

President Prettner noted that the council is considering the rezoning issue at this time, not variances for environmental issues.

In response to councilors, Darrell Lewis, planning director, reviewed that variances are acted upon by the planning commission, not the council. He said the planning commission approved an additional variance that would allow the owner to encroach into the 50 foot area to permit the owner to not have to encroach into the water area. He said that the DNR and corps of engineers have final say on dredging and fill and that he understands that the DNR may not approve the permit.

Alden Lind said he agrees with planning staff that there is no hardship in this case. He feels that the courts would uphold an argument by the property owner that he has a right to develop this property. He urged the council to establish standards for conversion of spots within zones which conflict with the general pattern of land use in adjacent areas, and said he feels the proposed use would conflict with the neighborhood. He urged the council not to approve the ordinance.

Councilor Hardesty noted that the environmental issues have to be addressed before the project can proceed.

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

- - -

BY PRESIDENT PRETTNER

96-003 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-1-B, SINGLE FAMILY RESIDENTIAL TO C-2 HIGHWAY COMMERCIAL (WEDIN).

Councilor Hogg noted that the planning commission opposes this change and said that he felt their decision should be upheld.

Mr. Lewis said the planning department's recommendation is that a larger area would be more appropriate.

The ordinance failed upon a unanimous vote (Public Document No. 96-0122-09).

- - -

BY COUNCILOR TALARICO

96-004 (9291) - AN ORDINANCE PERTAINING TO MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS; CHANGING TERMINOLOGY AND REGULATIONS; AMENDING SECTIONS 5-32, 5-33, 5-34, 5-37, 5-38, 5-39 AND 5-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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.

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

- - -

ORDINANCE NO. 9289

BY PRESIDENT PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-1-B, RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DULUTH TEACHERS' RETIREMENT ASSOCIATION).

The city of Duluth does ordain:

Section 1. That Plate No. 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:

[MAP]

[refer to page 44]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 3, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: None -- 0

Absent: Councilor Keenan -- 1

Passed January 22, 1996
Approved January 22, 1996
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9290

BY PRESIDENT PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 30 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

LOCATED AT 1919 AND 1921 MINNESOTA AVENUE, FROM R-1-C SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (OWENS).

The city of Duluth does ordain:

Section 1. That Plate No. 30 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 45]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 3, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: None -- 0

Absent: Councilor Keenan -- 1

Passed January 22, 1996
Approved January 22, 1996
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9291

BY COUNCILOR TALARICO:

AN ORDINANCE PERTAINING TO MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS; CHANGING TERMINOLOGY AND REGULATIONS; AMENDING SECTIONS 5-32, 5-33, 5-34, 5-37, 5-38, 5-39 AND 5-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 5-32 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-32. Definitions.

(a) As used in this Article, the term massage means scientific manipulation of the soft tissue of the body of one person with the hands of another person for the purpose of relaxation or therapy. The practice of massage is declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, nursing, physical therapy or podiatry by persons duly licensed or registered in this state to practice such, and does not include athletic directors and trainers employed by a school or bona fide athletic team, beauty culturists or barbers;

(b) The term massage establishment means any business establishment having a fixed place of business where any person engages in, or permits another person to be engaged in, the massage of clients, including health clubs, beauty salons, saunas and steam baths that offer massage therapy, but excluding residential premises where massage therapy is practiced as a home occupation under the terms of Chapter 50 of this Code;

(c) The term employee means a person who is paid an hourly wage by a licensee for performing work in licensee's massage establishment.

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Section 2. That Section 5-33 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-33. License required.

No person shall engage in the business of operating a massage establishment either exclusively or in connection with any other business enterprise without first obtaining a license for each massage establishment.

Section 3. That Section 5-34 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-34. Application for license.

Application for a massage establishment license shall be made to the city clerk on forms supplied by said clerk. It shall contain the following information:

- (a) A description of services to be provided;
- (b) A description and location of the premises to be licensed;
- (c) The full names and addresses of the property owner, business owner, lessee, and manager, operator and the date of birth of each;
- (d) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment;
- (e) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment;
- (f) Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense as to time, place, date and disposition;
- (g) Whether any of the aforementioned individuals has ever held a license to run a massage establishment or similar business in another jurisdiction, and, if so, whether such license was ever revoked, suspended, or denied;
- (h) The method of payment under which massage therapists are paid and the economic basis upon which massage therapists are paid.

Section 4. That Section 5-37 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-37. Massage therapists; employment relationships; licenses required.

(a) No massage establishment licensee shall permit any person to perform a massage in the licensee's massage establishment unless such person is an employee of said licensee and unless such person is licensed as a massage therapist as provided herein. No person shall massage another for compensation unless such person has obtained a massage therapist license as provided herein and unless such person is the licensee of said massage establishment or an employee of the licensee of said massage establishment or is lawfully engaging in a massage practice as a home occupation under the terms of Chapter 50 of this Code;

(b) Massage therapist licenses shall be issued by the city clerk after approval by the chief of police. Applicant must be 18 years of age or over, of good moral character, and eligible for a license under the terms of Minnesota Statutes, Chapter 364 and the provisions of this Article. Applicant must also have successfully completed a course of study in massage of not less than 40 hours

from a recognized school where the theory, method, profession or work of massage is taught. Applicant shall submit a diploma, certificate or other written proof of educational attainment with the application, including the name and address of the school;

(c) An application for such license shall be filed with the city clerk, which application shall state the name, address, date of birth, criminal record and other pertinent information as required by the chief of police. Upon receipt of the application the chief of police shall cause all necessary investigations to be made so that he may approve or disapprove of the license;

(d) The fee for such license shall be \$15 per year. The license year shall be from May 1 to April 30 and shall not be prorated.

Section 5. That Section 5-38 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-38. Prohibited acts.

(a) No massage establishment shall:

(1) Remain open between 1:00 a.m. and 6:00 a.m. on any day;

(2) Hire as a massage therapist any person who is not licensed pursuant to this Article;

(3) Require or permit any massage therapist to pay any fee, rent, or sum of money for the right to perform massages in the massage establishment or require massage therapists to pay any other fee as a term or condition of employment;

(4) Allow any alcoholic beverages to be kept, sold, dispensed or consumed on the premises;

(5) Permit massages to be given in any cubicle, room or booth with a locking door;

(b) No massage therapist shall:

(1) Massage or offer to massage the genital area of any customer;

(2) Perform or offer to perform any act prohibited by Section 34-18 of the

Duluth City Code.

Section 6. That Section 5-39 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-39. Massage therapists not to live on licensed premises.

(a) No massage therapist shall maintain his or her living quarters on the licensed premises of any massage establishment;

(b) No license shall be granted to any massage therapist who does not maintain separate living quarters away from the rooms where massages are performed, unless the massage therapist is lawfully engaging in a massage practice as a home occupation under the terms of Chapter 50 of this Code.

Section 7. That Section 5-40 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-40. Licensee to maintain order on premises.

The licensee, or, in the case of a corporate licensee, the manager of any massage establishment shall personally supervise the business operations and shall have a non-delegable duty to insure that no acts of prostitution, sexual misconduct, or other violations of this Article occur on the licensed premises. To this end, every act done in violation of this Article on the licensed premises by an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

employee, manager or agent of the licensee shall also be deemed to be an act of the licensee.

Section 8. That the title of Article VI of Chapter 5 of the Duluth City Code, 1959, as amended, be amended to read: "Article VI. Massage Establishments."

Section 9. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 3, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: None -- 0

Absent: Councilor Keenan -- 1

Passed January 22, 1996
Approved January 22, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 29, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0129-01 Minnesota pollution control agency submitting the following regarding Engineers Realty, Inc., landfill permit application (96-0006R): (a) Response to December 6, 1995, comment letter; (b) Letter regarding completeness review. -- Received

96-0129-07 Robert F. Eaton submitting letter regarding the proposed expansion of Miller Hill Mall (Ordinance No. 9280). -- Received

96-0129-09 Richard E. Nelson submitting letter opposing the proposed Des Moines ship project (96-0082R). -- Received

96-0129-08 Jack Y. Perry submitting letter regarding Engineers Realty, Inc., landfill permit application (96-0006R). -- Received

96-0129-06 Lance Reasor submitting letter supporting the proposed Des Moines ship project (96-0082R). -- Received

96-0129-02 St. Mary's Medical Center submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9275 on October 23, 1995. -- Received

96-0129-17 The following submitting letters regarding property in London Addition (96-006-O): (a) Arrowhead Apartment Association; (b) Stephen J. Bubul; (c) Housing and Re-development Authority. -- Received

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REPORTS OF OFFICERS

96-0129-05 Assessor submitting letter for confirmation of assessment rolls levied to defray the assessable portions of a residential design alley in Fifth Street Alley from 23rd to 24th Avenues East (Contract No. 5271) and residential design street and utilities in Spirit Cove Drive (Contract No. 5263). -- Clerk

96-0129-10 Auditor submitting travel procedure changes. -- Received

96-0129-16 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for November, 1995. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0129-03 Board of zoning appeals minutes of January 4, 1996 meeting. -- Received

96-0129-04 Seaway Port authority of Duluth: (a) Minutes of October 31, 1995 meeting; (b) September 1995 combined financial statement. -- Received

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RESOLUTIONS TABLED

President Prettner moved to remove from the table Resolution 96-0006, granting a special use permit to Engineers Realty, Inc., for a select waste disposal, demolition debris landfill for property located at 1100 Gary Street, which motion was seconded and unanimously carried.

President Prettner reviewed that the engineers have requested that this resolution be sent back to the administration for further review since the citizens have requested an environmental

assessment worksheet. She moved to refer the resolution to the planning division, which motion was seconded and unanimously carried.

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Councilor Hales moved to remove from the table Resolution 96-0040, to establish a no parking zone on the south side of Fourth Street from Third Avenue East to Fourth Avenue East, which motion was seconded and unanimously carried.

Councilor Hales reviewed that the resolution was tabled pending discussion with a neighborhood group, that they have met and now have a better understanding of the project.

Resolution 96-0040 was adopted as follows:

BY COUNCILOR HALES (introduced 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:

south side of Fourth Street from Third Avenue East to Fourth Avenue East.

Resolution 96-0040 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to enter into an agreement with AMS, American Management Systems, Inc., to provide programming support services related to implementing the city's payroll and human resources software payable out of Fund 100, Org. 1324, Appr. Unit 5441.

Resolution 96-0077 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of permanent residential design alleys of St. Marie Alley from Carver Avenue to Douglas Avenue and Fourth Alley from 25th to 26th Avenues East (Contract No. 5266) and 1994 street program on 18th Avenue West from Michigan Street to First Street, Kent Road from Eighth Street to 19th Avenue East and Swan Lake Road from Arrowhead Road to 750 feet southerly be and the same is hereby confirmed.

Resolution 96-0081 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an addendum to the 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 agreement approved by Resolution No. 95-0158 and filed as Public Document No. 95-0221-16, to extend the term of said agreement until March 31, 1996. Monies collected

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6306.

Resolution 96-0083 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 data processing division, at a rate of \$50 per hour at a total annual cost of approximately \$20,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 96-0084 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Tennant Company be and hereby is awarded a contract for furnishing and delivering a power floor scrubber for the fleet services division in accordance with specifications on its low specification bid of \$8,456.44, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B540.

Resolution 96-0085 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$13,080 per year, terms net, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0087 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$72,975, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0089 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E613.

Resolution 96-0092 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Eggebrecht Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering two cabs and chassis for the street maintenance division in accordance with specifications on its low specification bid of \$48,885.63, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E517.

Resolution 96-0094 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Eggebrecht Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering a 4 x 4 truck for the building maintenance division in accordance with specifications on its low specification bid of \$23,904.99, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E528.

Resolution 96-0095 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Ameridata be and hereby is awarded a contract for furnishing and delivering miscellaneous microcomputer hardware, ordered as needed during a 12 month period to various city departments and divisions in accordance with specifications and referencing state of Minnesota Contract M-1275, release C-446 pricing, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various. Not to exceed the 1996 budget allocation for computer equipment as approved by the budget ordinance for capital equipment.

Resolution 96-0096 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

JOINT AIRPORT ZONING BOARD

James Mohn for a term expiring January 2, 1999.

Resolution 96-0099 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

unsound, open to trespass, and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1 - 5925 Lexington Street, aka Lots 6 & 7, Block 62, West Duluth sixth Division, by certified mail on Mike Scott, 611 North 58th Avenue West, Duluth MN 55807, signed by Michael V. Scott on May 2, 1987; and registered notices of condemnation were served as follows: by certified mail on St. Louis County auditor, c/o Scott Occhino, forest technician, 607 Government Services Building, 320 West Second Street, Duluth, MN 55802, signed by K. Thorsich on December 12, 1995; and by certified mail on Michael & Terry Scott, 5925 Lexington Street, Duluth, MN 55807, and returned marked "unclaimed," and by legal notice in the Duluth News-Tribune to Michael & Terry Scott on January 11 & 12, 1996; and

Parcel 2 - 817 East Sixth Street, aka Lot 9, Block 128, Portland Division by certified mail on Jerry Filiatrault, 5015 London Road, Duluth, MN 55804, signed by Jerry Filiatrault on September 20, 1995, and by certified mail on George Sigel, 3630 Phillips Pky. Apt. 419, St. Louis Park, MN 55426-3778, signed by Karen Baker on September 16, 1995; and

Parcel 3 - 2015 West Fourth Street, aka W½ of Lot 327, Block 125, Duluth Proper Second Division by certified mail on Roberta Barber, Route #1 Box 316, New Prague, MN 56071, and returned marked "unclaimed," and to Roberta Barber, 2015 West Fourth Street, Duluth, MN 55806, and returned marked "unclaimed," and to Chris Morris, Esq., O'Neil, Traxler, Vard, Neisen, Morris, P.O. Box 105, New Prague, MN 56071, signed by Theresa Barnes on September 25, 1995; and by legal notice in the Duluth News-Tribune to Roberta Barber on November 16 & 17, 1995; and

Parcel 4 - 212 North 11th Avenue West, aka north 25 ft. of West 88 ft. inc. vac. part of Summit Avenue within 140 ft. north line of Second Street ex. north ten ft. for alley, Lot 173, Block 100, Duluth Proper Second Division by certified mail on Amity Cove Development, 128 West 1st Street, Duluth, MN 55802, signed by Maryann Matharsak on September 25, 1995; and by legal notice in the Duluth News-Tribune to F.C. Hussey and Steven M. Kirchner, address unknown, on October 5 & 6, 1995; and

Parcel 5 - 525 West Third Street, aka west 27 ft. except north ten ft. for alley of Lot 89, Block 33, Duluth Proper Third Division by certified mail on St. Louis County auditor, c/o Scott Occhino, forest technician, 607 Government Service Building, 320 West Second Street, Duluth, MN 55802, signed by F.M. Penny on December 29, 1995; and by certified mail on Ruth Ann Campbell, 525 West Third Street, Duluth, MN 55806, signed by Jeff Campbell on December 9, 1995; and

Parcel 6 - 225 East Fifth Street, front dwelling only, aka Lot 45, Duluth Proper First Division East 5th Street, by certified mail on Al M. Cismowski, 118 West Fourth Street, Duluth, MN 55806, signed by J. Harmon on September 3, 1995; and

Parcel 7 - 2208½ West Second Street, alley house only, aka Lot 356, Block 75, Duluth Proper Second Division, by certified mail on Marvin E. Morris, 2208 West Second Street, Duluth, MN 55806, signed by Marvin Morris on October 2, 1995; and

Parcel 8 - 211 South 70th Avenue West, aka Lots 5, 6 & 7, Block 11, Carlton Place Addition, by certified mail on Richard B. Klug, 211 South 70th Avenue West, Duluth, MN 55807, signed by Richard B. Klug on October 4, 1995; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Parcel 9 - 118 Park Avenue, front dwelling only, aka north 28 X 80 feet including five feet of vacated avenue adjoining of Lot 4, Block 70, Myers Rearr Block 70, Duluth Proper Second Division, by certified mail on Donald D. Soderlund, 118½ Park Avenue, Duluth, MN 55806, signed by Donald D. Soderlund on October 14, 1995; and

Parcel 10 - 12920 West Ninth Street, aka Lots 101 & 103, Fond Du Lac Ninth Street Division by certified mail on Deborah McMillian-Ward, 12920 West 9th Street, Duluth, MN 55808, signed by Deborah Ward-McMillian on December 1, 1995 and by legal notice in the Duluth News-Tribune to James A. McMillian, address unknown on November 23 & 24, 1995; and

Parcel 11 - 1712 East Fifth Street, aka east 35 feet of Lot 3, Block 93, Endion Division by certified mail on Steven Mesedahl, 1712 East Fifth Street, Duluth, MN 55812, signed by S.L. Mesedahl on October 3, 1995; and

Parcel 12 - 4730 Oneota Street, garage only, aka Lots 1 & 2, Block 18, Oneota Division Duluth, by certified mail on Samuel Scott, 17 South 60th Avenue West, Duluth, MN 55807, signed by Sam Scott on October 13, 1995; and

Parcel 13 - 1117 East Fourth Street, garage only, aka Lot 9 including vac. 20 feet East Fourth Street, Block 97, Portland Division, by certified mail on Geraldine Marie Beck, 1117 East Fourth Street, Duluth, MN 55805, signed by Gerri Beiring on October 21, 1995; and

Parcel 14 - 3914 West Fourth Street, garage only, aka Lot 10, Block 16, Hazelwood Park Division of West Duluth, by certified mail on Mabel T. Bjorlin, c/o Sylvia Wallace, 3914 West Fourth Street, Duluth, MN 55807, signed by Sylvia Wallace on October 27, 1995; and by certified mail to the state of Minnesota, c/o St. Louis County auditor, Scott Occhino, Room 607, St. Louis Co. Land Dept., 320 West Second Street, Duluth, MN 55802, signed by F.M. Penny on October 23, 1995; and

Parcel 15 - 1217 West Morgan Street, garage only, aka Lot 6, Block 4, Century Acres by certified mail on Adelaide J. Radosevich, 1217 West Morgan Street, Duluth, MN 55811, signed by Randy Keuten on or about October 22, 1995; and by legal notice in the Duluth News-Tribune to Nancy Mosiniak, Randy Keuten, Geraldine Keuten, address unknown on November 20 & 21, 1995; and

Parcel 16 - 1319 West Morgan Street, garage only, aka vacant Lot 10, Block 4, Century Acres, by certified mail on Faye Olson, 1422 West Morgan Street, Duluth, MN 55811, signed by Walter Olson on or about October 21, 1995, and by legal notice in the Duluth News-Tribune to Charles M. & Blanche Ina Kusnierek, address unknown, on November 20 & 21, 1995; and

Parcel 17 - 3009 Devonshire Street, aka Lot 8, Block 27, Walbanks Addition by certified mail on Ruth Madson, 3009 Devonshire Street, Duluth, MN 55806, delivered by the post office but not signed on October 21, 1995, and by certified mail on the state of Minnesota, c/o St. Louis County auditor, Scott Occhino, Room 607, St. Louis County Land Department, 320 West Second Street, Duluth, MN 55802 signed by F.M. Penny on October 23, 1995; and

Parcel 18 - 1409 North Seventh Avenue East, garage only, aka sly ½ of Lot 37 and all of Lot 38, Block 8, Homewood Addition by certified mail on Steven R. Anderson, 1409 North Seventh Avenue East, Duluth, MN 55805, and returned marked "unclaimed," and by legal notice in the Duluth News-Tribune to Steven R. Anderson on November 23 & 24, 1995; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Parcel 19 - 215 West Seventh Street, garage only, aka west 26 feet of Lot 39 except north ten feet for alley, Block 92, Duluth Proper Third Division, by certified mail on Alan P. Barta, P.O. Box 16263, Duluth, MN 55816-0263, signed by Alan Barta on December 15, 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 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 96-0080 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are authorized to execute a contract with the governing board of the Arrowhead Library System, under which the Duluth public library will provide interlibrary loan and reference services to the libraries belonging to the seven county Arrowhead Library System and the North Country Library Cooperative during the period January 1, 1996, through December 31, 1996; payments thereunder in the estimated amount of \$100,000 to be deposited in the Library General Fund 100-300-1702-4403 and in the estimated amount of \$20,000 for reference materials to be deposited in 100-300-1702-4400.

Resolution 96-0065 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement, on file in the office of the city clerk as Public Document No. 96-0129-11, with the Holy Cross Lutheran Church of Duluth Heights, for the nonexclusive use of the basement of the Holy Cross Lutheran Church of Duluth Heights, from January 1, 1996, through December 31, 1996, for the operation of the Duluth senior dining program at a cost of \$6,300, payable at \$525 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6306.

Resolution 96-0075 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 96-0129-12 with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 1996, through December 31, 1996, for the operation of the Duluth senior dining program.

Resolution 96-0076 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0082, by Councilor Hardesty, approving the city's 1996 legislative program, was introduced for discussion.

Administrative Assistant Nollenberger reviewed the new items recently added to the legislative program including the items referenced in the memos from Monte Ollenburger, Pam Kramer and himself.

Councilor Hardesty moved to amend the resolution to incorporate the items referenced by Mr. Nollenberger in the three memos, which motion was seconded and unanimously carried.

Councilor Hogg discussed Item No. 7 of the policy issues regarding housing issues. He reviewed the memo received from Pam Kramer regarding the questions of the expansion of the tax increment financing and how the city will pay their 20 percent share.

Mr. Nollenberger said that the legislation is enabling only and that the city will identify the sources of funding if and when the legislation is approved.

Councilor Hogg reviewed his concern that the city is committing itself now before the legislation is approved.

Councilor Bohlmann said she wants the legislature to know that for some of these items, that councilors are not unanimous in supporting them to be included in the legislative package.

President Prettner reviewed that those items can be separated out and voted on as necessary.

Councilor Hogg reviewed Item No. 6 of the policy issues regarding sales tax exemption. He felt that cities should not pay sales tax on any purchases, and that Duluth should encourage other cities to support removal of the state sales tax. He reviewed that on Item No. 10 regarding the state auditor, that the administration is concerned by the fee that is charged by the state auditor. He did not support the aspect allowing cities to hire their own auditors other than the state auditor.

Mr. Nollenberger responded that if the city does not have the option to hire other auditors than the state auditor, there is no incentive for the state auditor's office to review the rate it charges the city.

Councilor Bohlmann voiced her support for removing this issue from the priorities and that she supports the state auditor auditing first class cities because they have much more funding options, and therefore, need detailed auditing.

To Councilor Rapaich's concerns, Mr. Nollenberger said that the city council would select and approve an outside auditor if the city had that authority.

Councilor Hogg moved to vote on Item No. 10 separately, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Councilor Hogg expressed his concern regarding Item No. 13, high rise buildings and fire sprinklers, regarding the aspect of the 25 year phase in amendment versus ten years as originally passed by the legislature.

Mr. Nollenberger said that the city's important aspect in this legislation is the financing mechanism, and is not so much the number of years for the phase in.

Councilor Hogg moved to amend Item No. 13, by deleting the following words in the fifth sentence "a 25 year period rather than over," which motion was seconded.

President Prettner noted that this has been vetoed the last two years and that the recommendation has a better chance of passing as proposed without this amendment.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hogg's amendment carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and Wheeler -- 8

Nays: President Prettner -- 1

Councilor Bohlmann moved to separate out Item No. 6 of the city sponsored legislation and Item No. 9 of the policy issues to vote on separately, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich and President Prettner -- 6

Nays: Councilors Keenan, Talarico and Wheeler -- 3

Resolutions 96-0082(a), (b), (c) and (d) were adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves the city's 1996 legislative program, a copy of which is on file in the office of the city clerk as Public Document No. 96-0129-14.

Resolution 96-0082(a) was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves inclusion of the following described legislation in the city's 1996 state legislative program:

Housing Development Districts

Special law was enacted for Minneapolis and St. Paul as well as two suburban cities that permitted the redevelopment of individual housing sites. The law authorizes the use of a tax increment to acquire and improve the site. There is a local match requirement, a modified base value and a limit on the number of parcels that can be in the program. The city requests that the special law be extended to include the city of Duluth.

Resolution 96-0082(b) was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves inclusion in the city's 1996 state legislative program of the following legislative initiative:

Economic Development and Tax Increment Financing

The revitalization of the city of Duluth has been accomplished by a combination of federal, state, local, and private sources. The city has used state programs, such as tax increment financing, economic recovery grants, URAP, and enterprise zones. The state tools, however, have been either reduced in funding or amended to limit their use.

The city supports efforts by the League of Cities and other groups that will:

- (a) Increase funding for the economic development grants;
- (b) Modify tax increment financing to not only provide for local accountability, but also permit redevelopment and pollution clean up without a penalty; and
- (c) Reauthorize the URAP program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Although URAP was not authorized, the TIF law was amended to modify the LGA/HACA offset, and funds were appropriated.

Resolution 96-0082(c) was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hogg -- 2

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves inclusion in the city's 1996 state legislative program of the following legislative initiative:

State Auditor

The state auditor's office is required to conduct the annual audit for the cities of the first class and counties. All other cities can choose the accounting firm to conduct the audit. The city will cooperate with Minneapolis and St. Paul and the counties to develop a legislative proposal that will permit cities of the first class and counties to select an audit or firm or, as an alternative, amend the way the auditor's office is funded so that fees can be controlled or eliminated. Legislation to permit cities of the first class to choose an auditor has been introduced but was not heard in 1995.

Resolution 96-0082(d) was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved January 29, 1996

GARY L. DOTY, Mayor

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At this time, 8:20 p.m., President Prettner stated that the public hearing regarding infiltration and flow (I&I) mitigation sewer rate increase would begin (Public Document No. 96-0129-18).

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At this time, 8:25 p.m., President Prettner stated that the public hearing was adjourned and the regular order of business was resumed.

- - -

Councilor Talarico moved to suspend the rules to consider at this time Resolution 96-0098, adjusting the customer charge and user charges for the city's wastewater facilities and approving the December 1995 infiltration and inflow plan for the improvement of the facilities and adopting a remedial plan, which motion was seconded and unanimously carried.

President Prettner, responding to Councilor Bohlmann's concern, stated that the information and public hearing was disseminated to the media and that there was an article in the newspaper.

Councilor Bohlmann stated that she would favor a 15 percent increase if it was spread over three years at five percent each year. Councilor Bohlmann moved to amend the resolution to incorporate the 15 percent increase over three years of five percent each year, which motion was seconded.

Councilor Keenan stated that this amendment will not accomplish what the city needs now.

Councilor Talarico stated the I&I task force was at the committee meeting and they knew what was going to be considered and supported it as such.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler stated that a 14.9 percent increase is a large percentage, but that in real dollars the \$3 to \$4 per month is affordable for the average family.

Councilor Bohlmann felt that a smaller percent would be adequate to accomplish this.

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

Councilors Bohlmann's amendment failed upon the following vote:

Yeas: Councilors Bohlmann and Talarico -- 2

Nays: Councilors Hales, Hogg, Hardesty, Keenan, Rapaich, Wheeler and President Prettner -- 7

Councilors collectively noted that this resolution is the result of a lot of citizens, staff and administration working on this issue.

Resolution 96-0098 was 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, to recover Western Lake Superior Sanitary District wastewater facility user charges made to the city, and to fund remediation efforts on a long-term infiltration and inflow reduction program, there is established and shall be collected beginning with the meter readings made on March 4, 1996, and thereafter, a customer charge and user charges, based upon the volume of wastewater discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

Customer charge	\$5.81 per month
User charge - Class I	\$2.3729/ccf
User charge - Class II	\$3.3032/ccf
User charge - Class III	\$4.1197/ccf
Miles, Inc.	\$7.6071/ccf
Chroma	\$4.5352/ccf
Kemp	\$5.1094/ccf.

RESOLVED FURTHER, that the rate regulations established and approved by Resolution 95-1065 are rescinded as of March 4, 1996.

RESOLVED FURTHER, that the infiltration and inflow study prepared for the city of Duluth by RREM, Inc., dated December 1995, on file with the city clerk as Public Document No. 96-0129-13(a), is hereby adopted and approved.

BE IT FINALLY RESOLVED, that the remediation plan dated December 13, 1995, submitted to the council and on file with the city clerk as Public Document No. 96-0129-13(b), is hereby adopted and approved.

Resolution 96-0098 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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Resolution 96-0108, by Councilor Hardesty, relating to a state legislative bill authorizing a loan for funding of the U.S.S. Des Moines ship museum project, was introduced for discussion.

Councilor Hardesty reviewed the contents and conditions of the resolution.

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

The following speakers spoke in favor of the resolution: Tom Bulera, Brad Bennett, Ernest Keihn, David Stout, Neill Atkins, Tom Whittaker and Terry Mattson, executive director of the Convention and Visitors' Bureau.

Some of the reasons stated were: the ship would be an asset to the community; it is a tourist attraction and it is estimated that 3.3 million tourists would visit each year; there are no costs to the city; the ship has never fired a shot and is a peace time symbol; support for the ship does not mean support for war; all or most of the iron that went into making this ship probably came from this area; the jobs that would be created are necessary to the community; it is a veteran's memorial; it is an educational opportunity; this resolution requests support to proceed to the legislature where the merits of the issue can be discussed and debated; it is a new asset to tourism; West Duluth supports a ship being anchored there; environmentally speaking, the ship has to pass environmental protection agency (EPA) testing before it can be open to the public; and all local veterans organizations, the Duluth Chamber of Commerce, the Duluth Downtown Council, the Hotel-Motel Association, the mayor and a KDAL radio poll have endorsed the project.

The following individuals spoke in opposition to the project: Jack Burklund, John Heid, Erik Torch, Mary Jane Owens, Robert Owens, John Sanford, Myrna Mathesen and Roger Cragun.

Some of the reasons stated were: the ship glorifies war; it will not be a viable tourist attraction; the ship is covered with tons of lead based paint, asbestos and PCBs; the site west of Bong Bridge is not a tourist area; seven elected bodies have said no to it; a majority of citizens have said no to this project; Duluth has put a lot of effort into antiviolence programs and the war ship contradicts that message; the ship has nothing to do with the history of the area; there are more appropriate ways to honor veterans; the scrap value is questionable and it would be a travesty of taxpayer dollars to bring the ship here.

Councilor Hogg felt that patriotism isn't an argument for it any more than evil and violence is an argument against it. He agreed there is potential economic benefits but there might be some hidden costs to the city down the road. He felt it is a state project and wouldn't want to jeopardize other city projects like Lake Superior Center and the zoo. Councilor Hogg felt that whether it is a sound, economic project is a concern, but that a lot of his concerns have been addressed in the resolution and he will support it.

Councilor Keenan stated that he previously opposed this because it was risky and it could end up spending local tax dollars. He concluded that he now supports it because the conditions listed in the resolution and he felt it should be given a chance.

Councilor Wheeler said he cannot support it because he feels it is not a wise project or a good use of tax dollars.

Councilor Bohlmann felt there are too many unanswered questions and said that she resents the perception that if you are against this project that you are against veterans. She said her concern is regarding dollars, not patriotism, and she questioned the costs associated with it and where it would be berthed. She felt that there are special interests that are attempting to profit from this and that sometime in the future funds will be requested from the city or DEDA to keep it going. She noted that many veterans do not support the project.

Councilor Hardesty stated her opposition to this, noting that the city needs to have the ability to choose what goes in this harbor and not have the legislature decide. She stated that the ship was a symbol of patriotism in the past but it isn't a symbol of patriotism today and that her concern is for the vision that is created for the city.

Councilor Talarico moved to call the question, which was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0108 failed upon the following vote (Public Document No. 96-0129-19):

Yeas: Councilors Hogg and Keenan -- 2

Nays: Councilors Bohlmann, Hales, Hardesty, Rapaich, Talarico, Wheeler and President Prettner -- 7

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BY COUNCILOR HOGG:

RESOLVED, that Como Philgas Company be and hereby is awarded a bid for furnishing and delivering distribution of approximately 185,000 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 96-0088 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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 \$30,000, terms net 30, FOB destination, \$10,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5218; \$18,000 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 96-0093 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0998 to various contractors for furnishing snow train rental equipment be amended to increase the amount by \$34,501.50 for a new total of \$44,501.50, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 96-0073 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to Allstate Insurance Company and its insureds, Randy and Delight Caylor, the sum of \$10,872.34 in full settlement of the subrogation claim for damages to the insureds, Randy and Delight Caylor, suffered on August 25, 1995, when a sewer broke and damaged the insureds' property.

Resolution 96-0079 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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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. 118-080-13, Federal Project IX DULT (023); 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 \$42,781.73.

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 96-0097 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city will enter into an agreement with the St. Louis County department of communications for furnishing police mobile data terminal access to the bureau of criminal apprehension for the police department for \$12,240, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 96-0086 was unanimously adopted.

Approved January 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that St. Mary's Medical Center be and hereby is awarded a contract for furnishing 12 months of emergency medical services education and training for firefighters for the fire department in accordance with their proposal of \$18,000, terms net 30, FOB fire halls, payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5319.

Resolution 96-0090 was unanimously adopted.

Approved January 29, 1996

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 TALARICO

96-006 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2, 3 AND THE WEST HALF OF LOT 4, BLOCK 77, LONDON ADDITION, TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH.

Councilor Keenan moved to table the ordinance for further review, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO

96-007 (9293) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY

EASEMENT TO BRIAN AND DEBRA CARLSON OVER A PORTION OF THE SE¼ OF SW¼ SECTION 29-49-15.

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

- - -

BY COUNCILOR HALES (introduced by Councilor Hardesty)
96-005 (9292) - AN ORDINANCE REGULATING DRUG PARAPHERNALIA; ADDING A NEW CHAPTER 16 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hardesty moved to amend the ordinance to add Section 16-5 as follows:

“(a) All drug paraphernalia which is sold, distributed or possessed contrary to the provisions of this Chapter is hereby declared to be contraband;

(b) If a defendant in a criminal action brought under this Chapter shall be found guilty, any instruments, devices or objects which are the subject of the prosecution shall be destroyed under the direction of the chief of police after all appeals of the conviction have been exhausted,” which motion was seconded and carried.

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

Kerry Vollman stated his opposition to the ordinance, noting that this is coming out of hysteria from a recent drug bust and that it is inconceivable to enforce and that the city should go after the drug dealers. Mr. Vollman noted that the city is trying to control the paraphernalia which will not stop the use of illegal drugs and if this sort of ordinance really works, it would have been adopted years ago.

Beatrice Kehr stated that she opposes drug abuse but is concerned about this ordinance. Ms. Kehr noted that kids like to have paraphernalia items but don't use drugs and that the paraphernalia is also used for legal purposes. In conclusion, Ms. Kehr stated that good kids and adults would get stopped that wouldn't be doing anything illegal.

Ben Small stated there is a question which affects constitutional law here and that “intent” is hard to define. Mr. Small questioned who it is that will determine what is legal and illegal. Mr. Small stated this possibly creates high level harassment and that items stated here are also sold in other shops other than the Electric Fetus and the Last Place on Earth, which are the target of this ordinance. In conclusion, Mr. Small stated that this doesn't attack the source of supply, the real drug abuse problems.

To Councilor Hogg's question, City Attorney Dinan reviewed that the courts have spoken favorably about the constitutionality of the way this is drafted and that the city would have to prove to the court that the items were used for the intended illegal purpose.

Councilor Hogg continued to state that this, in itself, shouldn't indicate that the drug problem is being solved and said that more needs to be done with the community to put the resources where they are needed.

Councilor Hardesty stated that the ordinance is very specific as to what would be prohibited and is based on information from the federal drug enforcement agency. She stated that the “intent” is to limit the contact that kids have with drugs by limiting the ability of access of paraphernalia that helps them inject drugs. She also concluded this is not a drug enforcement procedure, just one aspect to assist.

Councilor Wheeler stated his concern over the constitutionality of the ordinance and that over the next 18 months the city review the effect of this. He moved to amend the ordinance to insert a provision in it with the intent that “in 18 months it sunsets and the ordinance be reviewed,” which motion was seconded.

Councilor Talarico supported the 18 month sunset in that it can be tested after that period and that the concerns about the abuses that might affect the rights of citizens.

To questioning from Councilor Hales, Mr. Dinan reviewed that this ordinance is a new tool to address the drug problem.

President Prettner voiced support for the ordinance without the amendment, stating that the safeguards for citizens rights are already incorporated into it.

Councilor Bohlmann stated her concern that this is viewed as a token message that gives the perception that the city is really doing something.

Councilor Hardesty noted that the juvenile and alcohol task force had meetings, heard from large numbers of the community on the importance of this issue and voiced her concern over the sunset but stated that review is appropriate. She questioned what the criteria for review will be.

Councilor Wheeler stated he didn't feel it would be difficult to review the effectiveness of this in 18 months.

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

The amendment passed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Wheeler -- 7

Nays: Councilor Hardesty and President Prettner -- 2

Councilor Hales moved passage of the ordinance, as amended, and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 10:40 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9293

BY COUNCILOR TALARICO:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A DRIVEWAY EASEMENT TO BRIAN AND DEBRA CARLSON OVER A PORTION OF THE SE $\frac{1}{4}$ OF SW $\frac{1}{4}$ SECTION 29-49-15.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to an easement for utility and driveway purposes in that certain real estate located in St. Louis County, Minnesota, hereinafter described, to Brian and Debra Carlson for a consideration of \$250 to be deposited in the General Fund 100-700-1418-4640, subject to conditions set forth in Public Document No. 96-0129-15 on file in the office of the city clerk:

An easement for driveway purposes across that part of the Southeast $\frac{1}{4}$ of Southwest $\frac{1}{4}$, Section 29, Township 49 North, Range 15 West, lying 20 feet on each side of the following described center line.

Commencing at the northeast corner of said Southeast $\frac{1}{4}$ of Southwest $\frac{1}{4}$; thence on an assumed bearing of South 0 degrees 31 minutes 28 seconds East along the east line of the Southeast $\frac{1}{4}$ of Southwest $\frac{1}{4}$, 123.67 feet; thence South 49 degrees 26 minutes 37 seconds West 1254.44 feet more or less to the northeast right of way of Duluth, Winnipeg & Pacific Railroad; thence northwesterly along said right of way 187 feet more or less to the point of beginning of the center line to be described; thence North 55 degrees 05 minutes 49 seconds West 132 feet more or less to the center line of the Duluth, Winnipeg & Pacific Railroad; thence

South 55 degrees 43 minutes 49 seconds West 43 feet more or less to the northeasterly right of way of the Becks Road and said center line there terminating.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: March 10, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

Passed January 29, 1996
Approved January 29, 1996
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9292

BY COUNCILOR HALES (introduced by Councilor Hardesty):

AN ORDINANCE REGULATING DRUG PARAPHERNALIA; ADDING A NEW CHAPTER 16 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That new Chapter 16 entitled "Drug Paraphernalia" be added to the Duluth City Code, 1959, as amended, to read as follows:

CHAPTER 16.
DRUG PARAPHERNALIA.

Sec. 16-1. Purpose and definition.

(a) The purpose of this Chapter is to regulate the possession, manufacture, and delivery of drug paraphernalia and thereby deter the use of controlled substances in the city of Duluth;

(b) For the purposes of this Chapter, the term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance which is unlawful to possess under the provisions of Minnesota Statutes, Chapter 152. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, hashish heads, or punctured metal bowls;

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(F) Miniature cocaine spoons, and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driven pipes;

(K) Chillums;

(L) Bongs;

(M) Ice pipes or chillers.

Sec. 16-2. Evidentiary factors.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner or anyone in control of the object under state or federal law relating to any controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of controlled substance laws;

(d) The proximity of the object to controlled substances;

(e) The existence of any residue of controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object to deliver it to persons who he/she knows, or should reasonably know, intend to use the object to facilitate a violation of controlled substance laws; the innocence of an owner or anyone in control of the object as to a direct violation of controlled substance

laws should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;

- (i) National and local advertising concerning its use;

- (j) The manner in which the object is displayed for sale;

- (k) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprises;

- (m) The existence and scope of legitimate uses for the object in the community;

- (n) Expert testimony concerning its use.

Sec. 16-3. Possession and delivery of drug paraphernalia prohibited.

(a) Possession. It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance as defined in Minnesota Statutes, Chapter 152;

(b) Manufacture or delivery. It is unlawful for any person to deliver, sell, offer for sale, possess with intent to deliver or sell, or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance as defined in Minnesota Statutes, Chapter 152.

Sec. 16-4. Sales to minors prohibited.

(a) Findings of fact and statement of purpose. The city council hereby finds the following facts:

(1) The items listed in this Section are used primarily for the consumption of tobacco products or controlled substances;

(2) Possession or use by a minor of tobacco products or controlled substances is currently prohibited by state statute or this Code;

(3) The consumption of these substances is harmful to the health and safety of minors. Numerous studies have demonstrated that most adults who consume or have consumed these substances began to do so during their minority. Current drug use prevention programs start as early as the fifth grade in order to effectively educate and prevent controlled substance and tobacco use by minors, and increase the likelihood that minors will continue to avoid these substances as adults;

(4) The availability to minors of devices designed or used for the consumption of controlled substances or tobacco products decreases the effectiveness of current laws which prohibit or restrict the use of these substances to minors, and increases the likelihood that minors will engage in illegal activity;

(5) Therefore, it is the purpose of this ordinance to limit the availability to minors of devices which are associated with or designed for use with tobacco products or controlled substances;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(b) No person, or any clerk, servant, employee or agent of any such person, directly or indirectly, upon any pretense or by any mechanical device, shall sell, exchange, barter, dispose of or give away, to any person below the age of 18 years, any of the following devices:

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes capable of being used for smoking tobacco or controlled substances, with or without screens, hashish heads, or punctured metal bowls;
- (2) Water pipes;
- (3) Carburetion tubes and devices;
- (4) Smoking and carburetion masks;
- (5) Roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
- (6) Miniature cocaine spoons, and cocaine vials;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air-driven pipes;
- (11) Chillums;
- (12) Bonges;
- (13) Ice pipes or chillers;
- (14) Pinch hitters;
- (15) One hitters.

Sec.16-5. Destruction of illegal devices.

(a) All drug paraphernalia which is sold, distributed or possessed contrary to the provisions of this Chapter is hereby declared to be contraband;

(b) If a defendant in a criminal action brought under this Chapter shall be found guilty, any instruments, devices or objects which are the subject of the prosecution shall be destroyed under the direction of the chief of police after all appeals from the conviction have been exhausted.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication, and shall remain in effect for a period of 18 months, at which time it shall expire and be of no further force or effect, unless prior to such expiration date the city council adopts a resolution making such ordinance permanent. (Effective date: March 14, 1996)

Councilor Hales moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 29, 1996
Approved January 29, 1996
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 5, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 8

Absent: Councilor Talarico -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0205-06 Charles Montgomery submitting letter opposing the housing and redevelopment authority building additional housing (96-006-O). -- Received

- - -

REPORTS OF OFFICERS

96-0205-01 Assessor submitting assessment roll levied to defray the assessable portion of the demolition assessment (Contract No. 5284). -- Clerk

96-0205-05 Clerk submitting petition verifications regarding: (a) Simon Properties/ Miller Hill Mall rezoning (Ord. No. 9280); (b) Opus Corporation rezoning (Ord. No. 9279). -- Received

96-0205-02 Purchasing agent submitting emergency purchase orders awarded to: (a) Alabama Copper and Bronze Company, Inc., for bronze bushing for Aerial Lift Bridge repairs; (b) Oscar J. Boldt Construction Company for repair of northeast counterweight sheave assembly on the Aerial Lift Bridge. -- Received

- - -

Richard Voller, director of water and gas, and Dick Larson, director of public works, reviewed at length recent water main breaks and storm sewer problems. They said the cost estimate is \$10,000 to \$20,000 in immediate response costs and there may be other costs. They noted the extreme conditions involved, and commended employees for their dedication and extraordinary work in this difficult situation.

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0205-03 Citywide citizens advisory committee minutes of January 23, 1996 meeting. -- Received

96-0205-04 Duluth airport authority minutes of December 19, 1995 meeting. -- Received

96-0205-11 Special assessment board report, minutes, findings and recommendations regarding the proposed improvement of 11th Street Alley from Ninth to Tenth Avenues West. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Allan Kehr commented on the proposed DWP property development in the Riverside neighborhood, noting that a recent meeting conducted by DEDA staff the neighborhood was not well represented.

Administrative Assistant Nollenberger said that DEDA has formed a committee to examine the potential for a housing development site, and there is no committee recommendation yet.

- - -

Paul King commented on the recent leakage of sewage into Lake Superior, saying that he feels there was negligence by city employees and the pollution control agency in that situation.

Mr. Nollenberger responded that the city employees involved did an outstanding job of responding quickly and conscientiously to the water main break.

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of permanent residential design alley on Fifth Street Alley, 23rd to 24th Avenues East (Contract No. 5271) and permanent residential design street and utilities on Spirit Cove Drive (Contract No. 5263) be and the same are hereby confirmed.

Resolution 96-0113 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Howard Waste Paper Company (\$79,995) and Zenith/Kremer Disposal, Inc., (\$6,500) be and hereby are awarded contracts for garbage/refuse collection from city locations for the various departments and divisions in accordance with specifications on their low specification bid of \$86,495, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0024 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to purchase employee assistance program services during 1996 from Miller-Dwan Medical Center at an estimated cost of \$5,000, which shall be payable from the self insurance fund - 605.

Resolution 96-0110 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that A.S.V. Distribution, Inc., be and hereby is awarded a contract for furnishing and delivering a posi-track loader and snowblower attachment for the fleet services division in accordance with specifications on its low specification bid of \$46,134.19, terms net 30, FOB destination, \$41,181.94 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E520 and \$4,952.25 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E519.

Resolution 96-0114 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0116, by Councilor Rapaich, confirming appointment of David Wheeler to Duluth economic development authority replacing M. George Downs, was introduced for discussion.

Councilor Bohlmann said she is not opposed to Councilor Wheeler personally, but that she feels the DEDA board should be dissolved, or that it should consist of all councilors, so she will

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

oppose all DEDA appointment resolutions.

Resolution 96-0116 was adopted as follows:

BY COUNCILOR RAPAICH:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

David B. Wheeler for a term expiring April 27, 1997, replacing M. George Downs.

Resolution 96-0116 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich and President Prettner -- 6

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Wheeler -- 1

Absent: Councilor Talarico -- 1

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the northeastern Minnesota initiative fund; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of A.W. Kuettel & Sons, Inc.; and

WHEREAS, it 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 A.W. Kuettel & Sons, Inc.

Resolution 96-0100 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the northeastern Minnesota initiative fund; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Glass Merchants, Inc., DBA Walsh Co.; and

WHEREAS, it 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 Glass Merchants, Inc., DBA Walsh Co.

Resolution 96-0106 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, Mary Carey has submitted to the city council a request for a special use permit for an elderly congregate housing facility on property described as part of Lot 5 and all Lots 6-10, Block 53 Rearrangement of East Duluth and Lots 1 and 2 and parts of Lots 3 and 4, Block 52,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

First Addition Duluth, and located at 3700 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 Mary Carey to allow for the operation of an elderly congregate housing facility at 3700 London Road, subject to the following conditions:

(a) That the permit be limited to not more than 12 habitable units;

(b) That the permit be issued for a period of five years from the effective date of this resolution, at which time renewal may be requested, reviewed and considered, based on performance under this permit;

(c) That the permit shall not be valid until the applicant has secured all necessary fire, health, and building department permits, code compliance needs and approvals;

(d) That the applicant maintain perpetual compliance with sections 50-35(m) and 50-56(o) of the City Code.

Resolution 96-0112 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 96-0205-07, with St. Louis County to provide services under the Minnesota STRIDE program case management services and the community work experience program, at costs not to exceed \$541,330, and food stamp employment and training services at costs not to exceed \$300 per participant. Contract dates shall run from July 1, 1995, through June 30, 1996.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund No. 269, Budget Item Nos. 6272 and 6273.

Resolution 96-0107 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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 1996, which agreement is on file in the office of the city clerk as Public Document No. 96-0205-08, at a cost to the city of \$31,500, plus reasonable expenses, which shall be payable from the General Fund 100, Department 015, Division 1510, Object 5312.

Resolution 96-0111 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that effective with the meter readings on and after April 1, 1996, all customers of the Duluth steam utility division of the water and gas department of the city of Duluth, whose

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

steam supply is measured by meter, shall be charged for such steam in accordance with the schedule of rates established by this resolution, as follows:

MONTHLY RATES

The total cost shall consist of the sum of:

- (a) The customer charge; and
- (b) The steam charge. The steam charge includes the basic rate plus the fuel adjustment charge. The minimum bill is the customer charge.

(1) Customer charge:

<u>Meter capacity</u>	<u>Charge per month</u>	<u>Additional charge for additional meters</u>
500 lbs./hour or less	\$ 6*	\$ 3
501-3,000 lbs./hour or less	20	10
Over 3,000 lbs./hour	60	30

*Applicable only in months of October, November, December, January, February, March, April and May;

(2) Steam charge:

<u>Consumption per month</u>	<u>Rate per M lbs.</u>
First 235 M lbs.	\$ 9.70
Next 2,265 M lbs.	8.58
Over 2,500 M lbs.	7.72

Fuel adjustment charge for June - September inclusive to be based on average of prior January - May fuel charge.

Fuel adjustment charge calculated as follows:

Fuel adjustment charge per M lbs. sold = M - N

$M = \frac{A+B}{S} \quad N = \frac{(H \times DC) + (I \times FG) + J \times E}{S}$
--

- Where
- A Total cost of coal used during the month.
 - B Total cost of gas used during the month.
 - C Tons of eastern coal used during the month.
 - D Weighted average BTU content of eastern coal used (MMBTU per ton) divided by 28 MMBTU.
 - E Thousands of cubic feet of gas used during the month.
 - G Tons of western coal used during the month.
 - F Weighted average BTU content of western coal used during the month (MMBTU per ton) divided by 18.8 MMBTU.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- S Thousands of pounds of steam sold during the month.
- H Contract price for eastern coal.
- I Contract price for western coal.
- J Contract price for natural gas.

A charge of \$12 shall be made to turn off steam and a charge of \$20 shall be made to turn on steam to each meter when requested by the customer for this convenience.

The extent of the customers' use of steam shall be determined by the readings of the steam flow or condensate meter or meters installed by the city, except that in cases where condensate meters are used the city will make a fair estimate covering the amount of steam used which is not condensed, or any condensation which is not delivered to the meter for measurement, and such additional amounts shall be added to the metered consumption. In case of failure of any meter or meters to register the amount of steam or condensate delivered, either wholly or in part, a fair estimate shall be made of the steam actually used during any period when the meters were inoperative based upon an average consumption of the customer during an equal period with similar outside temperature and/or such other information and data as may be available and a bill for the current month made up accordingly shall become due and payable.

Resolution 96-0102 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Thunder Bay Chemicals Corporation be and hereby is awarded a contract for furnishing and delivering approximately 150,000 gallons of 50% liquid aluminum sulfate for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$50,385, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5237.

Resolution 96-0103 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 55 tons of 50% liquid chlorine for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$20,845, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5235.

Resolution 96-0104 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0109, by Councilor Hogg, authorizing execution of an amendment to an agreement for management services with the Duluth steam cooperative association, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

In response to Councilor Bohlmann, Gerald Pelofsky, Duluth Steam District, said the board of directors is made up of users of steam, and the city of Duluth has a representative on the board.

Councilor Bohlmann felt the board make up could constitute a conflict of interest, and said she does not agree with the change to allow the organization to make its own purchases. She said she would like an opinion from the state auditor and attorney general regarding those concerns before she can support this resolution, and questioned whether it is good policy for the board of directors to set the rates.

President Prettner noted that the state auditor's office will be reviewing every purchasing transaction if this new management agreement is approved, so the purchases would come under closer scrutiny than they are currently.

In response to Councilor Bohlmann, City Attorney Dinan said the process for rate approval is not changing and that rates will still be approved by the council. He said that the only change that is being recommended is that the steam cooperative take over the purchasing process. He pointed out that they must comply with the uniform municipal contracting law and said the same safeguards will be in place as with the city purchasing.

Councilor Hogg felt that steam cooperative employees are better able to perform specialized purchasing for their operation.

Resolution 96-0109 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to agreement for management services with the Duluth steam cooperative association delegating purchasing authority to such association, which amendment is on file in the office of the city clerk as Public Document No. 96-0205-09.

Resolution 96-0109 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0127, by Councilor Hogg, amending Resolution 96-0082(a) relating to the city's 1996 state legislative program, was introduced for discussion.

Councilor Hogg said the purpose of the resolution is to be consistent with the League of MN Cities recommendation that the sales tax exemption be reinstated for all local government purchases.

President Prettner said she agreed with the resolution in principle but that she does not feel that it is practical because of the large expense that would be involved for the state.

Mr. Nollenberger felt it is unrealistic to expect the sales tax to be repealed, so the city's request is to include unmarked police cars in the marked squad exemption.

Councilor Hardesty moved to table the resolution for clarification from the League of MN Cities regarding this issue, which motion was seconded and unanimously carried.

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute a joint powers agreement with Oliver, Wisconsin, relating to the construction, operation and maintenance of a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

four inch sanitary sewer force main in 95th Avenue West for McCuen Street to a point approximately 1500 feet north thereof; said agreement to be substantially in the form of Public Document No. 96-0205-10 on file with the city clerk; the \$600 consideration payable thereunder to be deposited in the sewer fund.

Resolution 96-0062 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, by resolution of intent numbered 95-0950, the council did request the administration to prepare plans and specifications for the permanent improvement including excavation, gravel base, and a bituminous surface on Eleventh Street Alley from 9th Avenue East to 10th Avenue East (City Job No. 8935RS95); 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 \$28,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5782, 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. 96-0205-11, and which description is hereby incorporated herein by reference to said Public Document No. 96-0205-11; 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 96-0101 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Hillside Acres be and hereby is awarded a contract for furnishing and delivering annual plants for city gardens for the street/park maintenance division in accordance with specifications on its low specification bid of \$9,974.79, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 96-0105 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that T.G.C., Inc., be and hereby is awarded a contract for roof repair to the Woodland community club for the property management division in accordance with

specifications on its low specification bid of \$7,527, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5400.

Resolution 96-0115 was unanimously adopted.

Approved February 5, 1996

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR HOGG (INTRODUCED BY COUNCILOR TALARICO)

96-006 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2, 3 AND THE WEST HALF OF LOT 4, BLOCK 77, LONDON ADDITION, TO THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH.

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

Councilor Hogg moved to return the ordinance to the administration, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS HOGG, KEENAN AND BOHLMANN

96-009 - AN ORDINANCE REPEALING ORDINANCE NO. 9279, WHICH REZONED PROPERTY AT THE INTERSECTION OF TRINITY ROAD AND CENTRAL ENTRANCE.

- - -

BY COUNCILORS HOGG, KEENAN AND BOHLMANN

96-010 - AN ORDINANCE REPEALING ORDINANCE NO. 9280, WHICH REZONED PROPERTY ADJACENT TO THE MILLER HILL MALL.

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

Harry Munger spoke against the developments, specifically noting that Simon Development did not follow the rules in a previous rezoning.

John Day opposed the expansion of Miller Mall, saying he feels it will destroy adjacent trees, habitat, Miller Creek and the natural beauty of area. He said he supports new employment opportunities, economic development and an increased tax base, but that he does not support expansion at all costs. He suggested expanding the mall in other ways or revitalizing Downtown instead.

Monica Roth Day opposed rezoning, saying it does not respect the ideas of the 2001 visioning committee regarding economic growth that values the natural environment.

Gina Temple felt that another mall is not needed in Duluth.

Rosie Loeffler Kemp, on behalf of the Miller Hill steering committee, urged the council to consider the 2001 visioning process, the traffic study, the Miller Hill Corridor plan, and the petition signed by citizens across Duluth and vote against rezoning these properties. She said the committee favors economic development that strengthens neighborhoods, preserves green spaces and meets the needs of people.

Hal Moore felt there is a contradiction between the results of the 2001 visioning process and the decision to allow mall growth, and said he is opposed to using tax dollars to overcrowd the area and fix the roads.

Gary Meier, Trout Unlimited, said Miller Creek is still a viable trout stream and that work has begun to rehabilitate the damage done in the last 20 years. He felt expansion of Miller Mall would further damage the creek and urged repeal of the ordinances.

Carl Richards, research scientist at the Natural Resources Research Institute at UMD, with expertise on the impact of watershed activities on the biology of lakes and streams, said studies have shown that Miller Creek is experiencing some degradation and water quality problems, and that current watershed development activities are playing a role in the degraded conditions.

Roger Haro, representing the American Fisheries Society, a professional scientific society of fisheries biologists, said that Miller Creek has been identified by the Minnesota chapter of the society as a creek of special concern. He reported that the brook trout fishery and its support systems are currently in a dangerously stressed state from the rapid infusion of warm water runoff from large open blacktop areas.

In response to Councilor Wheeler, Mr. Richards said that to date there has not been scientific studies to address cumulative impact on the creek, but that he believes that the quality of the stream can be improved.

In further response to Councilor Wheeler, Mr. Meier said that even safeguarded developments frequently have had a catastrophic effect on trout streams. He added that he does not feel the development proposed is warranted.

Richard Fredericks opposed development on residential zoned property. He felt the proposed rezoning would decrease property values and resale potential and would increase traffic congestion, noise and pollution.

Patricia Priley noted that the top four votes in the visioning process were for strong neighborhoods, public education, natural and scenic beauty of the city and green spaces. She urged the council to vote against rezoning, saying there is a need to preserve open and green spaces and neighborhoods throughout the city.

Tim Gregorich opposed the developments because he felt they will destroy green space.

Gary Walton noted problems in the past with other area developments. He said he is extremely concerned with the Opus property wetlands, noting that wetlands lost cannot be replaced.

Lee Hughes said if open and green spaces are gone Duluth would no longer be a unique area with a high quality of life.

Bob Kosuth listed various businesses that have closed, and said that he would like to see neighborhood renewal. He felt the council needs to take a leadership role in developing a vision for the city.

Ruth McCoy requested that both rezoning requests be reconsidered. She said that both developments have complicated issues, and that she feels the council needs to determine a process of evaluating potential developments. She felt there has been a lack of oversight of existing developments and that retail in Duluth is becoming overextended. She said the council should ensure that the construction companies act responsibly, and that there should be specific off limit areas for equipment, runoff barriers to prevent stream contamination, monitoring of hazardous substances used in construction, holding ponds that work and good snow removal techniques, and that if problems can't be resolved the developments shouldn't be approved.

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BY COUNCILOR HALES

96-008 - AN ORDINANCE ESTABLISHING A REAL PROPERTY FIRE LOSS ESCROW ACCOUNT, ADDING A NEW DIVISION 10 TO CHAPTER 20 OF THE CITY CODE.

- - -

The meeting was adjourned at 9:45 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 12, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0212-01 Marie Margitan submitting petition to construct a sanitary sewer in 35th Street South from Minnesota Avenue to 150 feet easterly. -- Assessor

96-0212-14 Minnesota pollution control agency submitting copy of final reissued NPDES/SDS Permit #MN 0056979 relating to Miller Hill Mall expansion. -- Received

96-0212-09 Isaak Walton League of America submitting letter opposing the reclassification of property located on Minnesota Avenue (96-002-O). -- Received

96-0212-08 Opus Corporation, by William M. Burns, attorney, submitting communication regarding its Miller Hill development (Ord. No. 9279). -- Received

96-0212-07 Steve Shepherd submitting letter regarding low income housing tax credit qualified allocation plan (96-0119R). -- Received

96-0212-15 Simon Properties, by Robert Eaton, attorney, submitting position statement and map regarding its Miller Hill Mall expansion (Ord. No. 9280). -- Received

96-0212-10 The following submitted letters in opposition of the Opus/Simon developments (Ord. Nos. 9279 and 9280): (a) Barbara Bowling; (b) Neil Vanderport; (c) William L. Westholm. -- Received

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REPORTS OF OFFICERS

96-0212-06 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for December 1995. -- Received

96-0212-02 Parks and recreation department director submitting minutes of board of directors for the Lake Superior zoological society: (a) Annual meeting of December 12, 1995; (b) Regular meeting of December 12, 1995. -- Received

96-0212-03 Purchasing agent submitting emergency purchase order awarded to C. Reiss Coal Company for coal for Duluth Steam District No. 1. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0212-04 Civil service board minutes of: (a) December 5; 1995; (b) January 2, 1996 meetings. -- Received

96-0212-05 Duluth housing trust fund board minutes of: (a) November 16; (b) December 14, 1995 meetings. -- Received

- - -

RESOLUTION TABLED

Councilor Hogg moved to remove from the table Resolution 96-0127, amending Resolution 96-0082(a) relating to the city's 1996 state legislative program, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution as follows:

(a) Add the following language in the first paragraph:

(1) After the words "amended by" replace the language "revising policy issue #6 on the attached" with "adding the following language to policy issue #6 on";

(2) After the words "public document" delete the words "to read as follows: Sales Tax on Local Government Purchases" and "Reinstate the sales tax exemption for all local government purchases";

(b) Add the following paragraph at the end of the resolution:

"It is the position of the League of Minnesota Cities that the sales tax exemption for all local government purchases be reinstated. The city encourages the legislature to look at this issue and to request the department of revenue to prepare a fiscal note estimating the cost of state revenues if all sales taxes for local governments were eliminated," which motion was seconded and unanimously carried.

Resolution 96-0127, as amended, was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, that Resolution 96-0082(a), adopted by the city council on January 29, 1996, is hereby amended by adding the following language to policy issue No. 6 on Public Document No. 96-0129-14:

It is the position of the League of Minnesota Cities that the sales tax exemption for all local government purchases be reinstated. The city encourages the legislature to look at this issue and to request the department of revenue to prepare a fiscal note estimating the cost to state revenues if all sales taxes for local governments were eliminated.

Resolution 96-0127, as amended, was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the demolition assessment Contract No. 5284 be and the same is hereby confirmed.

Resolution 96-0120 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Energy and Air Systems, Inc., be and hereby is awarded a contract for furnishing and installing PACT area air conditioning for PACT in accordance with specifications on its low specification bid of \$28,200, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I504, to be reimbursed by P.A.C.T.

Resolution 96-0124 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city council previously approved of the following license on November 20, 1995, in Resolution 95-1021; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council reaffirms its 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>
American Legion Post #71	5814 Grand Avenue	October 30, 1995

Resolution 96-0134 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0121, by Councilor Bohlmann, confirming appointment of Guy Sederski to the Duluth transit authority replacing Robert Lapine, was introduced for discussion.

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

- - -

The rules were suspended upon a unanimous vote to consider the ordinances at this time.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR HALES

96-008 (9294) - AN ORDINANCE ESTABLISHING A REAL PROPERTY FIRE LOSS ESCROW ACCOUNT, ADDING A NEW DIVISION 10 TO CHAPTER 20 OF THE CITY CODE.

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

Bruce Wyman spoke in support of the ordinance.

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

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BY COUNCILORS HOGG, KEENAN AND BOHLMANN

96-009 - AN ORDINANCE REPEALING ORDINANCE NO. 9279, WHICH REZONED PROPERTY AT THE INTERSECTION OF TRINITY ROAD AND CENTRAL ENTRANCE.

- - -

BY COUNCILORS HOGG, KEENAN AND BOHLMANN

96-010 - AN ORDINANCE REPEALING ORDINANCE NO. 9280, WHICH REZONED PROPERTY ADJACENT TO THE MILLER HILL MALL.

The rules were suspended upon a unanimous vote to hear speakers on both ordinances.

Robert Eaton, attorney representing Simon Development Corporation, reviewed the January 12, 1996, document from Dayton's Corporation (Public Document No. 96-0129-07) regarding their desire to be in the Miller Hill Mall. Mr. Eaton further reviewed the MPCA documents (Public Document No. 96-0212-14) regarding the many issues and concerns of the MPCA. Mr. Eaton said that Simon Development Corporation has provided many jobs over the years, and that the corporation agrees to pay its fair share for public improvements such as access to Miller Hill Mall and signal lights, as well as all improvements on its property. He said that there is a normal

turnover in tenants at the mall, but there are no permanent long term vacancies. Mr. Eaton added that the mall area is under national standards for the square footage of retail development in the city.

Bill Burns, attorney representing OPUS Development Corporation, voiced his support for letting the voters decide the development issues. Mr. Burns said that OPUS has compromised extensively to allow for concerns of neighbors to be incorporated into their plans.

Jay Scott, representing OPUS, reviewed the 2-1/2 year history of developing this proposed area. Mr. Scott discussed at length the changes made to reduce the size of the development to allow for the maintenance and quality of existing wetlands. He stated that OPUS will develop in a proper and responsible manner and that the C-5 plan will include all conditions necessary before they can proceed.

Marc Mansfield, president and chief executive officer of the Duluth Area Chamber of Commerce, said that in January 1996, the board of directors of the chamber endorsed both projects, noting that it is consistent with the type of development in the Miller Hill Corridor; that both projects are privately funded with significant contribution to employment opportunities and the tax base, and that neighborhood and environmental issues can be resolved in the governmental review process. He stated he doesn't believe that a small group of citizens represents the majority and that this is a window of opportunity for Duluth if it wants sound growth and economic diversity.

Robert Spaulding, representing Simon Development, reviewed the development plans, noting that there is a buffer of 500 feet proposed and there is 160 feet of green space below the existing C-5 line to the residential line. He said there will be fewer trees affected than it is assumed and added that Simon is proud of this property and will work hard to maintain it.

Joe Stahlsmith, of Simon Development, reviewed the specifics of the environmental issues and concerns regarding the discharge permits and water runoff. Mr. Stahlsmith said that since Simon has become aware of the problems, they have immediately followed up on the issues. He elaborated that Simon had experienced an internal communication failure on issues with the MPCA and that it is being corrected. He stated that the company has notified the MPCA that changes that have taken place internally to correct problems and that the MPCA has stated that while Simon is in violation, it is the first time, that no penalties have been assessed, and the MPCA is aware that Simon is working on the deficiencies. Mr. Stahlsmith concluded that there is a February 20 deadline to submit plans to the MPCA that will be complied with, and that subsequent time will be needed to get the three major department stores that own the properties to proceed with the changes that will be required.

The following spoke against one or both ordinances:

Dave Grandaw, business manager for the bricklayers union; Mike Conlan, representing Citizens for Building Duluth; Fred Salo, representing Duluth Building Trades; Todd Fedora and Scott Salo.

Some reasons stated were: both developers have confirmed project agreements where they would be hiring mostly local workers; the city needs to show that it can solve problems and allow progress to happen through good, responsible development; a large diverse group of citizens agrees that development projects are important because of the expanded tax base; resources that come from property taxes are limited; it is important to listen to neighborhood concerns and try to resolve their problems; developers have shown good faith and are spending their own dollars; 300 construction workers will be employed for over a year; a small group of citizens who oppose this development has been successful in stopping other developments and it is now time for the citizens to vote; this will be an economic spark for the area generating sales and property

taxes, construction and retail jobs, and will strengthen the city's presence as a regional retail center; students need the part time jobs that will be created by these developments, and traffic and environmental concerns will be corrected with the developers' cooperation and payment for public improvements.

The following speakers supported one or both ordinances: Janice Watten; Clair Kirch; Joel Sipress; Rosie Loeffler-Kemp; Myrna Mathison, representing Friends of Miller Mall; Karl Strom; Ken Kemp; Barbara Bowling; Rick Holmstrom; Harry Munger; Carol Thomson; Margaret Orlich; Joan Morrison; Pat Connell; Patricia Priley; Skip Hendrickson; Judy Derauf; Louise Curnow; Jennifer Garrison; Bob Kosuth; Thomas Garry; Sarah Plautz; Debra Hannu; Jennifer Buckley; Monica Roth Day; John Herold; Neill Vanderport; Jeff Lyon; Gary Walton; Steve Garski; John Lenczewski; and Amy Spicuzza.

Some of the reasons stated were: the developments will increase traffic congestion; the public will have to pay for street and other public improvements related to the developments in the Miller Mall area; concern that Anderson Road will become a route to bypass the mall and the safety of children who live on that street will be compromised; the natural beauty, wildlife and plant life, including endangered species of plant life in the area, will be destroyed; tons of rock will be blasted and removed affecting water runoff; Duluth's quality of life can be attributed to more green space and the absence of retail development; Duluthians should support local businesses that are rooted in local values and economics; the expansion of the present mall will adversely affect retail businesses in the Downtown area forcing closures that will cause urban blight; the disbelief that if the mall expands shoppers will come; Dayton's has not made a firm commitment to locate in Duluth; retail sales nationwide are down and many malls are closing because there are too many stores; national shopping trends have turned toward shopping at one of a kind stores such as those privately owned in the Downtown instead of chain stores; developers promises cannot be trusted regarding the economics of retail development; the disbelief that the amount of new taxes generated by these projects is accurate or realistic; Simon Development promised in the past to retain a 700 foot buffer between its present development and the residential neighborhood; Simon Development needs to comply with past requirements and submit sufficient plans for the intended rezoning before any further expansions are allowed; the developer's refusal to consider multi-level expansion and deck parking shows their unwillingness to work with area residents; homes in the area will be further damaged by additional blasting; a petition that includes 6,400 signatures has been submitted requesting that this issue be reversed or voted on by the public; the proposals do not provide responsible, sustainable developments; surrounding neighborhoods would be devalued; the new stores will not provide full time jobs and will adversely affect neighborhood businesses and statements made by Mayor Doty and President Prettner in a recent article of "Twin Ports People" contradict these proposed developments and are inconsistent with the Mill Hill Corridor Plan and the "2001 and Beyond" vision plan.

Jerry Kimball, former city planner, reviewed the differences between generic and strategic planning. Mr. Kimball said that generic planning believes that all development should be desirable and disregards "costs" that aren't relevant. He noted that developer's track records are not considered and it only states that developments should be environmentally friendly, and the developers say where the developments should be. Mr. Kimball then noted that strategic planning is like the "2001 and Beyond" visioning process and that no part of these two developments included aspects of the 2001 visioning planning. Mr. Kimball noted that communities that are most successful emphasize the strengths of strategic planning.

Councilor Hogg felt that the council should first reconsider the ordinances and if they are not repealed, they should be sent to the voters. He said he specifically opposes repealing the Opus rezoning, explaining that during his last year on the planning commission, he reviewed the issue at great length and opposed the project, but since that time the developers have caused details of the project to be changed, and he now supports it.

Councilor Keenan stated that he supports the Opus rezoning because of the reduced size of the development and because there is a good buffer for the neighbors. He noted that \$1.5 million will be needed for traffic improvements if either development is approved.

Councilor Wheeler said that he supports the Opus rezoning because the development will be 750 feet from the nearest neighbor and he feels that is a significant improvement from what was originally presented.

Councilor Bohlmann stated she supports proposed Ordinance No. 96-009 because she feels that the neighbors shouldn't be subjected to this invasion of noise and traffic.

Councilor Hardesty stated her concern about wetlands in this area.

President Prettner noted that those issues just mentioned would be addressed during the environmental assessment process if the rezoning is allowed to stay.

Ordinance No. 96-009 (Public Document No. 96-0212-16) failed upon the following vote:

Yeas: Councilor Bohlmann -- 1

Nays: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

- - -

Regarding proposed Ordinance No. 96-010 repealing the Simon rezoning, Councilor Hogg noted it is the second expansion, that the 1987 request for expansion was turned down and that the runoffs on the amount of impervious surface would significantly increase. He further noted that the developer does not have specific answers to the MPCA requirements. He felt that neighborhood concerns have not been addressed and supports repealing to have Simon come back with a new proposal that would meet the concerns addressed.

Councilor Keenan supported the ordinance because of the previous unresolved environmental issues. He said that Miller Creek is on the edge and ready to die. He noted that since Simon Corporation hasn't helped to preserve Miller Creek, he will support the repealing of the rezoning.

Councilor Hales stated that bringing concerns out can work to the benefit of all, and that all citizens need to vote on this and, therefore, she will oppose the repealing of the rezoning.

Councilor Hardesty said that she supports the ordinance because she feels Dayton's will come to Duluth because they need an out-state area, and she felt Simon Development Corporation has not been responsible in the past.

Councilor Wheeler reviewed that the MPCA letter of February 9, 1996, to Simon Development regarding the deficiencies and said he believes that it was an honest mistake, but questioned the issue of the monthly report being late or incomplete and the failure of the sample discharge.

Joe Stahlsmith, Simon Development Corporation, noted that it is his belief that the MPCA letter was just a necessary formal response since there were no actions taken against Simon Development Corporation. Mr. Stahlsmith noted that a local testing firm failed to make some samplings over the last five years and that now staff at the Miller Hill Mall will take these samples and submit them to the proper testing laboratory.

Robert Spaulding, of Simon Development Corporation, responded to Councilor Hogg's suggestion to include Dayton's in the existing mall by constructing a second level.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler felt that a comprehensive land use plan is needed and that if it was in place, this would have gone much smoother than it has.

Responding to Councilor Wheeler, Mayor Doty said that if the council repeals the rezoning, he will veto it because he is not sure how the majority of citizens feel about it. Mayor Doty stated both sides tell him that they feel they represent the majority viewpoint and that it is important to let the people give direction for the future.

City Attorney Dinan reviewed the process of the mayor's veto and return to the council and the need for six votes to override the veto.

Councilor Wheeler stated that regardless of the council vote, the mayor will veto the ordinance if passed, and the council will need six votes to override it. He stated that he voted against the rezoning initially, therefore, he can't vote for it now but that he does not want to deny the citizens the right to vote. Therefore, he will abstain from voting on the ordinance.

Councilor Rapaich moved to call the question, which motion was seconded and failed upon the following vote:

Yeas: Councilors Rapaich and Talarico -- 2

Nays: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Wheeler and President Prettnner -- 7

President Prettnner stated her objection to Councilor Wheeler abstaining because she felt he has a responsibility to vote one way or the other on the ordinance.

- - -

Councilor Keenan moved to continue the council meeting past 11:00 p.m., which motion was seconded and unanimously carried.

- - -

Councilor Bohlmann stated she supports the ordinance, noting that it is strange that in the past, there was opposition to a mall being built in Hermantown and now the same individuals are supporting the Miller Hill expansion. Councilor Bohlmann said that expansion at the expense of the quality of life to residents in this area is wrong, and that she feels that the city must protect the neighborhoods at all costs, and that there are other ways to expand the mall.

Councilor Hogg noted that the citizens' petition stated, in part, that the council would consider repealing the ordinance first and said that the council was elected to vote on issues.

To Councilor Bohlmann's concerns regarding the abstention, Mr. Dinan reviewed that a conflict of interest is a normal situation for abstaining, but a councilor may abstain for any reason and a councilor cannot be forced to vote, that it is a matter of personal conscience.

Councilor Talarico noted that as an attorney, he repeatedly sees people signing documents, referring to the petition, and not fully understanding and knowing what they sign. He concluded that his telephone calls tell him that the public wants to vote on this and that he will vote on what he feels the people want.

Councilor Wheeler concluded by saying that he always opposed the Simon project and supported the OPUS project, and that his abstention will force the failure of a repeal of the Simon rezoning thus sending the issue to the voters.

Ordinance No. 96-010 (Public Document No. 96-0212-17) failed upon the following vote:

Yeas: Councilors Bohlmann, Hardesty, Hogg and Keenan -- 4

Nays: Councilors Hales, Rapaich, Talarico and President Prettnner -- 4

Abstention: Councilor Wheeler -- 1

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The regular order of business was resumed.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

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

BUILDING APPEAL BOARD

James P. Berry (comm. bldg. const.) for a term expiring February 1, 1999, replacing Wayne Amendola.

Gwin B. Whitney (bldg. materials sup.) for a term expiring February 1, 1998, replacing David Walsh.

Jon Helstrom (reg. arch.) and Howard Jacobs (reg. engr.) for terms expiring February 1, 1999.

Resolution 96-0122 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH SRO HOUSING COMMISSION

Kim Randolph (CHUM) for a term expiring March 1, 1998, replacing Daniel Moore, who resigned.

Lori J. Reilly (SRO owner) for a term expiring March 1, 1999, replacing Gordy Wedin, who resigned.

Resolution 96-0123 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into the Minnesota city participation program 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 homebuyers in the city, which agreement is on file in the office of the city clerk as Public Document No. 96-0212-11.

FURTHER RESOLVED, that said officials are authorized to issue a check to the Minnesota housing finance agency in the amount of one percent of the city's bond allocation, not to exceed \$40,000, which will be refunded upon sale of the bonds and a check for a nonrefundable processing fee in the amount of \$20 per each \$100,000 in allocation, not to exceed \$800,000, both of said amounts to be payable from General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 96-0119 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462.A221, et seq., the city of Duluth,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Minnesota, is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, the city of Duluth as a suballocator is authorized to administer \$155,689 in 1996 LIHTCs; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 1996 (the "plan") setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the Duluth housing trust fund board of directors, met on January 30, 1996, and recommended approval of the plan to the city council; and

WHEREAS, the plan was made available for review and written comments by the general public and public hearing was held on February 6, 1996.

NOW, THEREFORE, BE IT RESOLVED, that the 1996 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 96-0212-12, is hereby approved.

Resolution 96-0128 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to apply to MFHA for participation in the community fix up program to provide low interest city wide home improvement loans to eligible homeowners.

Resolution 96-0135 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Arrowhead Chemicals, Inc., 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 \$7,676.63, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 96-0125 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, proper city officials are hereby authorized to amend City Contract No. 17422 to accept an additional \$82,565 in funds from the Minnesota department of economic security to continue operation of the Minnesota youth program for the period July 1, 1995, through June 30, 1997. This amendment brings total funding amount to \$253,103 and extends the contract date to June 30, 1997. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 96-0212-13.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited in Fund No. 268, Budget Item No. 6246.

Resolution 96-0117 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Equipment Rental Company, Inc., be and hereby is awarded a contract for furnishing and installing roof vents, partitions, racks and cabinets for the water and gas department in accordance with specifications on its low specification bid of \$19,564.05, terms net 30, FOB destination, \$9,782.03 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$9,782.02 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0126 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city council of the city of Duluth hereby dedicates the following real property for street right of way purposes:

All that part of the easterly 26-2/3 feet of Lot 11, Blk 130, Duluth Proper, Third Division, lying southeasterly of the following described line: beginning at a point on the south line of said Lot 11, said point being 26-2/3 feet west of the southeast corner of said Lot 11, thence northeasterly 36.55 feet to a point on the east line of said Lot 11, said point being 25 feet north of the southeast corner of said Lot 11, and there terminating;

and

All that part of Lot 13, Blk 130, Duluth Proper, Third Division, lying southeasterly of the following described line: beginning on the west line of said Lot 13, said point being 125 feet south of the northwest corner of said Lot 13, thence northeasterly 68.39 ft. to a point on the east line of said Lot 13, said point being 78.34 feet south of the northeast corner of said Lot 13, and there terminating.

Resolution 96-0136 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Varda Company be and hereby is awarded a contract for furnishing and delivering alarm system components for the police department in accordance with specifications on its low specification bid of \$7,316, terms net 30, FOB shipping point, \$5,800 payable out of General Fund 100, Dept./Agency 200, Organization 2432, Object 5580 and \$1,516 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5580.

Resolution 96-0130 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 96-0131 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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Resolution 96-0129, by President Prettner, calling a special municipal election for April 16, 1996, on Ordinance Nos. 9279 and 9280, rezoning property in the Miller Hill area of Duluth, was introduced for discussion.

Councilor Hogg moved to amend the third paragraph in Resolution 96-0129 to read as follows: "WHEREAS, the city council has not entirely repealed Ordinances 9279 and 9280 as required by the Charter and must submit those ordinances to a vote of the people," which motion was seconded.

President Prettner and Councilor Talarico objected to the amendment, noting the council voted on the repealing ordinances and their vote reflects their intent to go to the voters.

Councilor Hogg responded the city council's first duty is to reconsider the ordinances and then send them to the voters if they are not repealed.

Councilor Hogg's amendment failed as follows:

Yeas: Councilors Bohlmann, Hardesty and Hogg -- 3

Nays: Councilors Hales, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 6

Councilor Keenan suggested that because special election costs are about \$17,000 to \$20,000, the issue could be put on the fall ballot with the state elections.

Resolution 96-0129 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, on November 20, 1995, the city council adopted Ordinance Nos. 9279 and 9280, rezoning property in the Miller Hill area of Duluth; and

WHEREAS, pursuant to Section 52 of the Duluth City Charter, sufficient petitions protesting passage of such ordinances have been filed with the city clerk within the required time period; and

WHEREAS, the city council desires to exercise its option under Section 52 of the Charter to submit Ordinance Nos. 9279 and 9280 to a vote of the people;

NOW, THEREFORE, BE IT RESOLVED, that a special municipal election is hereby called to be held in the city of Duluth, Minnesota, on Tuesday, April 16, 1996, for the purpose of submitting Ordinance Nos. 9279 and 9280 to the voters for their acceptance or rejection.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to give due notice, as required by law, that such election will be held, and is further authorized and directed to publish Ordinance Nos. 9279 and 9280 as part of such notice.

RESOLVED FURTHER, that the city clerk shall prepare the necessary ballots to be used at such special municipal election, which ballots shall be substantially in the following form:

MUNICIPAL BALLOT
SPECIAL MUNICIPAL ELECTION
CITY OF DULUTH
APRIL 16, 1996

PUT A CROSSMARK "X" AFTER THE WORD "YES" STANDING NEXT TO QUESTION #1 IF YOU WISH TO VOTE IN FAVOR OF ADOPTION OF ORDINANCE NO. 9279.

PUT A CROSSMARK "X" AFTER THE WORD "NO" STANDING NEXT TO QUESTION #1 IF YOU WISH TO VOTE AGAINST ADOPTION OF ORDINANCE NO. 9279.
QUESTION #1

SHOULD ORDINANCE NO. 9279 OF THE CITY OF DULUTH, MINNESOTA, REZONING PROPERTY AT THE INTERSECTION OF TRINITY ROAD AND CENTRAL ENTRANCE, BE ADOPTED?

YES _____
NO _____

ORDINANCE NO. 9279 REZONES PROPERTY LOCATED AT THE INTERSECTION OF TRINITY ROAD AND CENTRAL ENTRANCE FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL TO ALLOW FOR COMMERCIAL DEVELOPMENT OF THIS PROPERTY (SITE OF PROPOSED OPUS DEVELOPMENT).

PUT A CROSSMARK "X" AFTER THE WORD "YES" STANDING NEXT TO QUESTION #2 IF YOU WISH TO VOTE IN FAVOR OF ADOPTION OF ORDINANCE NO. 9280.

PUT A CROSSMARK "X" AFTER THE WORD "NO" STANDING NEXT TO QUESTION #2 IF YOU WISH TO VOTE AGAINST ADOPTION OF ORDINANCE NO. 9280.

QUESTION #2

SHOULD ORDINANCE NO. 9280 OF THE CITY OF DULUTH, MINNESOTA, REZONING PROPERTY ADJACENT TO MILLER HILL MALL, BE ADOPTED?

YES _____
NO _____

ORDINANCE NO. 9280 REZONES PROPERTY LYING ADJACENT TO MILLER HILL MALL FROM R-1-B SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL TO ALLOW FOR EXPANSION OF THE MILLER HILL MALL (SITE OF PROPOSED SIMON EXPANSION).

RESOLVED FURTHER, that the city clerk shall cause to be published and posted the list of designated polling places for such election, the hours during which such polling places will be open, and the date of holding of such election, as provided by law.

RESOLVED FURTHER, that a copy of Ordinance No. 9279 and Ordinance No. 9280 shall be kept on file in the office of the city clerk prior to such election for examination by members of the public.

Resolution 96-0129 was unanimously adopted.

Approved February 12, 1996

GARY L. DOTY, Mayor

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9294

BY COUNCILOR HALES:

AN ORDINANCE ESTABLISHING A REAL PROPERTY FIRE LOSS ESCROW ACCOUNT, ADDING A NEW DIVISION 10 TO CHAPTER 20 OF THE CITY CODE.

The city of Duluth does ordain:

Section 1. That a new Division 10 be added to Chapter 20 of the Duluth City Code, 1959, to read as follows:

Division 10. Real property fire loss escrow account.

Sec. 20-32. Real property fire loss escrow account established.

There is hereby established in the treasury of the city of Duluth a real property fire loss escrow account. All monies received by the city pursuant to Minnesota Statutes, Section 65A.50, shall be deposited in such account, and all payments or expenditures made from such account shall be in compliance with the provisions of such statute. Except as permitted by such statute, monies in this account shall not be commingled with other city funds.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 24, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

Passed February 12, 1996
Approved February 12, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, February 20, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0220-01 Minnesota Power submitting petition for concurrent use permit for loading ramp on Michigan Street. -- Planning commission

96-0220-09 Tom George submitting communication opposing development of sidewalks in the road development plan for the Kenwood Avenue/Howard Gnesen Road project (supported by 24 signatures) (96-0171R). -- Received

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REPORTS OF OFFICERS

96-0220-02 Assessor submitting letter of sufficiency to construct a sanitary sewer in 35th Street from Minnesota Avenue to 150 feet easterly. -- Received

96-0220-03 Building official submitting appeal of BZA denial of request to relax the front yard setback requirement for accessory buildings from 60 feet to ten feet for the construction of an addition to an existing, nonconforming detached garage on property located at 9532 East Prescott Street. -- Committee 2 (planning)

96-0220-04 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses (raffles) from: (a) DM&IR Veteran Employees' Association at Greysolon Plaza Ballroom; (b) The Marshall School at Marshall School gymnasium. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0220-05 Special assessment board minutes of January 23, 1996 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price commented on future plans for the Bayfront land, suggesting that the two acre parcel west of LaFarge be developed in a way that will contribute to the costs of public improvements. He suggested various public uses for the property, and said he feels the public should vote on how to develop the property.

Lynn Vanderport, Friends of Bayfront Park, said they want to work with the city of Duluth to develop a master plan for the entire bayfront area.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Northside Truck, Inc., be and hereby is awarded a contract for furnishing and delivering a rental truck for the street maintenance division in accordance with specifications on its low specification bid of \$7,200, terms net 30, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5415.

Resolution 96-0143 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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BY COUNCILOR RAPAICH:

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 \$5,100, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0144 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Herman Miller, Inc., be and hereby is awarded a contract for furnishing and installing room partitions for the fire department in accordance with specifications on its low specification bid of \$12,739.63, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B627.

Resolution 96-0148 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that B. Miller Products, Inc., be and hereby is awarded a renewable contract for furnishing and delivering janitorial supplies for the various departments and divisions in accordance with specifications on its low specification bid of \$23,800, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0150 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Performance Computer Forms, Inc., be and hereby is awarded a bid for furnishing and delivering approximately 1,000 cartons of computer printer paper for the data processing division in accordance with specifications on its low specification bid of approximately \$25,000, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5203.

Resolution 96-0151 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that A & E Business Products, Inc., be and hereby is awarded a renewable contract for furnishing and delivering office supplies for the various departments and divisions in accordance with specifications on its low specification bid of approximately \$65,100, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

object various.

Resolution 96-0152 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$13,370) for the various departments and divisions in accordance with specifications and referencing state of Minnesota Contract 403506, release P-661 pricing, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0154 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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Resolution 96-0157, by Councilor Rapaich, approving the issuance of lawful gambling premises permits, was introduced for discussion.

Councilor Hogg moved to divide the resolution to vote on Cloquet Amateur Hockey and Climb Theatre separately, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Keenan -- 1

Resolutions 96-0157(a) and 96-0157(b) were adopted as follows:

BY COUNCILOR RAPAICH:

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

1. Cloquet Amateur Hockey Alpine Bar & Lounge February 6, 1996
2. Climb Theatre Charlie's Club February 9, 1996

Resolution 96-0157(a) was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico and President Prettner -- 7

Nays: Councilors Hogg and Wheeler -- 2

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the following organization has applied to the Minnesota gambling control board

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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>
Moose Lodge #1478	411 N. 57th Ave. W.	January 29, 1996

Resolution 96-0157(b) was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the Minnesota Deer Hunters Association, Duluth Chapter and Rotary Club of Duluth Harbortown Minnesota, USA, Inc., have 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 applications 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 applications; and

WHEREAS, the city council approves of the exemption applications 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 Minnesota Deer Hunters Association, Duluth Chapter and the Rotary Club of Duluth Harbortown Minnesota, USA, Inc., and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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 96-0158 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, and President Prettner -- 8

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED, that the following appointment and reappointment be and the same are hereby confirmed:

DEFERRED COMPENSATION PLAN COMMISSION

Janice Mattson (confidential unit) for a term expiring December 31, 1999, replacing Robert Troolin who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

John Beyer (police) for a term expiring December 31, 1999.
Resolution 96-0142 was unanimously adopted.
Approved February 20, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0146, by President Prettner, of support for completion of the development of the border to border trail project, was introduced for discussion.

Councilor Hogg supported the project, but said he is uncomfortable not knowing what types of uses will be allowed.

Councilor Keenan said that the proposal is for the trail to be multi-use. He felt the council does not have enough information to support the resolution.

Councilor Wheeler said he will not support the resolution if snowmobiles are allowed in pedestrian areas. He suggested adding language that states that motorized vehicles will not have a direct path through the city.

Councilor Hardesty said she does not want Duluth to be excluded from planning the project, and said she felt there would be a way for the various uses to work together.

Councilor Talarico moved to amend the resolution, in the fourth paragraph, to delete the phrase "although it is to be implemented at the local levels" and insert "subject to the approval and implementation at the local levels," which motion was seconded and carried upon a unanimous vote.

Resolution 96-0146, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, there are many trail segments already developed within the state of Minnesota that could be linked to provide a continuous trail corridor from the Iowa border to the Canadian border; and

WHEREAS, there are many interests working to make connections to existing trails that would bring the border to border trail closer to reality; and

WHEREAS, the plan for the Willard Munger State Trail is in need of updating because it is the most likely connection to the gateway segment from the Twin Cities northward; and

WHEREAS, a plan for such a trail system must be coordinated at the state level, subject to the approval and implementation at the local levels.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the authorization by the Minnesota legislature of a border to border state trail to include part or all of several existing trails and an appropriation of funds by the Minnesota legislature to the Minnesota department of natural resources for the development of a master plan.

Resolution 96-0146, as amended, was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

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 of Duluth with administrative support funding in an amount of an additional \$22,000 to the McQuade protected access project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to execute an amendment to Agreement No. 17141 with the Minnesota department of natural resources to assist with the administrative responsibilities of the McQuade protected access committee under the direction of the township of Duluth, in an amount not to exceed \$59,000, to be deposited in the 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. 96-0220-06.

Resolution 96-0137 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that C.L.S.I., Inc., be and hereby is awarded a contract for furnishing computer software and hardware maintenance for the library's circulation control system for the library department in accordance with specifications on its low specification bid of \$44,725, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 300, Organization 2110, Object 5309.

Resolution 96-0153 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 96-0220-07, with U.S. Strategies Corporation amending the city's current agreement with such corporation for legislative liaison services related to Indian gaming and potential amendments to the National Indian Gaming Act.

Resolution 96-0162 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Dahlen, Berg and Company for professional services relating to natural gas transportation and peaking services rates, which agreement is on file in the office of the city clerk as Public Document No. 96-0220-08, payment not to exceed \$7,000, payable from the Public Utility Gas Fund 520.

Resolution 96-0133 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Phillips Getschow Company, Inc., be and hereby is awarded a renewable 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 approximately \$10,000, terms net 30, FOB job site, \$4,000 payable out of Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5310 and \$6,000 payable out of Steam Fund 540,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Dept./Agency 920, Organization 1460, Object 5310.

Resolution 96-0156 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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Resolution 96-0118, by Councilor Talarico, ordering the improvement of Arrowhead Road from 250 feet west of Kenwood Avenue to Dodge Avenue (1,200 feet east of Kenwood Avenue) and Kenwood Avenue from Arrowhead Road to Cleveland Street (City Job No. 8689MA92) at an estimated cost of \$900,000: \$582,000 from ISTEAF funds (federal), \$284,000 from municipal state aid funds, and \$34,000 is assessable, was introduced for discussion.

Councilor Talarico moved to amend the title of the resolution to delete the words "HOWARD GNESEN ROAD" and "VICTORIA STREET (PLATTED)" and to insert "CLEVELAND STREET" as stated in the body of the resolution, which motion was seconded and unanimously carried.

Resolution 96-0118, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Arrowhead Road from 250 feet west of Kenwood Avenue to Dodge Avenue (1,200 feet east of Kenwood Avenue) and Kenwood Avenue from Cleveland Street to Arrowhead Road (City Job No. 8689MA92) be improved.

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$900,000; \$582,000 from ISTEAF (federal) funds, \$284,000 from municipal state aid funds, and \$34,000 is assessable to abutting property on Arrowhead Road and on Kenwood Avenue south of Arrowhead Road.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter, and that said improvement is hereby ordered.

Resolution 96-0118, as amended, was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, commissioner's Release Order No. 1087, dated December 15, 1995, revoked portions of Trunk Highway 194 within the city of Duluth as follows: Sixth Avenue East from Second Street to Ninth Street and Central Entrance Drive from Ninth Street to Mesaba Avenue; and

WHEREAS, we have received notification that said streets have reverted to the jurisdiction of the city of Duluth; and

WHEREAS, the above said streets meet the criteria for a municipal state aid street, and the office of state aid has approved this designation.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests that the above said streets be placed on the municipal state aid system as part of its trunk highway turnback mileage.

Resolution 96-0138 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved February 20, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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BY COUNCILOR TALARICO:

WHEREAS, commissioner's Release Order No. 1086, dated December 15, 1995, revoked portions of Trunk Highway 61 within the city of Duluth as follows: 12th Avenue East from London Road to Second Street, 14th Avenue East from London Road to Third Street, and London Road from 12th Avenue East to 26th Avenue East; and

WHEREAS, we have received notification that said streets have reverted to the jurisdiction of the city of Duluth, and

WHEREAS, the above said streets meet the criteria for a municipal state aid street, and the office of state aid has approved this designation.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests that the above said streets be placed on the municipal state aid system as part of its trunk highway turnback mileage.

Resolution 96-0139 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, commissioner's Release Order No. 1085, dated December 15, 1995, revoked portions of Trunk Highway 23 within the city of Duluth as follows: Grand Avenue from I-35 to Carlton Street, Carlton Street from Grand Avenue to Michigan Street, Michigan Street from Carlton Street to Mesaba Avenue, 27th Avenue West from Michigan Street to First Street, First Street from 27th Avenue West to Piedmont Avenue, Piedmont Avenue from First Street to Superior Street, Superior Street from Garfield Avenue to Michigan Street, Second Street from Mesaba Avenue to 21st Avenue East, Third Street from Mesaba Avenue to 21st Avenue East, 21st Avenue East from Superior Street to Third Street, Superior Street from 21st Avenue East to 60th Avenue East, and 60th Avenue East from London Road to Superior Street; and

WHEREAS, we have received notification that said streets have reverted to the jurisdiction of the city of Duluth; and

WHEREAS, the above said streets meet the criteria for a municipal state aid street, and the office of state aid has approved this designation.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests that the above said streets be placed on the municipal state aid system as part of its trunk highway turnback mileage.

Resolution 96-0140 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth established the initial municipal state aid system of streets by

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

resolution approved October 28, 1957, under the provisions of Minnesota Law 1957, Chapter 943; and

WHEREAS, it now appears that revisions in the municipal state aid street system are necessary.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that portions of the streets described as follows be and are hereby revoked as a municipal state aid street of said city of Duluth: Mesaba Avenue, MSAS 142, from Second Street to Central Entrance (0.97 miles); Arrowhead Road, MSAS 160, from Wallace Avenue to Woodland Avenue (0.03 miles); Woodland Avenue, MSAS 157, from Wallace Avenue to Snively Road (0.11 miles); 34th Avenue East, MSAS 160, from Fourth Street to Arrowhead Road (0.39 miles); and Arrowhead Road, MSAS 160, from 34th Avenue East to Wallace Avenue (0.25 miles).

Resolution 96-0141 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved February 20, 1996

GARY L. DOTY, Mayor

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Resolution 96-0171, by Councilor Talarico, approving the plans and specifications for the improvement of Kenwood Avenue/Howard Gnesen Road from Arrowhead to platted Victoria Street, was introduced for discussion.

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

Tom George, representing the neighborhood from 5 Howard Gnesen Road to Linzie Road, noted that he submitted a petition representing 100 percent of the neighborhood in favor of the road but opposed to the sidewalk (Public Document No. 96-0220-09). He listed concerns of mail and paper delivery, snow removal, liability, safety and loss of property and privacy. He felt that the improved road will result in increased speed and will be dangerous for pedestrians and that the proposed sidewalk is too short to benefit pedestrians.

Councilor Hardesty said that this is a difficult street for pedestrians to navigate, but that good planning should provide adequate passageway.

In response to Councilor Hogg, Dick Larson, public works director, favored sidewalks on both sides of the road, and noted that there is an existing sidewalk on the east side of Kenwood Avenue for a portion of this area.

Ken Larson, city engineer, strongly supported sidewalks on both sides, but felt that a sidewalk on one side would provide some benefit for pedestrians.

Councilor Hogg noted that the sidewalks are strongly recommended by staff but the neighbors unanimously do not want them. He said he does not agree with forcing sidewalks on a neighborhood that does not wish to have them.

President Prettner responded that staff gives the council their best technical guidance and then it is up to the council to make the policy decisions.

In response to Councilor Talarico regarding the impact of disobeying any standards for public safety, City Attorney Dinan stated that this particular segment of the road is a county state aid road and under their jurisdiction and control, but that the county is leaving the decision about sidewalks to the city. He said that this is an upper level discretionary planning decision so there would be immunity for both the city and county from possible lawsuits.

Kjell Rodne acknowledged the public purpose benefit of a sidewalk, but noted his concerns about safety, liability and who is responsible for snowplowing the sidewalk. He said there is some question about how the sidewalk will be paid for.

Earl Richards also questioned assessments for the sidewalk and liability for snowplowing. He said there is a sidewalk in place that the residents of his apartment building use, and stated concern that this proposal could result in the loss of sidewalk accessibility for his tenants. He suggested improving the current sidewalk with a boulevard for a place to put snow.

Ken Larson clarified that initially the special assessment board recommended assessing for the sidewalk on Kenwood Avenue and Howard Gnesen above Arrowhead Road, but that subsequent to that board recommendation, there were meetings with the neighborhood and the county which resulted in the special assessment board relooking at their recommendation and changing their position to recommend no assessment for sidewalks in that location.

Dick Larson said that he does not feel the city is in a position at this point to make a commitment to keep the sidewalks clear to the standards that are required of property owners. He reviewed the history of sidewalks on nearby Arrowhead Road, noting that the city's commitment to keep those sidewalks clear of snow has not been as successful as hoped because of time commitments and other factors. He said his concern for this project is to keep the sidewalks open between the senior apartment building and nearby businesses, and that he is less concerned about the sidewalks in the lower density single family residential area. He responded that he does not know if the proposed sidewalk will be extended to Linzie Road.

Councilor Keenan felt a good solution would be to install a new sidewalk from Kenwood Avenue and Arrowhead Road as far as Kenwood School only.

Chauncey Riggs, Jr., felt there is no need to change the sidewalk from what currently exists.

Councilor Wheeler supported installation of sidewalks, and said he feels the city should commit to keeping them clear. He felt safety and speed concerns could be addressed when designing the road, and that a sidewalk on one side would address safety concerns and reduce the impact on the neighborhood.

In response to Councilor Hogg, Dick Larson said the city would plow the sidewalks on Howard Gnesen at the same time that the sidewalks on Arrowhead Road are plowed, noting that the county plows the roads.

Councilor Hogg said that the county has not required the sidewalks and the neighbors do not want the sidewalks, which leaves the city with the responsibility to keep the sidewalks plowed. He moved to amend the resolution to remove the proposal for sidewalks on Howard Gnesen Road, which motion was seconded.

Councilor Keenan felt the best solution is to keep a sidewalk on the east side of Kenwood Avenue from Arrowhead Road to Maryland Avenue.

Councilor Keenan moved to suspended the rules to hear a speaker at this time, which motion was seconded and unanimously carried.

Mr. Rodne offered the suggestion that the sidewalk be extended past his property at the curve of the road up to Mr. George's property on the west side of Howard Gnesen Road with the conditions that he will not be required to pay an assessment for the sidewalk and that he is not going to be held liable for removal of snow.

Councilor Hogg said he would accept Councilor Keenan's suggestion as a friendly amendment. He clarified the amendment would be no sidewalks at all on Howard Gnesen Road; the sidewalk on the eastern side of Kenwood Avenue from Arrowhead Road north is to remain as is and no additional sidewalk on the west side of Kenwood Avenue north of Arrowhead Road.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Keenan moved to suspend the rules to hear a speaker at this time, which motion was seconded and unanimously carried.

Mr. Richards commented that there are approximately 35 trees that were planted 25 years ago that would be removed if a sidewalk were installed on the west side of the road, noting that those trees add to privacy and screening of his apartment building.

In response to Councilor Hardesty, Dick Larson said the county's jurisdiction begins at the intersection of Kenwood Avenue and Arrowhead Road, and that the current sidewalk belongs to the city but is located on county right-of-way.

Councilor Hardesty suggested holding a committee meeting on this issue. She stated concern about the snow removal process and commented that maybe the sidewalk should not be installed when the neighbors don't want it and it doesn't connect to another sidewalk.

Councilor Talarico asked that the amendments be withdrawn and that the resolution be referred back to the administration for further discussion with parties involved.

Councilor Hogg withdrew his amendment.

Councilor Talarico moved to refer the resolution to the administration and to hold a committee meeting on the issue, which motion was seconded and unanimously carried.

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Resolution 96-0078, by Councilor Hales, rescinding no parking zones on both sides of Superior Street from 12th Avenue East to 13th Avenue East and the south side of Superior Street from 13th Avenue East to 14th Avenue East, was introduced for discussion.

President Prettner said she will not support the recommendation to allow parking between 12th Avenue East and 13th Avenue East, and that she would recommend that that portion be deleted from the resolution. She said that because it has been requested by area businesses, she is willing to consider a trial period to allow parking in the 13th to 14th Avenues East zone, but that she has traffic and safety concerns, and that she wishes it to come back to the council for review.

Councilor Wheeler said he also will not support allowing parking between 12th and 13th Avenues East, and offered an amendment to allow parking only on the first half of the block between 13th and 14th Avenues East.

Councilor Keenan said he would support parking on the upper side between 12th and 13th Avenues East. He agreed that a trial basis is a good idea for parking between 13th and 14th Avenues East.

In response to Councilor Hales, Ken Larson said the purpose of the resolution as recommended is to build in consistency so there is one lane of traffic going both directions in this two block area. He felt the amendments proposed may pose transition problems for vehicles.

Councilor Hardesty suggested that a center turn lane may be more appropriate in the area than parking.

Councilor Hales moved to table the resolution for clarification of the issues, which motion was seconded and carried upon the following vote:

Yeas: Councilor Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Hogg -- 1

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BY COUNCILOR HALES:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for providing 12 months of maintenance covering computer hardware for the police department in accordance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

with specifications on its low specification bid of \$24,864, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 96-0149 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Masys Corporation be and hereby is awarded a contract for furnishing computer software maintenance during 1996 for the police department in accordance with specifications on its proposal of \$13,800, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 96-0155 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies in the amount of \$74,723 from the Minnesota department of public safety, office of drug policy and violence prevention, to pay the salary of a part time coordinator and other expenses for the greater Duluth area triad program; and

WHEREAS, in 1993 the Minnesota department of public safety, AARP, Minnesota Chiefs of Police Association, and Minnesota Sheriffs' Association initiated legislation to establish Minnesota as a triad state; and

WHEREAS, in 1994, the city of Duluth police, St. Louis County sheriffs, Proctor police, Hermantown police, and other groups formed the greater Duluth area triad.

NOW, THEREFORE, BE IT RESOLVED, that Todd Torvinen, director of finance of the city of Duluth, is hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department.

Resolution 96-0159 was unanimously adopted.

Approved February 20, 1996

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 9:20 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 26, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 8

Absent: Councilor Rapaich -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0226-01 Daniel R. King submitting petition to vacate the remaining ½ of street frontage known as Kissel Avenue. -- Assessor

96-0226-11 Gary B. Walton submitting letter opposing the proposed Duluth to Winnipeg truck toll highway (96-0145R). -- Received

- - -

REPORTS OF OFFICERS

96-0226-02 Engineering division submitting February 1, 1996, monthly project status report. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0226-03 Board of directors of trusts of Miller-Dwan Hospital and Medical Center minutes of December 21, 1995 meeting. -- Received

96-0226-05 Duluth transit authority: (a) Minutes of January 31, 1996 meeting; (b) December 1995 income statement. -- Received

96-0226-04 Heritage preservation commission minutes of January 10, 1996 meeting. -- Received

96-0226-06 Tree commission minutes of February 5, 1996 meeting. -- Received

96-0226-07 Special assessment board minutes of November 28, 1995 meeting. -- Received

- - -

RESOLUTION TABLED

Councilor Hales moved to remove from the table Resolution 96-0078, rescinding no parking zones on both sides of Superior Street from 12th Avenue East to 13th Avenue East and the south side of Superior Street from 13th Avenue East to 14th Avenue East, which motion was seconded and unanimously carried.

Resolution 96-0078 was adopted as follows:

BY COUNCILOR HALES:

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 zones are hereby rescinded:

Both sides of Superior Street from 12th Avenue East to 13th Avenue East and the south side of Superior Street from 13th Avenue East to 14th Avenue East.

Resolution 96-0078 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the Western Lake Superior Sanitary District be and hereby is awarded a contract for furnishing ash and refuse disposal as required during 1996 for the various

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

departments and divisions in accordance with current approved W.L.S.S.D.'s disposal rates, annual expenditures to total approximately \$90,600, terms net 30, FOB disposal sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0166 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

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 \$23,350, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0167 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

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 96-0168 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that Edwards Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering bulk oil and grease for various city locations in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0169 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that Monroe Truck Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering two dump bodies, hydraulic system, snow plow and installation for the fleet services division in accordance with specifications on its low specification bid of \$17,448.96, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E517.

Resolution 96-0170 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

confirmed:

BOARD OF ZONING APPEALS

James Yeager (planning commission) for a term expiring July 31, 1998, replacing Chris Solon.

Resolution 96-0172 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0145, by President Prettner, supporting a proposal for construction of a Duluth to Winnipeg truck toll highway, was introduced for discussion.

Councilor Hales stated opposition to the resolution. She said that there may be other proposals of this type, and she feels it is premature to put the council's support behind this developer. She also stated concern about environmental issues and funding.

Councilor Hogg felt such questions are premature, and pointed out that this proposal is in response to a request last November by the Minnesota department of transportation for such proposals. He noted at this point Duluth and communities along the route of the proposed tollway are being asked to indicate whether they're interested in pursuing this idea, and that no financial commitments are being made. He felt the city and the port could benefit greatly from this proposal.

Councilor Hardesty referred to the Seaway Port authority resolution, stating it reflects their ambivalence about the project but interest in seeing the study happen as long as they are not financially committed. She moved to amend the resolution to indicate the same sentiment of the council by deleting the third paragraph, and inserting the following:

"WHEREAS, the size, scope and avant-garde nature of the TII proposal have generated numerous questions regarding, among other things, potential cargo volumes, environmental impacts, and financial risk, questions that so far have defied the port authority's ability to reach confident judgments regarding the proposal's viability;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the basic concept of a Winnipeg to Duluth truck tollway on the condition that any near term feasibility studies will not be funded by the city council.

BE IT FURTHER RESOLVED, that the city of Duluth and its administration will continue to monitor the project from the standpoint of its potential benefit to Duluth and appraise the council of any significant positive or negative findings." The motion was seconded.

Councilor Wheeler stated concern about the environmental impact on the wetlands. He questioned whether Duluth will be the long-term terminus and said that he feels a railway would be a more efficient method of transportation.

Councilor Bohlmann felt it is premature to ask the council to support the proposal and said she needs more information.

Councilor Talarico spoke in support of the resolution, stating it is a chance for the city to be involved in the conceptual planning of the proposal. He felt the city should explore the possibility of qualifying for federal funds that are available for public/private partnership projects such as this.

Councilor Keenan said he will support the resolution with the amendment, and that he feels it is council's responsibility to explore alternatives.

President Prettner objected to deleting the third paragraph in the resolution, saying it is the basis for her support for the proposal. She said similar language is contained in the Seaway Port authority's resolution regarding this matter. She requested a friendly amendment to the

amendment to retain the paragraph.

Councilor Talarico suggested retaining the paragraph, but changing the word "should" to "may" which was accepted by Councilor Hardesty as a friendly amendment.

In response to Councilor Bohlmann, President Prettner said she believes that if this project is successful it would help the Seaway Port authority establish itself as an intermodal transportation hub. She said she would like to support the concept on that basis, noting the need for detailed review of the proposal.

Councilor Bohlmann questioned if this proposal could benefit the port but harm another segment environmentally or in another way. She stated concern about the use of state gasoline dollars and federal funds that could be used for this project at the expense of other projects.

Councilor Hales noted that she feels more comfortable with the amendment so she will hesitantly support the resolution.

Councilor Hardesty noted that the resolution does not offer any expenditure of funds, and said that if this resolution is approved, both the Port authority and the council have stated on record that they will not spend any money for this project.

Councilor Hardesty's amendment passed upon a unanimous vote.

Councilor Talarico reviewed that a national transportation system has been established in this country, and it is unknown what that means in terms of future dollars. He said these types of routes may be entitled to more funding in the future, and that he feels that the city should make sure that it has as many qualifying routes as possible to keep the city in the transportation hub.

Resolution 96-0145, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, Transportation Industries International, Inc., (TII) of Washington, D.C., has proposed the development of a four-lane divided toll highway for heavy trucks between Duluth and Winnipeg, Manitoba; and

WHEREAS, such proposal envisions a public-private investment of \$1.3 billion over an eight year planning and construction schedule, with a payback of public funds through toll revenues so that the project will be without cost to state taxpayers; and

WHEREAS, this project may provide significant benefits to the Seaway Port Authority of Duluth through increased port activity and thereby benefit the city generally; and

WHEREAS, the size, scope and avant-garde nature of the TII proposal have generated numerous questions regarding, among other things, potential cargo volumes, environmental impacts, and financial risk, questions that so far have defied the port authority's ability to reach confident judgments regarding the proposal's viability;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the basic concept of a Winnipeg to Duluth truck tollway on the condition that any near term feasibility studies will not be funded by the city council.

BE IT FURTHER RESOLVED, that the city of Duluth and its administration will continue to monitor the project from the standpoint of its potential benefit to Duluth and appraise the council

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

of any significant positive or negative findings.

Resolution 96-0145, as amended, was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Rapaich -- 1

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0165, by President Prettner, authorizing agreements between the city of Duluth and certain organizations, for various neighborhood improvement projects for Round 1, 1996, neighborhood matching grants fund, was introduced for discussion.

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

Kathy Gottschald addressed the Harbor View proposal. She told of her experience with a resident's group and said she did not feel the project will be fair to all of the residents.

Cindy Marxen, Kids Network, spoke in support of the Harbor View project, saying that in her several years of providing services in Duluth, this is one of the strongest neighborhood efforts she has seen on behalf of children.

Councilor Keenan spoke in support of the Portman recreation youth field renovation.

Councilor Hales spoke in support of the Harbor View project, stating that the residents are very supportive of the project.

Resolution 96-0165 was adopted as follows:

BY COUNCILOR PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grant 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. 96-0226-08, for the following amounts and projects listed:

Round I, 1996 neighborhood matching grants fund

Tier II grants (\$3,001 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$20,000	Harbor View safe neighborhood for children	Harbor View Residents Management Corporation
5,032	Portman recreation youth field renovation	Portman Recreation Association
<u>\$25,032</u>	Total grants (Tier II)	

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 grant funds authorized by this resolution, as well as approved by the city inter-departmental team for Tier II projects of less than \$3,000, shall not exceed \$60,000.

Resolution 96-0165 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0160, by Councilor Keenan, authorizing the execution of an agreement with

Steve Dornfeld to operate the concessions and manage the golf facility at Enger Park golf course, was introduced for discussion.

Councilor Keenan outlined the aspects of the agreement, stating it will generate more revenues and increase professionalism in all areas of the golf course. He said the estimated compensation to the golf professional is \$42,970.

In response to Councilor Hardesty, Dick Larson, public works director, said the golf season for which the golf professional is expected to be present is March 1 through November 30. He noted that Mr. Dornfeld is a contractor, not a city employee.

Councilor Hogg said he is supportive of this approach and the individual selected, however he felt the council should not be approving financial arrangements that are vague, and requested that the resolution be tabled for one week in order to obtain more specific information.

Mr. Larson said the terms of the agreement are outlined in detail, and that more precise figures are not available at this time.

In response to Councilor Bohlmann, Mr. Larson said the council will receive a similar contract for the Lester Park golf course next week. He further responded that it would be difficult for Mr. Dornfeld to perform the duties at both golf courses. He clarified that the golf course superintendents are responsible for maintenance of the golf courses and winter time care, not the golf professionals.

President Prettner noted that the advisory committee recommends that there be a golf professional at both courses.

Resolution 96-0160 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Steve Dornfeld to operate the concessions and manage the golf facility at Enger Park Golf Course, which agreement shall be substantially in the form of that document on file in the office of the city clerk as Public Document No. 96-0226-09. These costs are to be paid from Golf Fund 503, Agency 400, Organization 0500.

Resolution 96-0160 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Talarico, Wheeler and President Prettner -- 7

Nays: Councilor Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech & Ojard, Consulting Engineers, P.A., for the sum of not to exceed \$4,600, from General Fund 100, as follows: \$2,300, Ag. 700, Org. 2726, Obj. I505; \$2,300, Ag. 500, Org. 1950, Obj. 5319 for providing certain engineering services to the city of Duluth in connection with city parking structures/1996 inspections (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. 96-0226-10.

Resolution 96-0163 was unanimously adopted.

Approved February 26, 1996

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:

East side of Lake Avenue from 11th Street to 12th Street.

Resolution 96-0164 was unanimously adopted.

Approved February 26, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT PRETTNER

96-011 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAP NO. 15 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-3, APARTMENT RESIDENTIAL, TO M-1, MANUFACTURING (DMA & ASSOCIATES).

President Prettnner moved to table the ordinance for a March 14 committee meeting, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 8:30 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 4, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on May 1, 8, 15 and 22, 1995, were unanimously adopted.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0304-04 D.M.A. & Associates, Inc., submitting request for indefinite continuance of the tabling of Ordinance 96-011-O. -- Received

- - -

REPORTS OF OFFICERS

96-0304-01 Assessor submitting:

(a) Letter of sufficiency to vacate the street frontage known as Kissel Avenue which runs from Orange Street toward Palm Street. -- Received

(b) Affidavits of mailing of notice of public hearings by the special assessment board on March 12, 1996, regarding the proposed improvements of:

(1) Sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly;

(2) Sanitary sewer in Marble Street from vacated Robin Avenue to 200 feet westerly;

(3) Water main and sanitary sewer in East Superior Street from 63rd Avenue East to 380 feet easterly. -- Clerk

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0304-02 Planning commission minutes of: (a) December 12, 1995; (b) January 9, 1996 meetings. -- Received

96-0304-03 Technical design advisory committee for the downtown waterfront mixed use design review district minutes of December 19, 1995 meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

The following individuals spoke against the proposed construction by the HRA of a three-bedroom home adjacent to an existing four bedroom home on Norwood Street in Lakeside/Lester Park: Brian Blatnik; Mike Cusick; Tom Houghtaling; Dave Fjelstad; Charles Montgomery; Debra Aqui and Kari Alexandre.

Some reasons stated were: neighbors were denied an opportunity to participate in the public hearing process and were not informed of the project until after bids were submitted; HRA officials have said that this proposed building site is less than ideal; the proposal would increase the density of HRA housing units in a single family residential neighborhood; the additional duplex would be stressful on the good working relationship that neighbors have established with the existing HRA home; alternatives to building new housing should be reviewed, such as renovation of existing homes; HRA is not keeping up with the maintenance on its existing stock of low income homes and the project would put low income families at a higher standard of living than the neighboring middle income families. It was requested that the council order the HRA

to stop any projects until the council has had the opportunity to review this matter and hold public hearings to receive input from the citizens.

In response to Councilor Wheeler, City Attorney Dinan said that the statute that applies to scattered site housing projects doesn't include any requirements for public hearings or notice to property owners, but it does require that the council approve projects that are federally funded. He said that his understanding is that the attorney for the HRA is preparing a response regarding HRA's compliance with the statute.

Steve Shepherd requested that the council request an accounting of the disbursement funds by the self-sufficiency action committee to ensure that Section 8 certificates went to at risk families in the medical district as required by the grant. He also felt that the people in the medical district should be given an opportunity to give input on any changes made in the original grant.

Patty Martin stated concern that money targeted for Central and East Hillside is now going to other parts of town. She felt the HRA has an unfair advantage over the private sector because it does not have to pay taxes, and she urged the council to determine the process and chance for community input in these types of developments.

- - -

Greg Price felt the open area is important for Bayfront Park and that future decisions for the park should benefit all taxpayers.

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RESOLUTION TABLED

Councilor Bohlmann moved to remove from the table Resolution 96-0121, confirming appointment of Guy Sederski to the Duluth transit authority replacing Robert Lapine, which motion was seconded and unanimously carried.

Resolution 96-0121 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

Guy E. Sederski (District 1) for a term expiring June 30, 1998, replacing Robert LaPine.

Resolution 96-0121 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

WHEREAS, the proper city officials are authorized to enter into an agreement with Armtech for a risk management and insurance audit that reviews the city's self insurance operations. The amount of the contract will be for \$14,500, plus travel and incidental expenses.

Resolution 96-0161 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council, under which the council will conduct certain activities in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

downtown area, which agreement is on file in the office of the city clerk as Public Document No. 96-0304-15, at a cost to the city of \$79,000, which shall be paid from General Fund 100-015-2030-Greater Downtown Council projects.

Resolution 96-0189 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Xerox Corporation be and hereby is awarded a contract for furnishing full service maintenance on the three Xerox copy machines for the various city departments/divisions in accordance with specifications on its low specification bid of \$22,635 per year, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0147 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that D.L. Construction, Inc., be and hereby is awarded a contract for removing old stairway and installation of new stairway at Fryberger Arena in accordance with specifications on its low specification bid of \$14,300, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C403.

Resolution 96-0183 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Northern Tier General Constructors, Inc., be and hereby is awarded a contract for modifications of Peterson Arena doors in accordance with specifications on its low specification bid of \$12,200, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C403.

Resolution 96-0184 was unanimously adopted.

Approved March 4, 1996

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 bridge operator, which were approved by the civil service board on February 6, 1996, and which are filed with the city clerk as Public Document No. 96-0304-05, are approved.

Resolution 96-0190 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the civil service classification of gas and energy coordinator, which were approved by the civil service board on February 6, 1996, and which are filed with the city clerk as Public Document No. 96-0304-06,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 shall remain unchanged, pay range 32, pay rate \$2,869 to \$3,411.

Resolution 96-0192 was unanimously adopted.

Approved March 4, 1996

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

Margaret Kinetz for a term expiring July 1, 1997, replacing Norma Ness.

Resolution 96-0193 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, administrative services will be required for the remainder of 1996 in order for the committee to complete its current phase of work; and

WHEREAS, an existing agreement with Cheryl Erickson has been completed; and

WHEREAS, the state of Minnesota department of natural resources has agreed to finance the continuing costs of the administrative services; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for the services based on her past performance.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement #17153 with Cheryl Lynn Erickson for administrative services in an amount not to exceed \$38,550, payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 96-0304-07 on file in the office of the city clerk.

Resolution 96-0173 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 \$18,900, payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 96-0304-14, on file in the office of the city clerk.

Resolution 96-0174 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an easement agreement, a copy of which is on file in the office of the city clerk as Public Document No. 96-0304-08, with Fitger's-On-The-Lake, L.L.C. for the granting, operation and maintenance of a public pedestrian easement through the Fitger's hotel properties from the Lakewalk to Superior Street.

Resolution 96-0198 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Ameridata be and hereby is awarded a contract for furnishing and installing educational computers, software and accessories for the library department in accordance with specifications on its low specification bid of \$6,190.01, terms net 30, FOB destination, \$500 payable out of Library Special Gifts Fund 740, Dept./Agency 300, Organization SG50, Object 5580 and \$5,690.01 payable out of General Fund 100, Dept./Agency 300, Organization 2120, Object 5580.

Resolution 96-0178 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the council of the city of Duluth, on its behalf and on behalf of all the citizens of the city, gratefully acknowledges and accepts the gift of \$1,500 from the family of Myrtle A. Marshall to be used to acquire and install a sundial at the Duluth Rose Garden; said sum to be deposited in Rose Garden Fund 415.

Resolution 96-0180 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with J. William Winfield to operate the concessions and manage the golf facility at Lester Park golf course, which agreement shall be substantially in the form of that document on file in the office

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

of the city clerk as Public Document No. 96-0304-09. Payments by the city under this agreement shall be made from the Golf Fund 503, Agency 400, Org. 0500.

Resolution 96-0186 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR 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 1996 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. 96-0304-10, on file in the office of the city clerk.

Resolution 96-0187 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR 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 1996 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. 96-0304-11, on file in the office of the city clerk.

Resolution 96-0188 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the U.S. department of transportation has made capital funds available to the Duluth transit authority from Section 9 for maintenance and security equipment, and from the surface transportation program (STP) of ISTEA for replacement buses and STRIDE buses; and

WHEREAS, the U.S. department of transportation has made operating funds available to the Duluth transit authority from Section 9 for CY 1996; and

WHEREAS, the Duluth transit authority has requested the city of Duluth to approve the submittal of a grant for said funds; and

WHEREAS, the local share for these capital projects comes from the DTA's CY 1996 capital bond and the local share for the operating funds comes from CY 1996 operating budget;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request for federal capital and operating assistance funds, with the local share of funding as specified herein.

Resolution 96-0194 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

improvement program (City Job No. 8910XD95); said agreement to be substantially in the form of Public Document No. 96-0304-12, on file with the city clerk; the estimated \$150,000 receivable thereunder to be deposited in the Street Improvement Fund 440.

Resolution 96-0179 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Foster, Jacobs & Johnson, Inc., for the sum of not to exceed \$3,600, from Fund 530, Org. 0550, Obj. 5303, for providing certain engineering services to the city of Duluth in connection with mechanical system modifications to sewer lift station #6, 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. 96-0304-13.

Resolution 96-0185 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay \$6,435.13 to Douglas Janzig in settlement of all claims arising out of a sewer failure on December 16, 1995; payment to be made from self insurance fund.

Resolution 96-0191 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the city council hereby dedicates the following described property for street easement and right-of-way purposes:

Parcel I:

All that part of the following described parcel of land being property registered under Certificate of Title No. 12708:

That piece or parcel of land lying between the boulevard as now laid out and used and the west line of Harrison's Brookdale Division of Duluth, according to the recorded plat thereof, being a part of the south half of the south half of east half of northwest quarter (S $\frac{1}{2}$ of S $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$) and of south half of south half of north half of south half of east half of northwest quarter (S $\frac{1}{2}$ of S $\frac{1}{2}$ of N $\frac{1}{2}$ of S $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section 32, Township 50 north, range 14 west of the fourth principal meridian, according to the United States government survey thereof which lies north of a line drawn between points "A" and "B" described below.

Point A: The north corner of Block 39, Harrison's Brookdale Division according to the recorded plat thereof in the St. Louis County, Minnesota, county recorder's office.

Point B: The east corner of Lot 14, Block 7, Lincoln Park Place Division, according to the recorded plat thereof in the St. Louis County, Minnesota, county recorder's office.

Parcel II:

All that part of Block 26, Harrison's Brookdale Division, which lies southeast of a line drawn between points "C" and "D" described below:

Point C: The south corner of Lot 13, Block 26, Harrison's Brookdale Division, according to the recorded plat thereof on file in the St. Louis County, Minnesota, county recorder's office.

Point D: The east corner of Lot 10, Block 26, Harrison's Brookdale Division, according to the recorded plat thereof on file in the St. Louis County, Minnesota, county recorder's office.

Resolution 96-0197 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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 501 West Superior Street;
- One stall in front of 424 West Superior Street;
- One stall in front of 324 West Superior Street;
- One stall in front of 314 West Superior Street;
- One stall in front of 230 West Superior Street;
- One stall in front of 130 West Superior Street;
- One stall in front of 109 West Superior Street;
- One stall in front of 10 West Superior Street;
- One stall in parking lot "H" at 5 East Superior Street;
- One stall in front of 12 East Superior Street;
- One stall in front of 23 East Superior Street;
- One stall in front of 112 East Superior Street;
- One stall in front of 131 East Superior Street;
- One stall in front of 213 East Superior Street;
- One stall in front of 230 East Superior Street;
- One stall in front of 315 East Superior Street.

Resolution 96-0177 was unanimously adopted.

Approved March 4, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY PRESIDENT PRETTNER

96-011-O - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 15 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY FROM R-2, TWO-FAMILY RESIDENTIAL, TO M-1, MANUFACTURING (DMA & ASSOCIATES).

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

President Prettner noted that DMA & Associates has requested an indefinite delay in the proceedings on this rezoning request. She moved to refer the ordinance back to the administration.

Councilor Talarico said his understanding is that DMA & Associates is not planning to go forward with this project. He said he will support the tabling motion with the understanding that this project will not be presented in another way without council review.

The motion was carried upon a unanimous vote.

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The meeting was adjourned at 8:45 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 18, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 7

Absent: Councilor Hogg and President Prettner -- 2

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0318-04 Amazing Grace Bakery & Cafe, by Doug Zaun, architect, submitting petition for concurrent use and obstruction of sidewalk permit on portion of Buchanan Street adjacent to rearrangement of Blocks 7 & 8, Industrial Division. -- Planning commission

96-0318-01 Reverend Scott Fennell submitting petition to construct an eight inch ductile iron water main in Rice Lake Road, from 2,634 feet north of Willow Street to 450 feet northerly. -- Assessor

96-0318-05 Michael A. and Kim P. Healy and Joseph H. Kleiman submitting waiver agreements for construction of sanitary sewer in Ethel Street from Springvale Road to 260 feet northerly. -- Engineering

96-0318-02 Kenneth Larson, et al. (six signatures), by Greysolon Realty, submitting petition to reclassify from R-2 to C-5 the north 95 feet except the northerly 58 feet of Lots 2 and 3 and the westerly 100 feet of Lot 2 except the northerly 58 feet, Block 3, Central Acres, Second Division. -- Assessor

96-0318-19 Housing and Redevelopment Authority submitting communication regarding housing issues. -- Received

96-0318-14 Kjell Rodne submitting letter supporting the proposed Kenwood Avenue reconstruction project (96-0171R). -- Received

96-0318-03 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served on Saturday, June 8, 1996, from Mike Dodge and Diana Bouschor. -- Received

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REPORTS OF OFFICERS

96-0318-06 Assessor submitting:

(a) Letter of sufficiency regarding petition to reclassify from R-2 to C-5 the north 95 feet except the northerly 58 feet of Lots 2 and 3, and the westerly 100 feet of Lot 2 except the northerly 58 feet, Block 3, Central Acres, Second Division. -- Received

(b) Affidavits of mailing of notice of rescheduled public hearings by the special assessment board on Wednesday, March 20, 1996, regarding the proposed construction of:

(1) Sanitary sewer in Marble Street from vacated Robin Avenue to 200 feet westerly;

(2) Sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly. --

Clerk

96-0318-07 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Minnesota Senior Federation - Northeast Coalition at Greysolon Plaza Ballroom; (b) St. Michael's Church at St. Michael's Church Hall. -- Received

96-0318-20 Community development and housing division submitting: (a) Community development status report for October through December, 1995; (b) HRA report for the HUD CD-funded housing rehabilitation program for January 1996. -- Received

96-0318-08 Water and gas engineer submitting letter of sufficiency to construct an eight inch ductile iron water main in Rice Lake Road, from 2,634 feet north of Willow Street to 450 feet northerly. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0318-09 Board of zoning appeals minutes of January 23, 1996 meeting. -- Received

96-0318-10 Civil service board minutes of: (a) December 5, 1995; (b) January 2, 1996 meetings. -- Received

96-0318-11 Duluth SRO housing commission minutes of January 10, 1996 meeting. -- Received

96-0318-12 Seaway Port authority of Duluth: (a) Minutes of December 19, 1995 meeting; (b) November 1995 financial statements. -- Received

96-0318-13 Special assessment board minutes of February 13, 1996 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Steve O'Neill, representing Loaves & Fishes, stated that HRA provides housing for many homeless people. He stated that he worked on converting the Lakeside school to housing units and found that many of the residents favored single family housing as compared to multi-unit projects. He said that scattered site housing units, such as the ones planned by the HRA, are in demand and supported by a large number of residents.

Councilor Keenan noted that in the case of Lakeside School, the use by St. Michael's was the primary choice of the residents.

Vicky Ybanez felt that low income people have the right to live in any neighborhood and that it is important to provide low income housing in a variety of areas. She felt that stereotyping of certain types of individuals has produced a negative feeling towards HRA housing in various neighborhoods.

W.C. Anderson, volunteer hearing officer for the HRA, said the nature and responsibility of his job is to decide if the HRA rules have been complied with and at times individuals are removed because of their actions.

Rick Ball, HRA executive director, reviewed his memo (Public Document No. 96-0318-19) in response to council questions. He noted that the HRA board has delayed proceeding on acquiring the site that has been of concern to some residents, and is looking for alternative locations. He said the HRA has a maintenance staff of over 20 people and takes pride in maintaining the sites under its control.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 1996, 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 \$.46 per line on the first insertion and \$.28 per line for each subsequent insertion of the same notice, these being the legal rates for the state of Minnesota. Estimated total annual cost \$25,000.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 96-0200 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 1996, 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 96-0207 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$17,350, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0213 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Herman Miller, Inc., be and hereby is awarded a contract for furnishing and installing modular office components for the planning division in accordance with specifications on its low specification bid of \$5,194.62, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B509.

Resolution 96-0215 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that E.F. Johnson Company be and hereby is awarded a contract to supply portable and mobile radios and accessories on an as needed basis for a 12-month period to various city departments and divisions in accordance with specifications on its proposal and referencing a government service administration contract, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various. Not to exceed the 1996 budget allocation for portable radio equipment.

Resolution 96-0223 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the special municipal election on April 16, 1996, as listed in Public Document 96-0318-15.

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 \$.31 per mile. Payable from General Fund 015-1512-5441.

Resolution 96-0227 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the April 16, 1996, special municipal election.

POLLING PLACE LIST

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. St. Michael's Catholic Church (lower level)	4901 E. Superior St.
2. Portman Square	4601 McCulloch St.
3. Lakeside Presbyterian Church (lower level)	4430 McCulloch St.
4. Lutheran Church of the Good Shepherd (lower level)	45th Ave. E. & 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 E. Superior St.
10. Mt. Olive Lutheran Church (lower level)	2010 E. Superior St.
11. Pilgrim Congregational Church (social hall)	2310 E. Fourth St.
12. Woodland Junior High School (auditorium)	Clover & Eighth St.
13. U.M.D. - rafters	10 University Drive
14. Kenwood School (gym)	Kenwood Ave. & Maryland Ave.
15. Chester Park United Methodist Church (lower level)	819 N. 18th Ave. E.
16. Prince of Peace Fellowship Church	1824 E. First St.
17. United Baptist Church (lower level)	830 E. First St.
18. Trinity Lutheran Church (avenue entrance)	1108 E. Eighth St.
19. Trinity Lutheran Church (avenue entrance)	1108 E. Eighth St.
20. Peace Church (Tenth Ave. Entrance)	1015 E. 11th St.
21. First United Methodist Church (Lakeview Social Hall)	230 E. Skyline Pkwy
22. Nettleton School (gym)	1st Ave. E. & Sixth St.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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|--|----------------------------|
| 23. Senior Citizen Community Center
(auditorium) | 211 N. Third Ave. E. |
| 24. Duluth Public Library (Green Room) | 520 W. Superior St. |
| 25. Lafayette Square (upper level) | 3026 Minnesota Ave. |
| 26. St. Peter's Catholic Church (lower level) | 818 W. Third St. |
| 27. Duluth Heights Community Club | 33 W. Mulberry St. |
| 28. West End Senior Center (lower level) | 2014 W. Third St. |
| 29. Lincoln Park School (gym) | 2427 W. Fourth St. |
| 30. Piedmont Elementary School
(gym - rear entrance) | 2827 Chambersburg Ave. |
| 31. St. Lawrence Church | 2410 Morris Thomas Rd |
| 32. Harrison Community Club | 3002 W. Third St. |
| 33. Lutheran Church of Christ the King
(alley entrance) | 4219 Grand Ave. |
| 34. Faith Haven (recreation room) | 4901 Grand Ave. |
| 35. Elim Lutheran Church (social hall) | 6101 Cody St. |
| 36. Irving Recreation Center | 20 S. 57th Ave. W. |
| 37. Bethany Baptist Church (social hall) | 6700 Grand Ave. |
| 38. Bayview Heights School (gym) | 8702 Vinland St. |
| 39. Riverside Community Club | Cato Ave. & Manitou St. |
| 40. Goodfellowship Community Center
(warming area) | 1242-88th Ave. W. |
| 41. Gary-New Duluth Recreation Center | 717-101st Ave. W. |
| 42. Fond du Lac Recreation Center | 131st Ave. W. & Highway 23 |

Resolution 96-0228 was unanimously adopted.
Approved March 18, 1996
GARY L. DOTY, Mayor

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Resolution 96-0229, by Councilor Rapaich, approving the issuance of lawful gambling premises permits, was introduced for discussion.

Councilor Wheeler opposed any increases in the amount of gambling. He moved to divide the resolution to vote on the Harbor Lites location of Duluth Softball Players separately, which motion was seconded and carried.

Councilor Keenan voiced his support for organizations that help the youth and noted that charitable gambling organizations have contributed many dollars to youth activities.

Councilor Bohlmann stated that she has always voted against gambling for Harbor Lites and will continue to do so.

Councilor Wheeler said that he'd vote for all the applicants except for the Harbor Lites location because of his opposition to the expansion of gambling.

Resolutions 96-0229(a) and 96-0229(b) were adopted as follows:

BY COUNCILOR RAPAICH:

WHEREAS, the following organization has applied to the Minnesota gambling control board for a premises 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 were investigated by the Duluth police department and reviewed and approved by the Duluth lawful gambling commission; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 premises 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>
Duluth Softball Players	Harbor Lites	March 7, 1996

Resolution 96-0229(a) was adopted upon the following vote:

Yeas: Councilors Hales, Keenan, Rapaich, Talarico, and Vice President Hardesty -- 5

Nays: Councilors Bohlmann and Wheeler -- 2

Absent: Councilors Hogg and President Prettner -- 2

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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>
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RENEWALS

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|----------------------------|----------------------|-------------------|
| 1. VFW Post #137 | One day off site | February 16, 1996 |
| | 2024 W. Superior St. | |
| 2. AAD Temple | 201 E. 1st St. | February 29, 1996 |
| | Round Up Bar & Grill | |
| 3. Duluth Amateur Hockey | Buena Vista | February 26, 1996 |
| | Midway Bar | |
| 4. Duluth Softball Players | T Bonz | March 7, 1996 |
| | Roby's Bar | |
| 5. Moose Lodge #505 | 114 E. 1st St. | March 12, 1996 |

NEW APPLICATION

1. Duluth Junior Football R. T. Quinlan's Saloon February 21, 1996

Resolution 96-0229(b) was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the Minnesota Senior Federation, Northeast Coalition has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 Minnesota Senior Federation, Northeast Coalition, 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 96-0230 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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Resolution 96-0210, by Councilor Bohlmann, reappointing Scott Keenan to the Duluth economic development authority, was introduced for discussion.

Councilor Bohlmann stated that she will be voting against this, not because she is against Councilor Keenan, but that she wishes to see DEDA dissolved and the city council being the "DEDA" and not have them be a separate board. She felt the council as an elected body should be the responsible party for economic development.

Resolution 96-0210 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Scott Keenan for a term expiring April 27, 2002, subject to Resolution No. 89-0323.

Resolution 96-0210 was adopted upon the following vote:

Yeas: Councilors Hales, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 5

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Keenan -- 1

Absent: Councilor Hogg and President Prettner -- 2

Approved March 18, 1996

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

Edward L. Koch for a term expiring September 30, 1998, replacing William Miller.

Resolution 96-0217 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TREE COMMISSION

Nancy O. Spellerberg for a term expiring August 31, 1997.

Resolution 96-0218 was unanimously adopted.

Approved March 18, 1996

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

Jean LeRoy for a term expiring March 30, 1998, replacing Paul Lampi who resigned.

Cheryl L. Pettersen for a term expiring March 30, 1999, replacing John Sippola who resigned.

Martha R. Firling for a term expiring March 30, 1999.

Resolution 96-0220 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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Resolution 96-0209, by Councilor Keenan, authorizing amendment No. 2 to Home Program loan agreement with Artspace Projects, Inc., for Washington Studios project, was introduced for discussion.

Councilor Hales noted that this points out that three bedroom units are not marketable. She said this is similar to the concerns of some Lakeside residents regarding the building of three bedroom homes in that neighborhood.

Resolution 96-0209 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into a second 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. 96-0318-16. This amendment changes the type of apartment units which must comply with federal HOME program provisions from a three-bedroom unit and an efficiency unit to a two-bedroom unit and a one-bedroom unit.

Resolution 96-0209 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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Resolution 96-0211, affirming, and Resolution 96-0212, reversing, the decision of the board of zoning appeals to deny a request to relax the front yard setback for accessory buildings from 60 feet to ten feet for construction of a 28 foot by 20 foot addition to an existing, nonconforming 28 foot by 30 foot detached garage on property located at 9532 East Prescott Street (Paul Skarman), by Councilor Keenan, were introduced for discussion.

Councilor Keenan reviewed that there was a planning committee meeting and that the committee unanimously supports Resolution 96-0212.

Councilor Talarico noted that he supported the recommendation because there are some peculiar physical characteristics that would not be hampered, that neighbors are so remote and that it doesn't justify the negative action.

Resolution 96-0212 was adopted as follows:

BY COUNCILOR KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, Paul Skarman has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the front yard setback for accessory buildings from 60 feet to 10 feet for construction of a 28 foot x 20 foot addition to an existing, non-conforming 28 foot x 30 foot detached garage on property located at 9532 East Prescott 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 this 28 foot x 20 foot addition to an existing 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 January 23, 1996, is hereby reversed by the city council and the appeal is granted.

Resolution 96-0212 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0221, by Councilor Keenan, supporting a grant application to the legislative commission on Minnesota resources to fund the Miller Creek watershed comprehensive management plan, was introduced for discussion.

Councilor Hales noted that she received a phone call from an individual that has concern regarding the amount of dollars that have already been put into this type of project in the past. She said she would like to see dollars going into correcting the problems not into further studies.

Councilor Talarico recommended approving this grant application, stating that the council will have another opportunity for review if the grant is received.

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

Yeas: Councilors Bohlmann and Hales -- 2

Nays: Councilors Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 5

Absent: Councilor Hogg and President Prettner -- 2

Councilor Bohlmann voiced her concern regarding what was done with the last study and those recommendations. She questioned why this study is necessary.

Vice President Hardesty noted that this request has been reviewed by the Miller Creek task force, which is made up of concerned individuals, and comes with their recommendation. She said it will also be reviewed by the state body which analyzes it carefully. To concerns from Councilor Hales, she said that matching funds are being solicited from businesses in the area, including a \$30,000 contribution from Kohl's.

Resolution 96-0221 was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the Miller Creek task force has organized a grant application to the state Legislative Commission on Minnesota Resources (LCMR) in the amount of \$153,748 to fund the development of a Miller Creek watershed comprehensive management plan, and is seeking city council support of such application; and

WHEREAS, funding of this project would allow the task force to collect, organize and present information to the public and to elected officials so that environmentally sound land use decisions can be made in the areas affecting Miller Creek; and

WHEREAS, the city council feels that the information provided by the project will be very important and helpful to the council in making future decisions affecting this natural resource;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby gives its full support to the grant application for funding to develop a Miller Creek watershed comprehensive management plan.

Resolution 96-0221 was adopted upon the following vote:

Yeas: Councilors Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 5

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Hogg and President Prettner -- 2

Approved March 18, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 521 cases and 270 bags of specific animal food for the Lake Superior zoo in accordance with specifications on its low specification bid of \$14,421.60, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 96-0202 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Far-Vet Supply Company be and hereby is awarded a contract for furnishing and delivering medical drugs and supplies for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$5,964, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 96-0204 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0219, by Councilor Keenan, requesting the city to discontinue its efforts to sell certain property located at the intersection of Pitt Street and 42nd Avenue East, was introduced for discussion.

Councilor Keenan moved to table the resolution for one week, which motion was seconded and unanimously carried.

- - -

BY VICE PRESIDENT HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to accept \$13,062 in five percent older worker funds to provide JTPA employment and training services to Duluth eligible residents age 55 and over for the period 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. 96-0318-17.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 268, Budget Item 6247.

Resolution 96-0225 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0181, approving and ratifying two water main (privately constructed) reimbursement agreements in the year 1995, and Resolution 96-0182, to accept privately constructed water and gas mains in various locations in the city of Duluth during the year 1995, by Councilor Hogg, were introduced for discussion.

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

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that Standard Brick and Supply, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 650 sheets of polystyrene insulation for the water and gas department in accordance with specifications on its low specification bid of \$7,854.38, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0224 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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Resolution 96-0240, by Councilors Hogg and Hardesty, supporting the National League of Cities' Election '96 Campaign and DebateWatch '96, was introduced for discussion.

Vice President Hardesty reviewed the background of this resolution, and moved to table the resolution for a committee meeting, which was seconded and unanimously carried.

- - -

Resolution 96-0171, by Councilor Talarico, approving the plans and specifications for the improvement of Kenwood Avenue/Howard Gnesen Road from Arrowhead to platted Victoria Street, was introduced for discussion.

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

Tom George expressed neighborhood concerns regarding loss of property, snow removal, liability, privacy and retaining the neighborhood. He said the engineering department will not change their intentions to have these sidewalks and they now have added another seven foot easement into the properties. He said currently there is heavy traffic with no sidewalks and very little walking, and he felt that the added lanes will increase traffic speed and the sidewalks will increase pedestrian usage, which will increase the danger and reduce safety.

Ken Larson, city engineer, clarified that the proposal is for a two lane roadway with a pull over lane on each side above Maryland Avenue and four lanes below Maryland Avenue to Arrowhead Road. He said the plan is to place the sidewalk up to seven feet from the curb with trees every 50 feet, and he noted that all sidewalks will be in the existing right-of-way. He added that the mail boxes will remain where they are, with no changes in delivery.

Councilor Wheeler felt that a sidewalk, especially on the side that has the apartment building, would be important, and that he's been told that that is not feasible or desirable from the neighborhood and engineering standpoint for a sidewalk just on one side.

In response to Councilor Wheeler, City Attorney Dinan said that the decision of sidewalks is discretionary and there is no liability for the city in those types of decisions.

Councilor Wheeler stated that while legal liability may not be a problem, that he believes the city is morally liable.

Councilor Hales expressed concern regarding the city's responsibility for snow removal. She felt that commitments like this should be reviewed and questioned as to who will keep track of that kind of promise.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Administrative Assistant Nollenberger reviewed that when the city makes major improvements to a roadway with traffic levels like this, that the city has a moral responsibility to make sure the pedestrian traffic is safe with sidewalks.

Resolution 96-0171 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the plans and specifications for the improvement of Kenwood Avenue/Howard Gnesen Road from Arrowhead Road northerly to platted Victoria Street, with sidewalks on both sides, (part of City Job No. 8689MA92) are hereby approved (Public Document No. 96-0318-18).

Resolution 96-0171 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Talarico, Wheeler and Vice President Hardesty -- 6

Nays: Councilor Rapaich -- 1

Absent: Councilor Hogg and President Prettner -- 2

Approved March 18, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in 35th Street from Minnesota Avenue to 150 feet easterly.

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 96-0196 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Earl F. Andersen & Associates, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 470 traffic signs for the traffic operations division in accordance with specifications on its low specification bid of \$11,954.41, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 96-0199 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Crysteel Truck Equipment, Inc., be and hereby is awarded a contract for furnishing and installing a truck dump body, plow and hydraulics system for the sewer division in accordance with specifications on its low specification bid of \$11,145.59, terms net 30, FOB

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.
Resolution 96-0201 was unanimously adopted.
Approved March 18, 1996
GARY L. DOTY, Mayor

- - -

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 96-0203 was unanimously adopted.
Approved March 18, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires certain geotechnical services to be completed for the Lakewalk from the War Memorial to Lief Erikson Park; and

WHEREAS, the city desires to hire a consulting engineer to provide the geotechnical services required for this project; and

WHEREAS, American Engineering Testing has submitted a proposal for 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 to provide the city with such geotechnical services.

BE IT FURTHER RESOLVED, that the cost of said geotechnical services, estimated at \$5,000, will be payable from the General Fund 100, Dept./Agency 700, Organization 2726, Object 1428.

Resolution 96-0206 was unanimously adopted.
Approved March 18, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0059 be amended to Cutler Magner Company for furnishing and delivering road salt, to increase the amount by \$84,000 for a new total of \$208,616.79, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 96-0214 was unanimously adopted.
Approved March 18, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety, officer of drug policy and violence prevention, to reimburse the police department's expenditures related to the middle school liaison officer program. State grant money will cover 50 percent of costs related to this program; the Duluth School Board has approved a financial commitment of up to \$32,551 (25 percent of this program).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BE IT FURTHER RESOLVED, that Todd Torvinen, director of finance of the city of Duluth, is hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All reimbursements to be deposited in General Fund 100, Police Department Agency 200.

Resolution 96-0176 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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 Howard Gnesen Road from Kenwood Avenue to Linzie Road.

Resolution 96-0208 was unanimously adopted.

Approved March 18, 1996

GARY L. DOTY, Mayor

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The meeting was adjourned at 9:20 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 25, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0325-01 Janet L. Hanson submitting petition to vacate all of that portion of Farrell Street contained within Hunters Grassy Point Addition, rearrangement of Block 24, adjacent to Lots 1-32, lying between Lavaque Street and Natchez Street. -- Assessor

96-0325-02 Richard D. Kivela submitting petition to vacate a portion of Park Place west of Eighth Avenue West and east of a line projected south from west line of Lot 8, Block 2, Myer's Park, bounded on the north by Lots 1 through 8, Block 2, Myer's Park, on the south by Lots 2 through 7, and the easterly 25 feet of Lot 8, Block 1, Myer's Park. -- Assessor

96-0325-20 C. Alexander submitting letter regarding the proposed sanitary sewer in East Superior Street from 63rd Avenue East to 380 feet easterly (96-0232R). -- Received

96-0325-03 Bresnan Communications Company submitting 1995 financial statement, pursuant to Ord. No. 9191, on May 23, 1994. -- Received

96-0325-18 Steve O'Neil submitting letter supporting the current Housing and Redevelopment Authority scattered site project (96-0219R). -- Received

96-0325-04 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served on: (a) May 25, 1996, from Jeff Olson; (b) June 29, 1996, from Terry Leonidas; (c) July 27, 1996, from Annalisa Winje and Darren Peck. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0325-05 Citywide citizens advisory committee minutes of March 12, 1996 meeting. -- Received

96-0325-06 Duluth housing trust fund board minutes of: (a) January 30; (b) February 8, 1996 meetings. -- Received

96-0325-07 Duluth transit authority: (a) Minutes of February 28, 1996 meeting; (b) January 1996 income statement. -- Received

96-0325-17 Housing and redevelopment authority of Duluth submitting report on alternative 3-23 development sites (96-0219R). -- Received

96-0325-19 Sanitary sewer board of WLSSD submitting acceptance of the I&I plan. -- Received

96-0325-08 Special assessment board: (a) February 13, 1996, report (continued); (b) March 12, 1996, report, findings and recommendations for the proposed utility extension in East Superior Street from 63rd Avenue easterly 380 feet. -- Received

96-0325-09 Technical design advisory committee for the downtown waterfront mixed use design review district minutes of February 20, 1996 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Joel Sipress voiced opposition to Miller Mall area rezoning, citing research that states that infrastructure costs will be greater than any new revenue generated from the type of

development proposed in the Miller Mall area. He noted the trend of specialty retailers to reinvest in downtowns in other parts of the country, and said he feels the Downtown should be marketed to those types of business.

Skip Hendrickson felt that voting no on the upcoming referendum on Miller Mall area rezoning will help maintain the delicate balance between commercial activity and the natural environment while providing a legacy of responsible urban planning. He said that there are questions regarding the boundaries of the buffer zone, and requested that the city council advise the planning division and city attorney to resolve those questions.

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RESOLUTIONS TABLED

Councilor Keenan moved to remove from the table Resolution 96-0219, requesting the city to discontinue its efforts to sell certain property located at the intersection of Pitt Street and 42nd Avenue East, which motion was seconded and unanimously carried.

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

Bruce Mork felt the highest and best use of the property is for it to remain as is, noting that it is a severe ravine and would be expensive to develop. He said it is an asset to the neighborhood, has functioned as a center for childrens' activities for many years and is home to much wildlife.

Bill McGillivray said he would like the area to remain as is.

Councilor Keenan said there is not a lot of green space in this area and this property is an asset to the neighborhood and environment. He said the lot is a natural wooded drainage ravine and he does not feel it is buildable.

Councilor Hardesty disagreed, noting that across the street is a block of undeveloped land that is dedicated as a park. She said she feels a policy is needed regarding the city's ownership of small pockets of green space.

Councilor Wheeler agreed that there is a need for a comprehensive land use plan and that this particular area has a great deal of green space. He also felt it is a buildable lot that can be added to the tax rolls.

Councilor Hogg felt it is important to listen to the residents and the district councilor, and noted the high development cost for that site.

In response to Councilor Wheeler, Councilor Keenan said that if the land is purchased by the HRA as proposed, there will be no addition to the tax rolls.

Councilor Talarico said he does not feel it is appropriate to withhold this piece of property from future sale, citing the previous policy adopted by council of trying to put empty lots on the tax rolls. He also said that the city does not have a plan or the resources to maintain open spaces.

Councilor Hales moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Hardesty and Keenan -- 2

Resolution 96-0219 was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the city owns property located at the intersection of Pitt Street and 42nd Avenue East, legally described as Lots 1, 2, 3 and the west half of Lot 4, Block 77, London Addition; and

WHEREAS, the city has been attempting to sell such property; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city council feels that the most appropriate use of such property is for public open space, and the council would not approve a sale of such property at this time;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city to discontinue its efforts to sell the above described property, and to maintain ownership of such property as public open space.

Resolution 96-0219 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan and Rapaich -- 5

Nays: Councilors Hardesty, Talarico, Wheeler and President Prettner -- 4

Approved March 25, 1996

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove from the table Resolution 96-0240, by councilors Hogg and Hardesty, supporting the National League of Cities' Election '96 Campaign and Debate-Watch '96, which motion was seconded and unanimously carried.

Resolution 96-0240 was adopted as follows:

BY COUNCILORS HOGG AND HARDESTY:

WHEREAS, the city is the level of government closest to citizens and taxpayers, and we, as municipal officials, bear important responsibilities and encounter exciting opportunities to help translate how national policies impact locally; and

WHEREAS, the 1996 election season represents one of those exciting opportunities for local officials; and

WHEREAS, the National League of Cities (NLC) has adopted a strategic plan to approach the 1996 elections in a non-partisan effort to accomplish three goals:

(a) Elevate selected national issues with broad local impacts, and ask candidates for federal office to explain how their proposals will affect our citizens and communities;

(b) Educate citizens and the NLC members who represent them about potential impacts from candidate proposals, and equip that audience with enough information to thoughtfully examine candidates for congress and the White House;

(c) Emerge as a national voice to help pull Americans together instead of pursuing a strategy of aggravating issues that divide people; and

WHEREAS, as part of its election '96 strategy, NLC will partner with "DebateWatch'96," a voter awareness project sponsored by the nonpartisan commission on presidential debates, to promote the project and encourage not only NLC direct members, including cities and state municipal leagues, but all locally-elected officials to participate; and

WHEREAS, the purpose of "DebateWatch'96" is to create opportunities for diverse groups of people to discuss public policy issues in a civil environment. Specifically, individuals and groups will host small gatherings in cities and towns across the nation to watch the four official debates sponsored by the commission; and

WHEREAS, after each debate, participants will review the event and discuss whether the candidates really addressed issues. Information from those gatherings will create a "feedback" loop to the candidates about the issues that are important to voters; and

WHEREAS, the "DebateWatch'96" format can also be replicated for local activities and debates with candidates for congress.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth joins with the National League of Cities' Election '96 campaign to help shape American's future, beginning here in Duluth and unify our nation as we set a course for the next century.

BE IT FURTHER RESOLVED, that the city of Duluth also endorses the "Debate-Watch'96" project and will, to as great an extent as possible, participate actively and encourage our citizens to join us.

Resolution 96-0240 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale non intoxicating malt liquor license for the period ending April 30, 1996, subject to departmental approvals and the payment of sales and property taxes:

Dan Baker/Chris Waltz (Diamond Billiards), 311 West First Street.

Resolution 96-0175 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Municilite Company, Inc., be and hereby is awarded a contract for furnishing and delivering annual requirements for strobe lights and lightbars for city vehicles in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0236 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 1996 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.

Resolution 96-0237 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 1996 for the fleet services division, for an estimated total of \$14,000, terms net 30, FOB shipping point, \$11,000 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 96-0238 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Storage Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering concession stand tables and chairs for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$5,481.34, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C417.

Resolution 96-0244 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of that portion of Kissel Avenue located between Orange Street and Overland Avenue, legally described as:

Kissel Avenue lying south of the centerline of Overland Avenue extended and the northerly right-of-way line of Orange Street, adjacent to Lots 14, 15 & 16, Block 1, Car Line Gardens; 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 12, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of Kissel Avenue lying south of the center line of Overland Avenue extended and the northerly right-of-way line of Orange Street, adjacent to Lots 14, 15 & 16, Block 1, Car Line Gardens described above, and as more particularly described on Public Document No. 96-0325-15.

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 portion of Kissel Avenue being vacated.

Resolution 96-0231 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, on October 17, 1995, the city established the Neighborhood Housing Services, Inc., (NHS) project, pursuant to Resolution 94-0915.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, a copy of which is on file with the city clerk as Public Document No. 96-0325-10, with NHS to administer neighborhood and housing services in certain neighborhoods within the city of Duluth. Payment for the agreement shall not exceed \$180,000, payable out of Year 3 (1995) Federal Community Development Program 263 Fund - Neighborhood Housing Service Account No. 6355.

FURTHER RESOLVED, that the agreement shall allow NHS to use loan interest repayment

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

funds from its revolving loan fund (RLF) to reimburse eligible costs of administrative services in an amount not to exceed 90 percent of said interest payments up to \$25,000 per year.

Resolution 96-0241 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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 parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
96012	St. Louis County	Greysolon Farms First Division, Block 12, Lot 22 (10-2010-3270)	west side of Whittier Road between Pleasantview and Claymore Streets (Greysolon Farms)
96103	St. Louis County	Duluth Proper 2nd Division Block 78, Westerly 25' of Lot 410 (1140-2150)	south side of Second Street b/w 25 & 26 Avenues West (Lincoln Park)
96014	St. Louis County	Meyer's Rearrangement Block 70, Duluth Proper 2nd Division, Lot 16 northerly 25' x 80' (1130-300), Lot 20 northerly 2' (1130-390) and Lot 20 (rest of lot) (1130-400)	between 18th Ave West & Dakota Avenue & Third & Fourth Street (Lincoln Park)
96021	Chad Kaspari	Lots 19 & 20, Block 2, Norton's Steel Plant Division (10-03540-540 partial)	north side of Glencrest Court b/w 98th Avenue West and Commonwealth (Gary-New Duluth)

Resolution 96-0245 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

RESOLVED, that the Duluth city council concurs with the board of county commissioners of St. Louis County with their classification 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Auditors Plat of Bay View Heights Park Tract Lot 329 except E'ly 33' of S'ly 83 and 1/10 ft. (10-70-290)	south side of Cardigan Street b/w Ralph Alley and Getchell Road (Bay View Heights)	memorial forest lack of utilities
Auditors Plat No. 24 Lots 6 and 7 except Hwy right-of-way (10-136-60)	north side of U.S. Hwy No. 53 b/w Anderson Road and Arlington Road	memorial forest
Duluth Heights First Division Lot 5, Blk 31 incl pt of vac st and alley adj (10-860-4820)	south side of 13th St. b/w Highland Ave. and Portland St. (Duluth Heights)	tower farm
Lot 6, Blk 31 incl part of vac st and alley adj (10-860-4830)	"	tower farm
Lot 7, Block 31 incl pt of vac street and alley adj (10-860-4840)	"	tower farm
Fond du Lac Water Street Lot 11 (10-1750-110)	south side of 130th Avenue West b/w Huron Street and Erie St. (Fond du Lac)	St. Louis River shore
Lot 12 (10-1750-120)	"	"
Lot 13 (10-1750-130)	"	"
Ironton Park Addition to Ironton Lot 7, Blk 10 (10-2560-1130)	west side of 94th Ave West b/w Trvelson St. and Geogebic St. (Upper Smithville)	memorial forest
Lands in the city of Duluth Township Fifty Range Thirteen Sec 6, Township 50, Range 13 W½ of E½ of SE¼ of SW¼ EX 67 AC for Glenwood St extended and EX Part platted as Woodridge First Add. (10-2680-390)	upperside of Glenwood St. west of 43rd Ave. East (Lakeside)	memorial forest

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>Legal Description</u>	<u>Location</u>	<u>Reason</u>
Lands in the city of Duluth Township Fifty Range Fourteen Sec 18, Township 50 Range 4 N'y 431 ft of NW¼ of NW¼ of NW¼ EX W'y 602.35 ft. (10-2710-4450)	east side of Haines Rd b/w Arrowhead Rd. & Sundby Rd. (Duluth Heights)	wetlands
Sec 18, Township 50, Range 14 NW¼ of NW¼ of NW¼ Ex N'y 431 ft (10-2710-4451)		
Manufacturers Division of New Duluth Lot 2 Block H (10-3160-390) Lot 4 Block H (10-3160-400) Revised Descr No 104 Deeds Bk 313 Pg 235 (10-3160-4400)	south side of WWFT b/w 94th & 96th Aves. West & St. Louis River (Gary-New Duluth)	wetland
Spirit Lake Addition to Duluth, Lot 19, Blk 4 (10-4060-560)	north side of 93rd Ave. West b/w Clyde Ave & Keene Ave. (Upper Smithville)	floodway
Woodridge First Addition, Outlot A EX S'y 40 ft (10-4737-190)	north side of Colorado St. b/w 42nd & 43rd Ave East (Lakeside-Lester Park)	buffer

Resolution 96-0247 was unanimously adopted.
 Approved March 25, 1996
 GARY L. DOTY, Mayor

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Resolution 96-0226, by Councilor Keenan, establishing the 1996 golf course rates, was introduced for discussion.

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

Walt Peterson stated concern regarding the increase in fees for driving range tokens and trail use for private motor carts. He felt a more reasonable fee for private carts would be \$175. He also did not agree with the proposal to eliminate private golf cart season permits after 1996.

Richard Colin felt the increase for private golf carts is excessive. He suggested a reduced cart fee for local taxpayers and/or a seasonal cart rental pass.

Jerry Michog also felt the proposed increases are excessive, and questioned the proposal to eliminate the sale of private golf cart season permits after 1996. Monte Ollenburger, director of administrative services, reviewed that the city bonded for golf course improvements in 1991 and has been paying off the bonds with annual debt service until this year. He said the general fund transfers \$289,000 annually to the golf fund to defray costs of operation.

Nina McGillivray said that elimination of private carts will pose a hardship on the handicapped, the elderly and people in poor health, and will send the message that they are not welcome on the golf courses.

Frank Malnate provided the history of allowing private golf carts at the public golf courses.

Keith Brownell felt the private golf cart season permit increase is excessive, and noted the cart owners' financial investment at Enger Park.

Councilor Hardesty suggested voting on the portion of the resolution that sets the fees so that season tickets can be sold, and withholding the portion regarding the golf carts.

Ward Wallin, parks and recreation department, noted that the National Golf Foundation was hired last year to analyze the business portion of the golf courses. He said their study shows that nationwide, private carts are being phased out for financial reasons. He said renting of private carts is profitable, and those profits are used to make necessary improvements and changes to the golf courses. He added that the study indicates that Duluth golf course rates are extremely low compared to national rates.

In response to Councilor Bohlmann, Mr. Wallin said that the National Golf Foundation made comparisons with like communities, like climates and like populations. He further responded that recent contracts with the golf pros specify shared percentages of profits for cart rentals and for driving range tokens. Councilor Bohlmann felt the public courses should be operated for the benefit of the public and that private cart owners should not be penalized.

Councilor Wheeler agreed with the recommendation that private golf carts be phased out over time, and said he feels there is a liability issue with private golf carts.

In response to Councilor Wheeler, Mr. Wallin said he believes the proposal would phase out private golf carts in about 15 years.

In response to Councilor Hardesty, Mr. Wallin said that he believes phasing out golf carts is necessary, and noted that it is the trend with the golf industry. He pointed out that people who need carts will be able to rent them.

Councilor Hardesty questioned if this policy adversely affects seniors compared to others.

In response to Councilor Keenan, Mr. Wallin said determining the proposed rates was a community effort, and a task force recommended these rates to the park and recreation board for their approval.

Councilor Hogg said he is pleased with the efforts of the community to better operate the golf courses. He said he does not want the golf courses to be a drain on taxpayers, and said he would recommend selling the courses if they are not user friendly to the community and operated in a financially beneficial way. He said he does not support the increase in fees for private golf carts and does not support the elimination of private carts after this year.

President Prettner said the council has given a clear message to the parks and recreation department to cut costs and increase revenues so that the city subsidy can be decreased for the golf courses. She said the other message was to eliminate special rates for seniors.

In response to President Prettner, Mr. Wallin said he felt a \$175 rate for private golf carts would be acceptable to the task force and the park and recreation board.

Councilor Wheeler moved to divide the resolution to consider the recommendation regarding private carts separately, which motion was seconded and unanimously carried.

Resolution 96-0226(b) referring to motorized private carts was referred back to the administration upon a unanimous vote.

Councilor Wheeler moved to amend Resolution 96-0226(a) to "decrease the fee for private motor carts from \$200 to \$175," which motion was seconded and unanimously carried.

Resolution 96-0226(a), as amended, was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth city council hereby establishes rates for the use of municipal golf courses as set forth in Exhibit A on file in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

the office of the city clerk as Public Document No. 96-0325-16, effective upon the passage of this resolution, and does further rescind all former rates.

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 96-0226(a), as amended, was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that M.J. Widdes, Inc., be and hereby is awarded a contract for furnishing and delivering various zoo animal bedding materials and dry food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$7,809.75, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 96-0234 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Minnesota Counties Insurance Trust to provide administrative services for the state of Minnesota's injury protection program for community work experience program participants. Said administrative services are to be provided at costs not to exceed \$135 per claim. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0325-11.

FURTHER RESOLVED, that costs incurred shall be charged to Fund No. 269, Budget Item 6272.

Resolution 96-0233 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept year of the city/ community resource program monies totaling \$235,372 from the state of Minnesota/department of trade and economic development, to fund 14 community service projects. Contract shall run from June 29, 1995, through June 30, 1998. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0325-12.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund No. 275, Budget Item No. 6004.

Resolution 96-0246 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, by resolutions of intent numbered 95-0783 (watermain) and 95-0868 (sewer) approved on the 11th of August, 1995, and second of October, 1995, respectively, the council did request the administration to prepare plans and specifications for the extension of a six inch watermain and an eight inch sanitary sewer in East Superior Street, from 63rd Avenue East to 380 feet easterly; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 cost of said improvement as estimated by the water and gas engineer is \$51,650, payable from the public utility fund; that the cost of said project be paid 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 Nos. 96-0325-08(a)&(b), and which description is hereby incorporated herein by reference to said Public Document Nos. 96-0325-08(a)&(b); 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 will satisfy all the requirements of Section 60 of the Charter of the city of Duluth.

Resolution 96-0232 was unanimously adopted.
Approved March 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Aspen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering an air compressor, service body and installation for the water and gas department in accordance with specifications on its low specification bid of \$42,020.16, terms net 30, FOB destination, \$21,010.08 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$21,010.08 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0235 was unanimously adopted.
Approved March 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Hydro Supply Company be and hereby is awarded a contract for furnishing and delivering approximately 468 cold water meters and single register compound water meters for the water and gas meter department in accordance with specifications on its low specification bid of \$80,045.38, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0239 was unanimously adopted.
Approved March 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that U.S. Gas Service, Inc., be and hereby is awarded a contract for furnishing a gas feasibility study for the gas division in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB job site, payable out of Gas Fund 520,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0248 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Dresser Measurement Division be and hereby is awarded a contract for furnishing and delivering approximately 60 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$66,912.35, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0251 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to extend Agreement No. 16134 with Independent School District No. 709 through June 15, 1996; said extension to be substantially in the form of Public Document No. 96-0325-13 on file with the city clerk.

Resolution 96-0258 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Eggebrecht Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering a pickup truck, plow and trade in for the sewer division in accordance with specifications on its low specification bid of \$24,618.57, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0216 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

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 96-0242 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

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 96-0243 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that General Cleaning Specialists, Inc., be and hereby is awarded a contract for maintenance of Washington Center for the property management division in accordance with specifications on its low specification bid of \$30,884, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5400.

Resolution 96-0249 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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Resolution 96-0252, by Councilor Talarico, authorizing the proper city officials to enter into an agreement with R.R.E.M., Inc., to provide professional engineering services for study and the removal of inflow and infiltration, was introduced for discussion.

In response to Councilor Hogg, Ken Larson, city engineer, reviewed that R.R.E.M., Inc., was awarded the initial contract for monitoring and evaluation of determination of the source of the I&I in the system, which set the stage for this follow-up work. He said that since R.R.E.M., Inc., had the baseline information, the city entered into negotiations for R.R.E.M., Inc., to provide these services and other proposals were not sought.

Councilor Hogg questioned if there is a way of evaluating whether it is in the city's best interest to seek other bids in circumstances such as this.

Resolution 96-0252 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to perform continuation of demonstration study to identify segments of the sanitary sewer collection system in Water Shed Basins 20 and portion of Basin 6 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, R.R.E.M., Inc., has submitted a proposal for engineering services in connection with this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 estimated cost of said engineering services, estimated at \$97,462, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0581, Object 5303.

Resolution 96-0252 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Arrowhead Tree Service be and hereby is awarded a contract for pruning boulevard trees for the street/park maintenance division in accordance with specifications on its low specification bid of \$15,777, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 96-0253 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Statewide Tree Service be and hereby is awarded a contract for elm tree removal and stumping for the street/park maintenance division in accordance with specifications on its low specification bid of \$12,474, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 96-0254 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, Hunters Park congregation of Jehovah's Witnesses constructed a sanitary sewer improvement to city of Duluth standards and has tendered the same to the city for approval and acceptance under Section 45-89 of the Duluth City Code, and the city engineer has recommended acceptance thereof;

NOW, THEREFORE, BE IT RESOLVED:

(a) That the improvement identified as City Job No. 8778SA93 (sanitary sewer to serve 4602 Arrowhead Road) is hereby accepted;

(b) That the dedication of easement over that portion of the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 18-50-14 identified in Public Document No. 96-0325-14(a) for the maintenance of said sewer is hereby accepted;

(c) That the assignment of the easements over those portions of the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 18-50-14 identified in Public Document No. 96-0325-14(b) for the maintenance of said sewer is hereby accepted;

(d) That the proper city officers are hereby authorized to execute an agreement with the Hunters Park congregation of Jehovah's Witnesses covering future connection fees charged by the city with respect to said sewer, said agreement to be substantially in the form of Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Document No. 96-0325-14(c).

Resolution 96-0255 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0603 to L.H.B. Engineers and Architects for furnishing conceptual and final design of streets included in the Denfeld Far West area, be amended to increase the amount by \$27,844 for a new total of \$82,000, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9503, Object 5303.

Resolution 96-0256 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 94-1097 to Strgar-Roscoe-Fausch, Inc., for furnishing professional traffic engineering services for additional survey work and two signals and intersection improvements on Woodland Avenue between Fourth Street and St. Marie Street, be amended to increase the amount by \$35,750 for a new total of \$65,750, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2156, Object 5303.

Resolution 96-0257 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Resolution 96-0155 to Masys Corporation for furnishing computer software maintenance during 1996 for the police department, be amended to increase the amount by \$3,965.04 for a new total of \$17,765.04, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 96-0250 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the city of Duluth wishes to take advantage of the insurance settlement fire loss escrow procedures set forth in Minnesota Statutes §65A.50;

WHEREAS, the city of Duluth has, in Ordinance No. 96-008-O, established a real property fire loss escrow account in accordance with the provisions of Minnesota Statutes §65A.50;

NOW THEREFORE BE IT RESOLVED, that pursuant to Minnesota Statutes §65A.50, Subd. 14, the city of Duluth hereby requests that the Minnesota commissioner of commerce adds the city of Duluth to the fire loss escrow list authorized by Minnesota Statutes §65A.50, Subd. 12;

FURTHER RESOLVED, that the Duluth city council hereby authorizes the Duluth building official to execute affidavits for fire loss code violations as required by Minnesota Statutes §65A.50, Subd. 3;

FURTHER RESOLVED, that the city clerk is hereby authorized and directed to transmit a

certified copy of this resolution and Ordinance No. 96-008-O to the Minnesota commissioner of commerce.

Resolution 96-0259 was unanimously adopted.

Approved March 25, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT PRETTNER

96-012 - AN ORDINANCE GRANTING MINNESOTA POWER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN ACCESS AND FREIGHT DELIVERY RAMP IN THE WEST MICHIGAN STREET RIGHT-OF-WAY.

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The meeting was adjourned at 9:30 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 1, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and President Prettner -- 7

Absent: Councilors Hardesty and Wheeler -- 2

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The minutes of council meetings held on June 5, 8, 22 and 26, 1995, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0401-01 Sam Aitkin, by Wayne Dahlberg, architect, petitioning for concurrent use permit for a projected canopy at 369 Canal Park Drive. -- Planning commission

96-0401-02 Greysolon Realty, et al. (six signatures) resubmitting petition to reclassify from R-2 to C-5 the southerly 37 feet of northerly 95 feet of Lots 2 and 3 except west 25 feet of Lot 3 and southerly 50 feet of northerly 150 feet of the westerly 60 feet except westerly 25 feet of Lot 3, Block 3, Central Acres, Second Division. -- Assessor

96-0401-04 Housing and redevelopment authority of Duluth submitting audit report for the year ended September 30, 1995. -- Received

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REPORTS OF OFFICERS

96-0401-05 Assessor submitting letters of sufficiency regarding petitions to: (a) Vacate a portion of the platted street known as Park Place; (b) Vacate that portion of Farrell Street contained within Hunter's Grassy Point Addition, Rearrangement of Block 24, adjacent to Lots 1-32, lying between Lavaque Street and Natchez Street. -- Received

96-0401-03 Building official submitting appeal of BZA denial of request to relax the side yard corner lot setback from 20 feet to ten feet for the construction of a 28 feet by 32 feet detached garage on property located at 4802 Oakley Street (William R. Niemi). -- Committee 2 (planning)

96-0401-06 Building official submitting appeal of BZA denial of request to relax the side yard corner lot setback for dwellings and attached garages from 15 feet to six feet for the construction of a 24 feet by 26 feet attached garage located at 4427 West Seventh Street (Marvin Carlson). -- Committee 2 (planning)

96-0401-07 Parks and recreation department director submitting Lake Superior zoological society: (a) Minutes of January 25, 1996, meeting; (b) Membership report of March 1, 1996. -- Received

96-0401-08 Treasurer submitting acceptance of gambling funds from: (a) Fraternal Building Association (Owls Club); (b) Northland Vietnam Veterans Association; (c) VFW #137. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0401-09 Board of zoning appeals minutes of March 11, 1996 meeting. -- Received

96-0401-10 Duluth airport authority minutes of January 23, 1996 meeting. -- Received

96-0401-11 Duluth SRO housing commission minutes of February 14, 1996 meeting. -- Received

96-0401-13 Housing and redevelopment authority of Duluth minutes of: (a) November 29, 1995 meeting; (b) December 27, 1995 meeting; (c) January 31, 1996 meeting; (d) Annual meeting on January 31, 1996. -- Received

96-0401-12 Tree commission minutes of March 4, 1996 meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Karl Strom expressed concern over the issue of mall sprawl, because he has seen it in other cities that he has lived in. He reviewed how small downtown businesses vacate the downtown to move into these malls and how it decimates the downtowns. He said promoters of malls never mention the public cost related to street improvements, additional police and fire needs and public transit needs.

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RESOLUTION FOR RECONSIDERATION

Councilor Hogg moved to reconsider Resolution 96-0232, authorizing the construction of a six inch water main and an eight inch sanitary sewer in East Superior Street, from 63rd Avenue East to 380 feet easterly, which motion was seconded and carried.

Councilor Hogg reviewed the recent council action and a subsequent letter from Mr. C. Alexander (Public Document No. 96-0325-20). He moved to table the resolution for answers to the questions raised, which motion was seconded and carried.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR BOHLMANN:

RESOLVED, that, as of December 31, 1996, pursuant to Section 2-16 of the Duluth City Code, 1959, as amended, the city assessor's office is hereby authorized to charge the following fees for the processing of abatement applications submitted under Minnesota Statute §270.07:

Homestead abatement	\$25
Valuation abatement	\$50

RESOLVED FURTHER, that said fees shall be imposed in those circumstances and situations set forth in Public Document No. 96-0401-14.

Resolution 96-0281 was unanimously adopted.
Approved April 1, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Storage Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering eight tables and 32 chairs for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$10,493.96, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C417.

Resolution 96-0262 was unanimously adopted.
Approved April 1, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 and Mott mower for the fleet services division, for an estimated total of \$24,000, terms net 30, FOB shipping point, \$20,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

5221 and \$4,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 96-0263 was unanimously adopted.
Approved April 1, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0270, by Councilor Rapaich, awarding contract to Abalans, Inc., for window treatment for Washington Center in accordance with specifications on its low specification bid of \$22,500, was introduced for discussion.

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

Justin Powers, Linda Hallender, Maggie Cosell, Chuck Boehl and Orlando Swader, residents of Washington Center, spoke in favor of the resolution.

They noted the intense heat that is produced without window coverings and said their work spaces are not useable when the light and heat comes in.

Councilor Rapaich said that she received many calls supporting the window coverings but that most felt that Art Space should be supplying them.

Councilor Talarico moved to refer the resolution to the administration to work with Art Space, which motion was second and carried upon the following vote:

Yeas: Councilors Hales, Hogg, Keenan, Rapaich, Talarico and President Prettner -- 6

Nays: Councilor Bohlmann -- 1

Absent: Councilors Hardesty and Wheeler -- 2

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BY COUNCILOR RAPAICH:

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 \$7,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0272 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0260, by President Prettner, requesting the free conveyance of Lots 11 through 16, Block 59, New Duluth First Division, for park and recreation purposes, was introduced for discussion.

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

William Spehar voiced support for this resolution, noting that this area was wooded and has been cleared, which has improved the safety for walkers. To Councilor Talarico's questions, he said that if necessary, private citizens will keep the area up.

Joe Stojevich supported the resolution, saying that this is a prime piece of property and it should be under control of the city.

Resolution 96-0260 was adopted as follows:

BY PRESIDENT 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 M.S. §282.01 (Subd. 1) for public park and recreation purposes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>File No.</u>	<u>Applicant</u>	<u>Legal description</u>
96018	City of Duluth	Lots 11 thru 16, including part of vacated street adjacent to Lot 16, Block 59, New Duluth, First Division 10-3430-18720 10-3430-18770.

Resolution 96-0260 was unanimously adopted.
Approved April 1, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the week of April 1-7, 1996, has been designated as National Community Development Week, with this year's theme, in the American tradition: meeting needs at home, in the family and throughout the neighborhood; and

WHEREAS, in Duluth and in communities throughout the nation, 22 years of community development block grant (CDBG) program funding has developed a strong working network of relationships between the city government, neighborhood residents and the many agencies which provide services and help further our commitment to these neighborhoods; and

WHEREAS, this community recognizes that the CDBG program is a partnership of federal, state and local governments, business, nonprofit and community efforts, and that the services funded by the federal CDBG program, administered by the local government and often delivered by local organizations, relies heavily on the dedication and goodwill of our combined efforts;

NOW, THEREFORE, BE IT RESOLVED, that during National Community Development Week '96, the Duluth City Council gives special thanks and recognition to all participants whose hard work and devotion to the neighborhoods and their low and moderate income residents help insure the quality and effectiveness of the CDBG program.

BE IT FURTHER RESOLVED, that the Duluth City Council hereby petitions the U.S. Congress and administration to recognize the outstanding work being done locally and nationally by the CDBG program, its vital importance to the community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that copies of this resolution be conveyed to the appropriate elected and appointed officials in the federal government as an indication of the city of Duluth's commitment to the preservation and full funding of the CDBG program.

Resolution 96-0273 was unanimously adopted.
Approved April 1, 1996
GARY L. DOTY, Mayor

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Resolution 96-0275, by President Prettner, vacating that 20 foot wide pedestrian easement common to Lots 8 and 9, Block 1, Northland Estates (LaBerge & Renier), was introduced for discussion.

President Prettner moved to table the resolution at the request of Mr. LaBerge's attorney so that Mr. LaBerge can be present to discuss this issue, which motion was seconded and carried.

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BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 49th Avenue East between London Road and Lake Superior, legally described as:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

That portion of 49th Avenue East adjacent to Lot 14, Block C, and Lot 1, Block D, London 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 hearing and did consider same in public hearing; and

WHEREAS, the city planning commission approved with the retention of utility easements, by a vote of 10-3, the vacation petition at its December 12, 1995, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of that portion of 49th Avenue East adjacent to Lot 14, Block C, and Lot 1, Block D, London Addition described above, and as more particularly described on Public Document No. 96-0401-15.

BE IT FURTHER RESOLVED that a 29 foot wide utility easement for existing utilities be retained, located 14 feet six inches either side of the center line of said vacated 49th Avenue and a 20 foot wide utility easement for existing utilities be retained, located ten feet either side of a line located parallel to the center line of London Road 165 feet southerly of said center line as measure along the center line of vacated 49th Avenue.

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 easements being retained.

Resolution 96-0276 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Food Services of America, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 16,754 pounds of fruits and vegetables for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$6,350, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 96-0265 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth and its employees are authorized to sell passes to the Western Lake Superior Sanitary District landfill for \$8 each in conjunction with the city's clean and green program.

RESOLVED FURTHER, that the monies collected from the sale of landfill passes shall be used to reimburse the city for fees charged by the Western Lake Superior Sanitary District for the clean and green program landfill usage.

Resolution 96-0283 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR KEENAN:

BE IT RESOLVED, that the proper city officials are authorized to pay to Kathleen Erkkila, as trustee for the heirs of Chad A. Hyke, and James Courtney, III, her attorney, the sum of \$62,500 in full settlement of claims against the city of Duluth and its employees, including Donald Boso, arising out of a traffic accident that occurred July 11, 1994, near 85th Avenue West and Grand Avenue in Duluth, said accident resulting in the death of Chad Hyke; payment to be from the self insurance fund.

Resolution 96-0269 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to accept \$5,155 in job training partnership act five percent incentive funds from the Minnesota department of economic security to provide capacity building and staff training activities. A copy of the approval letter shall be on file in the city clerk's office as Public Document No. 96-0401-16.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund No. 268, Budget Item No. 6252.

Resolution 96-0280 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 96-0401-17); 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.

ALSO RESOLVED, that the city council ratifies and approves the execution of the following water/gas main extension agreement(s) and approves the granting of payment to the developer any connection changes which the city may receive from third party service connections, under Section 48-222 of the City Code within ten years of the date indicated on Exhibit A.

Resolution 96-0181 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 96-0401-18); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 96-0182 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering 157 band type repair clamps for the water and gas department in accordance with specifications on its low specification bid of \$9,092.74, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0264 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Waterpro Supplies, Inc., be and hereby is awarded a contract for furnishing and delivering approximately nine line stopper fittings and related items for the gas division in accordance with specifications on its low specification bid of \$7,936.38, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0266 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Kerotest Manufacturing Corporation be and hereby is awarded a contract for furnishing and delivering eight gas gate valves for the water and gas department in accordance with specifications on its low specification bid of \$7,863.44, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0271 was unanimously adopted.

Approved April 1, 1996

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 1,928 tons of Class 5 limestone and 1-1/2 inch screened limestone for the street maintenance division in accordance with specifications on their low specification bid estimated

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

to total \$11,300 (based on unit prices bid), terms net 30, FOB pickup, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 96-0091 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0663 to Computer's Don't Byte for furnishing computer training for the sewer division, be amended to increase the amount by \$5,627 for a new total of \$12,127, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5334.

Resolution 96-0267 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a lease agreement with St. James Home d/b/a Woodland Hills covering 3141 square feet of improved office space at the Washington Center at 310 North First Avenue West; said agreement to be substantially in the form of Public Document No. 96-0401-19 on file with the city clerk; the \$5,640 annual rental thereunder to be deposited in the General Fund 500-1950-4612.

Resolution 96-0278 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that I.S.C.O. Environmental Division be and hereby is awarded a contract for furnishing and delivering 20 flow meters and accessories for the sewer division in accordance with specifications on its low specification bid of \$58,782.80, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0279 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Consolidated Electric Company be and hereby is awarded a contract for furnishing and installing telemetry system upgrade for the sewer division in accordance with specifications on its low specification bid of \$48,893, terms net 30, FOB St. Paul, Minnesota, payable out of Sewer Construction Bond Fund 531, Dept./Agency 500, Object 5532.

Resolution 96-0282 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for demolition of structures at eight locations for the building inspection division in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB job sites, payable out

of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 96-0261 was unanimously adopted.

Approved April 1, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY PRESIDENT PRETTNER

96-012 (9295) - AN ORDINANCE GRANTING MINNESOTA POWER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN ACCESS AND FREIGHT DELIVERY RAMP IN THE WEST MICHIGAN STREET RIGHT-OF-WAY.

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

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The meeting was adjourned at 8:25 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9295

BY PRESIDENT PRETTNER:

AN ORDINANCE GRANTING MINNESOTA POWER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN AN ACCESS AND FREIGHT DELIVERY RAMP IN THE WEST MICHIGAN 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 set forth, permission is hereby granted to Minnesota Power, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a ramp in that part of West Michigan Street as the same was dedicated to the use of the public and the plat of Central 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:

That portion of the Michigan Street right-of-way described as follows: beginning at the southwest corner of Lot 16, Block 4, Central Division, thence northeasterly along the southeasterly line of Block 4, a distance of 78 feet to the point of beginning; thence northeasterly along said line of Block 4 a distance of 21 feet; thence at a right angle a distance of five feet six inches easterly; thence at a right angle a distance of 21 feet southerly; thence at a right angle five feet six inches westerly to the point of beginning.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said ramp 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 ramp 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 West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such 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 the presence of such ramp in said West Michigan Street.

Section 6. That the construction of the ramp be limited to and in substantial compliance with the plans submitted by Minnesota Power entitled office services ramp dated January 5, 1996, and on file in the office of the city clerk as Public Document No. 96-0401-20.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 12, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and President Prettnner -- 7

Nays: None -- 0

Absent: Councilors Hardesty and Wheeler -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 1, 1996
Approved April 1, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 8, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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The minutes of council meetings held on July 5, 10 and 24, 1995, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0408-01 The Chromaline Corporation submitting petition to vacate that portion lying northeast of west line of Lots 1 and 9 to the easternmost line of Lots 4 and 12 of Block 66, Oneota Duluth. -- Assessor

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REPORTS OF OFFICERS

96-0408-02 Assessor submitting letters of sufficiency regarding petitions to:

(a) Reclassify from R-2 to C-5, the southerly 37 feet of northerly 95 feet of Lots 2 and 3 except west 25 feet of Lot 3 and southerly 50 feet of northerly 150 feet of the westerly 60 feet, except westerly 25 feet of Lot 3, Block 3, Central Acres, Second Division;

(b) Vacate that portion lying northeast of west line of Lots 1 and 9 to the easternmost line of Lots 4 and 12 of Block 66, Oneota Duluth. -- Received

96-0408-03 Parks and recreation department director submitting March 1996 reports of the Lake Superior zoological society. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0408-04 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of February 15, 1996 meeting. -- Received

96-0408-05 Citywide citizens advisory committee minutes of March 26, 1996 meeting. -- Received

96-0408-06 Civil service board minutes of: (a) February 6; (b) February 22, 1996 meetings. -- Received

96-0408-07 Lawful gambling commission minutes of: (a) January 9; (b) January 11; (c) February 13, 1996 meetings. -- Received

96-0408-08 Special assessment board: (a) Minutes of March 20, 1996 meeting; (b) Reports, findings and recommendations regarding proposed sanitary sewers in: (1) Ethel Avenue from Springvale Road to 260 feet northerly; (2) Marble Street from vacated Robin Avenue to 200 feet westerly. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Pat Connell expressed concern about a recent advertisement placed in the Duluth News-Tribune regarding the proposed Opus development.

Michael Conlan said the advertisement shows the difference between the green space that would remain with the proposed Opus development and a residential development that could occur. He pointed out compromises that have been offered by developers in both the Simon and Opus developments.

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RESOLUTIONS TABLED

President Prettner moved to remove from the table Resolution 96-0275, vacating that 20 foot wide pedestrian easement common to Lots 8 and 9, Block 1, Northland Estates (LaBerge & Renier), which motion was seconded and unanimously carried.

Charles Andresen, attorney representing the petitioners, reviewed at length the purpose of the vacation. He noted that this an undeveloped easement that is covered with grass and trees and that the petitioners have negotiated a private pedestrian agreement with the neighbors.

Hugh Renier said the easement is needed for safety and privacy reasons.

Councilor Keenan questioned the need for the private easement and questioned whether Northland Country Club has approved it.

In response to Councilor Bohlmann, Mr. Andresen said that tax income financing was used partially to develop Northland Estates, but that there was not a public walkway developed with that financing.

Mike LaBerge said the current situation invites trespass onto private property and there is potential for misuse.

Councilor Hogg said that Northland County Club does not permit public access onto their property and they have not made any commitment to permit access from Northland Estates. He noted that the easement currently has no public purpose and does not go anywhere.

Resolution 96-0275 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 20 foot pedestrian easement legally described as that 20 foot pedestrian easement common to Lots 8 and 9, Block 1, Northland Estates; 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 12, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that 20 foot wide pedestrian easement common to Lots 8 and 9, Block 1, Northland Estates, described above, and as more particularly described on Public Document No. 96-0408-17.

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 pedestrian easement to be vacated.

Resolution 96-0275 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

Councilor Hogg moved to remove from the table Resolution 96-0232, authorizing the construction of a six inch water main and an eight inch sanitary sewer in East Superior Street, from 63rd Avenue East to 380 feet easterly, which motion was seconded and unanimously carried.

Resolution 96-0232 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, by Resolutions of Intent numbered 95-0783 (water main) and 95-0868 (sewer)

approved on the 11th of August, 1995, and second of October, 1995, respectively, the council did request the administration to prepare plans and specifications for the extension of a six inch water main and an eight inch sanitary sewer in East Superior Street, from 63rd Avenue East to 380 feet easterly; 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 cost of said improvement as estimated by the water and gas engineer is \$51,650, payable from the public utility fund; that the cost of said project be paid 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 Nos. 96-0325-08(a)&(b) and which description is hereby incorporated herein by reference to said Public Document Nos. 96-0325-08(a)&(b), 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 will satisfy all the requirements of Section 60 of the Charter of the city of Duluth.

Resolution 96-0232 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that MacQueen Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering a trip edge plow for the fleet services in accordance with specifications on its low specification bid of \$5,309.03, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0291 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Minncor Industries be and hereby is awarded a contract for furnishing and delivering miscellaneous office furnishings for the Washington Center in accordance with specifications on its low specification bid of \$6,218.12, terms net 30, FOB destination, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C412.

Resolution 96-0305 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 certain conditions and restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Hermantown Volunteer Fire Department, Army National Guard, 4015 Airpark Boulevard, for April 20, 1996, with Al Talarico, president, and Dale Reno, manager.

Resolution 96-0310 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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:

Lemon's Reef, Inc. (Reef Bar), 2002 London Road.

Resolution 96-0311 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an on sale dancing license to the following on sale intoxicating liquor 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 Darrel L. Fredrickson, CFO.

Resolution 96-0312 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock in the following off sale intoxicating liquor license, for the period ending August 31, 1996, subject to departmental approvals:

Dajer, Inc. (Lake Superior Bottle Shop), 31 East First Street, with Jerome Taran, president and 80 percent stockholder, and Kenneth Bluedorn, vice president, and 20 percent stockholder.

Resolution 96-0313 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0195, by Councilor Bohlmann, confirming appointments to the human rights commission, was introduced for discussion.

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

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed specifications for the new civil service classification of van driver, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0408-09, 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 14A.

Resolution 96-0295 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved April 8, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed specifications for the new civil service classification of special events coordinator, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0408-10, 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 129.

Resolution 96-0296 was unanimously adopted.

Approved April 8, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed specifications for the new civil service classification of senior center coordinator, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0408-11, 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 124.

Resolution 96-0297 was unanimously adopted.

Approved April 8, 1996
GARY L. DOTY, Mayor

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Councilor Wheeler moved to remove from the table Resolution 96-0195, confirming appointments to the human rights commission, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Wheeler, Talarico and President Prettner -- 7

Nays: Councilors Bohlmann and Hogg -- 2

In response to Councilor Wheeler, Administrative Assistant Nollenberger said he understands that some councilors wish to meet with representatives of the mayor's appointments advisory committee to determine what criteria they used to review the applications for this commission. He said his understanding is that the council may want to interview the candidates also.

Councilors Wheeler and Hardesty requested that the interviews of the candidates be scheduled as soon as possible so that this commission may begin operation.

Councilor Bohlmann said that because this is a new commission she feels it is important to meet with appointment committee representatives.

Councilor Wheeler moved to retable the resolution, which motion was seconded and unanimously carried.

- - -

Resolution 96-0284, by President Prettner, authorizing acceptance of emergency shelter grant program funds and authorizing FY 1996 sub-recipient agreement with St. Louis County, was introduced for discussion.

Councilor Hogg moved to amend the resolution to remove the second paragraph.

Councilor Talarico opposed the amendment, saying the paragraph only authorizes the city to receive funds, not distribute them.

The amendment was withdrawn.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0284 was adopted as follows:

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a sub-recipient agreement in the amount of \$41,349, a copy of which is on file in the office of the city clerk as Public Document No. 96-0408-12, with St. Louis County, Minnesota, related to the administration of the city's FY 1996 emergency shelter grant (ESG) program in conjunction with said county.

FURTHER RESOLVED, that the proper city officials are authorized to enter into an amendment to said sub-recipient agreement, increasing the amount of the city's FY 1996 ESG program funds up to \$100,000, should such funds become available.

Resolution 96-0284 was unanimously adopted.

Approved April 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0285, by President Prettnr, authorizing emergency shelter grant program agreement with various service providers, was introduced for discussion.

Councilor Hogg moved to amend the resolution to replace the second paragraph with the following wording:

"FURTHER RESOLVED, that if and when additional 1996 fiscal year ESG funds become available to the city, the SRO housing commission and the Duluth housing trust fund will be asked to recommend allocation of those funds at that time," which motion was seconded.

Councilor Wheeler questioned the purpose of the amendment, stating that a lengthy process was followed in order to arrive at the proposed recommendation.

Councilor Hogg explained that it has not been determined when the funding will be received and that priorities may change.

Councilor Hardesty said she will not support the amendment and that she supports the recommendation as proposed.

Councilor Hales stated concern that there was not a quorum of the SRO housing commission when making this recommendation, and said she does not feel it is a valid recommendation because the commission is not fully appointed.

Councilor Bohlmann supported the amendment because of the uncertainty of the amount of funding that will be received.

In response to Councilor Keenan, Pam Kramer, community development and housing division manager, felt there was an adequate quorum of the SRO housing commission present when these recommendations were made. She explained that HUD is in the process of changing the structure of the SRO housing commission which has held up the process of filling vacancies on the commission.

Councilor Talarico supported the process for recommendation of these funds and moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr

-- 7

Nays: Councilors Bohlmann and Hogg -- 2

Councilor Hogg's amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Resolution 96-0285 was adopted as follows:

BY PRESIDENT PRETTNER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that the proper city officials are hereby authorized to enter into emergency shelter grant (ESG) program agreements with the service providers listed below in the amounts set forth in Column A with regard thereto, a copy of the standard format of said agreements is on file in the office of the city clerk as Public Document No. 96-0408-13.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into amendments to said agreements with service providers up to the amount set forth in Column B, subject to receipt of additional ESG program funds by the city, said increased amounts to service providers to be awarded on a pro rata basis.

Service provider	Programs	Column A amount	Column B amount
Churches United in Ministry	Emergency shelter	\$6,690	\$16,180
Churches United in Ministry	Drop-in center	\$4,130	\$ 9,988
Women's Transitional Housing Coalition, Inc.	Transitional housing	\$6,359	\$15,380
Life House, Inc.	Transitional housing	\$4,340	\$10,496
The Salvation Army, Inc.	Transitional housing	\$6,990	\$16,904
Women's Coalition, Inc.	Battered women's shelter	\$4,780	\$11,560
Human Development Center, Inc.	Mental health crisis shelter	\$5,100	\$12,334
American Indian Community Housing Organization	Transitional housing	\$2,960	\$ 7,158
TOTAL		\$41,349	\$100,000

Resolution 96-0285 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved April 8, 1996

GARY L. DOTY, Mayor

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Resolution 96-0292, by President Prettnr, establishing emergency funding priority for 1996 Duluth HUD CDBG projects, was introduced for discussion.

Councilor Hogg questioned whether it is prudent to allocate all of the anticipated funding, saying he feels some funds should be placed in reserve to handle emergency situations. He stated concern about funding priorities, pointing out that much of the funding is for administrative purposes. He proposed asking the organizations that are recommended for funding to document their needs and other sources of funds.

Councilor Wheeler agreed that too large of a percentage of funds is going to administrative costs rather than programs, but did not agree with asking the organizations to document their needs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

Jeff Jackson, representing the CCAC and NAC, urged support of the resolution, saying projects were recommended by the neighborhoods. In response to Councilor Hales, Mr. Jackson said that at least one high priority project was funded as recommended by each of the neighborhood coalitions. In response to Councilor Hogg, Mr. Jackson said he feels it is prudent to allocate all of the funding, and that the recommendations were made based on the assumption that additional funds will be received.

President Prettner noted that all of the recommended dollars leverage additional dollars, and that she feels it is important to get these dollars into the community.

Bruce Taylor urged approval of the proposed recommendations.

Toni Sheehy, Tenants Union-MN Clients Council, noted that these funds are essential to the operation of her organization, as well as the other nonprofit organizations. She noted that other funds received by nonprofits usually are designated for specific purposes.

Councilor Hogg felt the council does not have adequate information regarding the needs of the various organizations. In response to Councilor Hogg, Mr. Nollenberger said he supports the recommendations for the two street projects and that delaying the projects would delay the entire street improvement program. He expressed confidence that additional block grants will be received.

Resolution 96-0292 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, as authorized by City Council Resolution 95-0916, passed on October 23, 1995, the city of Duluth submitted to the U.S. department of housing and urban development (HUD) a consolidated plan for HUD review and approval and included in the consolidated plan was an application for \$3,300,000 in HUD community development block grant (CDBG) funds; and

WHEREAS, on December 27, 1995, HUD notified the city that the 1996-2000 city of Duluth consolidated plan had been approved with a conditional statement that HUD had not yet received an appropriation of federal fiscal 1996 HUD CDBG funds; and

WHEREAS, because of budget disputes between congress and the White House, HUD on March 6, 1996, awarded Duluth a partial grant contract for the Duluth 1996 CDBG program in the amount of \$1,658,000; and

WHEREAS, the citywide citizen advisory committee (CCAC) for the community development program, at their meeting held on March 26, 1996, because of the onset of the construction season and that some of the projects had expended a majority of all of their 1995 CDBG funds, passed an emergency funding recommendation, as indicated below, for Duluth City Council consideration.

NOW, THEREFORE, BE IT RESOLVED, that the following projects in the amounts so stated shall be the initial projects to be implemented for the Duluth 1996 CDBG program.

1996 COMMUNITY DEVELOPMENT PROGRAM
EMERGENCY FUNDING ALLOCATIONS

<u>Account number</u>	<u>Project</u>	<u>Current budget amount</u>	<u>Initial/emergency project amount</u>
6901	HRA housing rehabilitation	\$725,000	\$200,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

6902	Neighborhood Housing Service (NHS) housing rehabilitation	350,000	120,000
6903	CAP weatherization - regular program	350,000	200,000
6904	CAP weatherization - sliding fee	57,000	
6905	Fairmont area streets - West Duluth	293,000	293,000
6906	Endion area streets - East Hillside	221,000	221,000
6907	West Duluth sidewalk safety	60,000	
6908	Grant Recreation Center improvements	35,000	
6909	Duluth Community Health Center parking lot	33,000	
6910	Lincoln Park restoration	33,000	
6911	Lincoln Park sidewalk safety project	21,000	
6912	Duluth Bethel Society renovation	15,000	15,000
6913	Hillside Sport Court basketball hoops	13,000	
6914	Neighborhood mid-block lighting-West Duluth	3,000	
6915	North Star Community Development Corporation (NSCDC)	112,000	
6916	Project SOAR economic self-sufficiency	35,000	30,000
6917	Duluth hunger project	75,000	75,000
6918	Neighborhood Youth Service (NYS) - central	63,000	47,000
6919	East Hillside/Endion YWCA Kids Corner	56,000	
6920	Boys/Girls Club Youth & Family Center	54,000	
6921	YWCA Kids Corner - Central Hillside	53,000	20,000
6922	Duluth Community Health Center- youth/seniors	49,000	49,000
6923	Life House Youth Center	33,000	25,000
6924	Women's Transitional Housing	39,000	16,000
6925	Family Transitional Housing-Salvation Army	33,000	
6926	NHS-homebuyer assistance	22,000	
6927	Tenants Union-MN Clients Council	28,000	16,000
6928	Truancy Action Program (TAP)	16,000	
6929	American Indian Women/Children's Transitional Housing	1,000	
6930	Men's Transitional Housing	1,000	
6931	Depot Arts program	1,000	
6932	YMCA mentoring program	1,000	
6933	Program administration	305,000	261,000
6934	Neighborhood planning	80,000	70,000
6935	Contingency - other projects	34,000	
	TOTALS	\$ 3,300,000	\$1,658,000

Resolution 96-0292 was unanimously adopted.
Approved April 8, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Duluth Community Health Center youth and senior citizen health assessment project pursuant to Resolution 95-0916.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0408-14, with the Duluth Community Health Center of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$49,000, payable out of the 1996 Federal Program Fund 262 - Community Development - Duluth Community Health Center Account No. 6922.

Resolution 96-0293 was unanimously adopted.
Approved April 8, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Duluth hunger project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0408-15, with the Churches United in Ministry (CHUM), agent for the Duluth hunger project, to implement the above project. Payment for said services shall not exceed \$75,000, payable out of the 1996 Federal Program Fund 262 - Community Development - Duluth Hunger Project Account No. 6917.

Resolution 96-0294 was unanimously adopted.
Approved April 8, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth and its employees are authorized to sell appliance coupons for \$3 each. Each coupon allows for one residential appliance to be removed from the curb of resident.

RESOLVED FURTHER, that the monies collected from the sale of the appliance coupons shall be used to partially defray the cost of the program and shall be paid to the vendor awarded the contract for providing this service.

Resolution 96-0302 was unanimously adopted.
Approved April 8, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute a lease agreement with Independent School District No. 709 covering 3,075 square feet of improved office space at the Washington Center at 310 North First Avenue West; said agreement to be substantially in the form of Public Document No. 96-0408-16, on file with the city clerk; the \$12,300 annual rental thereunder to be deposited in the General Fund 500-1950-4612.

Resolution 96-0277 was unanimously adopted.
Approved April 8, 1996
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 HALES

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

96-013 - AN ORDINANCE PERTAINING TO PARKING REGULATIONS; AMENDING SECTIONS 33-94 AND 33-110 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The meeting was adjourned at 9:55 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 15, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 7

Absent: Councilor Keenan and President Prettner -- 2

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REPORTS OF OFFICERS

96-0415-01 Assessor submitting notice of confirmation of assessment rolls levied to defray the assessable portion of 1995 street program (Lester Park, Contract No. 7002 (assessable portion: \$238,689.72); Duluth Heights, Contract No. 7004 (assessable portion: \$181,448.07); Denfeld, Contract No. 7006 (assessable portion: \$124,651.86)). -- Clerk

96-0415-02 Community development and housing division submitting HRA housing rehabilitation report for February 1996. -- Received

96-0415-03 Engineering division submitting April 1996 project status report. -- Received

96-0415-04 Purchasing agent submitting emergency purchase order for water main repairs in Oak and Arthur Avenues awarded to Northland Constructors of Duluth, Inc. -- Received

96-0415-05 Treasurer submitting acceptance of gambling funds from American Legion No. 71 for school crossing guards fund (\$50). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0415-06 Duluth transit authority minutes of March 27, 1996 meeting. -- Received

96-0415-07 Parking commission minutes of March 12, 1996 meeting. -- Received

96-0415-08 Seaway Port authority of Duluth: (a) Minutes of: (1) January 22; (2) March 4, 1996 meetings; (b) Financial statements for: (1) December 1995; (2) January 1996. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Beth Hall, Joel Sipress and Rosie Loeffler Kemp spoke against rezoning to allow expansion in the Miller Mall area, and encouraged residents to vote no in the upcoming referendum on this issue.

Harry Munger noted deficiencies in the past development of Simon Development Corporation and noted that problems have not been rectified.

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George Parker invited councilors to an upcoming crime forum in Central Hillside.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Aspen Equipment, Inc., be and hereby is awarded a contract for PTO air compressor and reconditioned service body for the fleet services in accordance with specifications on its low specification bid of \$14,552.02, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 96-0324 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

RESOLVED, the proposed amendments to the specifications for the civil service classification of park maintenance worker II, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0415-09, are approved.

Resolution 96-0319 was unanimously adopted.

Approved April 15, 1996

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 assistant fire chief, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0415-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees; and that the pay range and rates shall remain unchanged, pay range 233, pay rate \$4,270.

Resolution 96-0332 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

RESOLVED,, that the proposed specifications for the new civil service classification of purchasing analyst, which were approved by the civil service board on April 2, 1996, and which are filed with the city clerk as Public Document No. 96-0415-11, 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 129, pay rate \$2,327 to \$2,757.

Resolution 96-0333 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the NAMES project AIDS memorial quilt will be displayed at the Duluth Entertainment Convention Center from May 9 to May 12 of this year; and

WHEREAS, this quilt commemorates Americans who have died from acquired immune deficiency syndrome (AIDS) complications; and

WHEREAS, the "Tapestry of Life" committee has coordinated this significant event and has invited the city council to participate in the event by endorsing the mission of the NAMES project AIDS memorial quilt, which is to: provide a creative means for remembrance and healing, illustrate the enormity of the AIDS epidemic and its impact on our community and country, increase public awareness of AIDS, assist with human immunodeficiency virus (HIV) prevention education and raise funds for community-based AIDS service organizations; and

WHEREAS, the city council believes that the NAMES project AIDS memorial quilt is a very important project for our community and country.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby gives its full support and endorsement to the mission of the NAMES project AIDS memorial quilt and "Tapestry of Life" committee and thanks them for bringing attention to the AIDS epidemic in the Northland.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED FURTHER, that the city council urges all citizens of Duluth to participate in the event at the DECC from May 9-12 and join in celebrating the lives of those Americans who have died from complications associated with AIDS.

Resolution 96-0328 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-0415-12, to the contracts listed below, extending the term of each agreement for an additional seven month period at no change in project cost.

City Contract No.17334 - Help and Education for Loving Parents (H.E.L.P.) - Lakeside and Lester Park;

City Contract No. 17335 - Help and Education for Loving Parents (H.E.L.P.) - Morgan Park;

City Contract No. 17395 - Harrison Community Club;

City Contract No. 17338 - Merritt Hockey Association;

City Contract No. 17327 - Citizens' Coalition of Gary-New Duluth.

Resolution 96-0340 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Balcum Appliance, Inc., be and hereby is awarded a contract for providing services for residential curbside appliance pick up and recovery program for the parks and recreation department in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB disposal sites, payable out of General Fund 100, Dept./Agency 400, Organization 1812, Object 5384.

Resolution 96-0306 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that Versatile Vehicle be and hereby is awarded a contract for furnishing and delivering approximately 70 rental golf carts for the 1996 season for the golf division in accordance with specifications on its low specification bid of \$35,700, terms net/30, FOB destination, payable out of Golf Ent. Fund 503, Dept./Agency 400, Organization 0500, Object 5415.

Resolution 96-0335 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Playfair Discover Center to operate the Discovery Center summer outreach program through community research program funds at costs not to exceed \$10,000. Contract dates will run from June 1, 1996, to September 30, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0415-13.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED FURTHER, that costs incurred under this agreement shall be payable out of Fund No. 275, Budget Item 6004, C043.

Resolution 96-0298 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Life House, Inc., to expand Life House Youth Center staffing and service hours through community resource program funds at costs not to exceed \$10,000. Contract dates will run from January 1, 1996, to December 31, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0415-14.

RESOLVED FURTHER, that costs incurred under this agreement shall be payable out of Fund No. 275, Budget Item 6004, C045.

Resolution 96-0299 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Family Resource Collaborative to hire a family resource advocate for the Washington Community Center Family Resource Center through community resource programs funds at the cost not to exceed \$25,000. Contract dates will run from February 1, 1996, to January 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0415-15.

RESOLVED FURTHER, that costs incurred under this agreement shall be payable out of Fund No. 275, Budget Item 6004, C044.

Resolution 96-0303 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Copeland Community Center to operate the Copeland youth development/teen mentor project through community resource program funds at a cost not to exceed \$17,000. Contract dates will run from January 1, 1996, through December 31, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 95-0415-16.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund No. 275, Item 6004, C042.

Resolution 96-0314 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Boys and Girls Club of Duluth to operate the West End/Lincoln Park district youth and family recreation program through community resource program funds at a cost not to exceed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

\$15,447.15. Contract dates will run from January 1, 1996, through December 31, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0415-17.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund No. 275, Item 6004, C041.

Resolution 96-0315 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY VICE PRESIDENT HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Lutheran Social Services to operate the young parent program through community resource program funds at a cost not to exceed \$10,000. Contract dates will run from January 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0415-18.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund No. 275, Item 6004, C047.

Resolution 96-0316 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering Mueller hydrants and parts for the water and gas department in accordance with specifications on its low specification bid of \$25,580.24, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0301 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Waterpro Supplies Corporation 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 \$31,504.46, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0304 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Schlumberger Industries, Inc., be and hereby is awarded a contract for furnishing and delivering 600 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$37,541.25, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0307 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HOGG:

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 in accordance with specifications on its low specification bid of \$10,192.05, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0308 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Gas Supply, Inc., be and hereby is awarded a contract for furnishing and delivering 36 one inch and two inch gas relief valves for the water and gas department in accordance with specifications on its low specification bid of \$8,846.30, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0309 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Bingham & Taylor 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 \$23,889.25, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0320 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an easement agreement, and a steam easement and grant (Public Document Nos. 96-0415-19(a) and 96-0415-19(b), on file in with the city clerk) by which Independent School District No. 709 conveys easements for the operation and repair of steam lines within district real estate (Central Administration Building and property), and conveys its interest in the steam line tunnel under Lake Avenue and Third Street, to the city of Duluth.

Resolution 96-0322 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that WaterPro Supplies be and hereby is awarded a contract for furnishing and delivering miscellaneous copper fittings for the water and gas department in accordance with specifications on its low specification bid of \$23,099, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0323 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HOGG:

RESOLVED, that Goodin Company be and hereby is awarded a contract for furnishing and delivering miscellaneous copper pipe for the water and gas department in accordance with specifications on its low specification bid of \$14,970, terms 2% 10, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0329 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Groekner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering plastic pipe and fittings for the gas division in accordance with specifications on its low specification bid of \$9,773.72, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0330 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

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. 96-0415-20 with Seaway Engineering Company for analytical services related to the provision of water for fire protection purposes for facilities at the Duluth International Airport in the amount of not to exceed \$4,800, payable from the water fund.

Resolution 96-0341 was unanimously adopted.

Approved April 15, 1996

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 agreement with the Oneida Realty Company, Inc., relating to the operation of the pedestrian draw bridge over Minnesota slip; said agreement to be substantially in the form of Public Document No. 96-0415-21, on file with the city clerk; payments thereunder to be made from General Fund 100, Dept./Agency 500, Organization 1925, Object 5544, to be reimbursed from the Tourism Tax Fund 258.

Resolution 96-0286 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to State Farm General Insurance Company and its insured, Timothy Pichetti, the sum of \$27,452.09 in full settlement of all claims for damage arising from the rupture of a storm sewer and escape of water therefrom on August 22, 1995, at 5821 East Superior Street; payment from self insurance fund.

Resolution 96-0287 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that ASDCO, Inc., be and hereby is awarded a contract for furnishing and delivering sewer repair materials for the sewer division in accordance with specifications on its low specification bid of \$7,374.83, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 96-0289 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hogg, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 6

Nays: None -- 0

Abstention: Councilor Hales -- 1

Absent: Councilor Keenan and President Prettnr -- 2

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Larson Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering a van and body for the sewer division in accordance with specifications on its low specification bid of \$29,644.28, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0290 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for professional design and construction engineering services with LHB Engineers and Architects in connection with the reconstruction of the surface parking lot between Fourth and Fifth Avenues West north of the Depot access road; said agreement to be substantially in the form of that certain agreement on file in the office of the city clerk as Public Document No. 96-0415-22; the \$12,653 payable thereunder to be paid from General Fund 100-700-2726-5530.

Resolution 96-0317 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-1082 to L.H.B. Engineers and Architects for study of First Street and Michigan Street between 27th Avenue West and Superior Street, be amended to increase the amount by \$11,158 for a new total of \$26,740, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5303.

Resolution 96-0318 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete an engineering design of Woodland Avenue and Snively Road for new traffic signal intersection modification; and

WHEREAS, the city desires to hire a consulting engineer to provide the project services required to accomplish this project; and

WHEREAS, LHB Engineering and Architects has submitted a proposal for design and construction 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 Engineering and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$35,507, will be payable from the Fund 411, Dept./Agency 035, Organization 2163, Object 5303.

Resolution 96-0331 was unanimously adopted.

Approved April 15, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR HOGG

96-014 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT WATER MAIN EASEMENTS TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HALES

96-013 (9296) - AN ORDINANCE PERTAINING TO PARKING REGULATIONS; AMENDING SECTIONS 33-94 AND 33-110 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 8:20 p.m.

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

- - -

ORDINANCE NO. 9296

BY COUNCILOR HALES:

AN ORDINANCE PERTAINING TO PARKING REGULATIONS; AMENDING SECTIONS 33-94 AND 33-110 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-94 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-94. Angle parking.

The city council may, by resolution, designate, establish and provide a space on any street or avenue within the city for angle parking.

In all cases where angle parking is permitted, the vehicle shall be parked with the front bumper of such vehicle adjacent to the curb and with the vehicle placed as far forward in the parking spot as possible. Each resolution providing for angle parking shall designate the angle of the parking spaces and may impose limits on the length of vehicles parking in the spaces.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 2. That Section 33-110 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-110. Hours of operation.

Parking meters shall be operated in the parking meter zones designated in Section 33-108 every day between the hours of 8:30 a.m. and 5:30 p.m., except as otherwise limited by law or modified by city council resolution, and except on Sundays and the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 26, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hogg, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 7

Nays: None -- 0

Absent: Councilor Keenan and President Prettner -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 15, 1996
Approved April 15, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, April 18, 1996, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 8

Absent: President Prettner -- 1

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

WHEREAS, on April 16, 1996, there was held in the city of Duluth, pursuant to the provisions of Section 52 of the Duluth City Charter, a special municipal election for the purpose of submitting to the voters:

Question No. 1: "Should Ordinance No. 9279 of the city of Duluth, Minnesota, rezoning property at the intersection of Trinity Road and Central Entrance be adopted?"; and

Question No. 2: "Should Ordinance No. 9280 of the city of Duluth, Minnesota, rezoning property adjacent to Miller Hill Mall be adopted?"; and

WHEREAS, the judges of the election precincts of 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. 96-0418-01) at 5:00 p.m. on April 18, 1996, and ascertained the number of ballots cast at said election and thereby declared that at said election there were cast 19,539 votes, said votes having been cast in the following manner:

That on Question No. 1 "Should Ordinance No. 9279 of the city of Duluth, Minnesota, rezoning property at the intersection of Trinity Road and Central Entrance be adopted?" there were 9,054 "yes" votes and 10,425 "no" votes; and

That on Question No. 2 "Should Ordinance No. 9280 of the city of Duluth Minnesota, rezoning property adjacent to the Miller Hill Mall be adopted?" there were 10,140 "yes" votes and 9,299 "no" votes.

NOW, THEREFORE, BE IT RESOLVED, that Question No. 1 "Should Ordinance No. 9279 of the city of Duluth, Minnesota, rezoning property at the intersection of Trinity Road and Central Entrance be adopted?" received a majority of negative responses, and is hereby declared to be disapproved by the electors voting upon such question and Ordinance No. 9279 is hereby declared to be defeated pursuant to provisions of Section 52 of the Duluth City Charter.

BE IT FURTHER RESOLVED, that Question No. 2 "Should Ordinance No. 9280 of the city of Duluth Minnesota, rezoning property adjacent to the Miller Hill Mall be adopted?" received a majority of affirmative responses and is hereby declared approved by the electors voting upon such question and Ordinance No. 9280 is hereby declared to be operative and in full force immediately, pursuant to the provisions of Section 52 of the Duluth City Charter.

Resolution 96-0367 was unanimously adopted.

Approved April 18, 1996

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 22, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0422-01 Robert A. and Karen E. Swanson petitioning to construct a permanent street on Tioga Street from Colorado to existing Tioga Street at approximately 41st Avenue East, and construct sanitary sewer, water and gas to serve Lots 1-5 of Block 1, Woodridge Division. -- Assessor

- - -

REPORTS OF OFFICERS

96-0422-02 Assessor submitting affidavit of mailing of notice of public hearing by the special assessment board on April 29, 1996, regarding 1996 street improvement program amendments. -- Clerk

96-0422-03 Assistant city attorney submitting Corps of Engineers License DACW35-3-96-3002 covering a dance rehearsal and performance on or near the Aerial Lift Bridge from August 6 to 25, 1996, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

96-0422-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from the NRA Foundation at Greysolon Plaza. -- Received

96-0422-18 Community development and housing division submitting HUD 1995 CDBG annual grantee performance reports (GPR). -- Received

96-0422-05 Water and gas department director submitting Steam District No. 2 financial statements for the years ending December 31, 1995 and 1994. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0422-06 Duluth housing trust fund board minutes of March 14, 1996 meeting. -- Received

96-0422-07 Heritage preservation commission minutes of March 13, 1996 meeting. -- Received

96-0422-08 Special assessment board minutes of: (a) April 2; (b) April 8, 1996 meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Sandi Hendrickson thanked the parks and recreation department for their work for the Duluth zoo, and invited councilors to upcoming events there.

- - -

Greg Price felt there is a need to establish an environmental review board to oversee development issues.

- - -

Regarding the special election held to consider Miller Mall zoning issues, Pat Connell, representing Friends of Miller Hill and the Chambersburg neighborhood, requested that the city ensure that Dayton's is a part of the Miller Mall expansion. She also requested that the city immediately enforce existing legal requirements regarding Miller Hill businesses, specifically citing

the snowpiles that should not be melting into Miller Creek at Kohl's, the completion of the replacement of wetlands at Stoneridge Mall, and the correction of the retention pond at Miller Mall so water does not go into Miller Creek. She felt that performance bonds should be required for all new construction and that neighbors should be involved to provide input throughout the design process.

Joel Sipress requested that the city work with the people of Duluth to bring about the kind of economic development that the people want, specifically noting the need to invest in the downtown and neighborhoods, to focus on high wage employment and to redevelop old commercial and industrial sites.

Debra Hannu noted the vote in her council district and requested that the councilor representing that district vote on this issue as her constituents have.

Joan Morrison felt the city should look seriously at the recommendations of the 2001 committee regarding economic development.

Rosie Loeffler Kemp said the council should take serious note of the significance of the vote and the fact that over 200 people felt strongly enough about this issue to volunteer their time to encourage citizens to vote.

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to be a major sponsor of the 1996 Grandma's Marathon, at a cost to the city of \$15,000, which shall be payable to Grandma's Marathon, Inc., from Fund 258, Agency 030, Org. 1431, Object 5490.

RESOLVED FURTHER, that the city is authorized to permit Grandma's Marathon, Inc., to use free of charge a stage and bleachers for finish line activities at the 1996 Grandma's Marathon.

Resolution 96-0348 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the Minnesota Deer Hunter Association, Lake Superior 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.

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 Minnesota Deer Hunter Association, Lake Superior 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 96-0353 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved April 22, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0349, by Councilor Bohlmann, confirming appointment of Barbara Tusher to citywide citizens advisory committee replacing Melanie Shepard who resigned, was introduced for discussion.

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

- - -

Resolution 96-0350, by Councilor Bohlmann, confirming reappointments of Edith Bubli and Stanley Kaitfors to Duluth SRO housing commission, was introduced for discussion.

Councilor Bohlmann requested that this resolution be tabled until she receives information from the city attorney's office that she has requested.

In response to Councilor Wheeler, City Attorney Dinan said Councilor Bohlmann is interested in reviewing the ordinance provisions having to do with appointments to the commission.

Councilor Wheeler said he supports the request for information but that he does not support holding up these reappointments.

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

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Councilor Hales felt it is appropriate for the council to address the makeup of the SRO housing commission, noting that the commission has not been filled completely over the last few years and that there are questions about whether it is a conflict to have four representatives of the HRA on the commission.

President Prettnr said that HUD requirements regarding the structure of SRO housing commission has caused vacancies. She said that SRO requirements are that there be more low income housing representatives and noted that both of these individuals represent that area.

Councilor Hardesty agreed that the issues regarding low income housing need to be addressed by the council, but did not support tabling these reappointments.

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

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 7

Nays: Councilors Bohlmann and Hogg -- 2

Resolution 96-0350 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH SRO HOUSING COMMISSION

Edith Bubli (HRA) and Stanley Kaitfors (CAP) for terms expiring March 1, 1999.

Resolution 96-0350 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

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

WOMEN'S COMMISSION

Virginia C. Bayerl for a term expiring September 17, 1998, replacing Molly Johnson who resigned.

Sharon McMurrough for a term expiring September 17, 1998, replacing Cynthia Earth Wind. Resolution 96-0351 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0369, by Councilor Bohlmann, appointing George Parker to the Duluth community action program board replacing Dale Sisson, was introduced for discussion.

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

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BY PRESIDENT PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the northeastern Minnesota initiative fund; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of AScl Corporation; and

WHEREAS, it 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 AScl Corporation.

Resolution 96-0342 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for professional services with Maxfield Research Group covering a market study of demand potential of single family lots, etc., in Duluth and surrounding communities and the redevelopment potential for housing in the Fairmont neighborhood; said agreement to be substantially in the form of Public Document No. 96-0422-09 on file with the city clerk; not to exceed amount of \$6,900 payable thereunder to be paid from the special assessment fund.

Resolution 96-0343 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Farrell Street between Natchez and Lavaque Streets legally described as:

All that portion of Farrell Street (originally platted as Water Street) contained within Hunters Grassy Point Addition, re-arrangement of Block 24, lying between Lavaque Street and Natchez Street; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 9, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Farrell Street between Natchez and Lavaque Streets located east of and parallel to South 63rd Avenue West, described above, and as more particularly described on Public Document No. 96-0422-10.

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 Farrell Street to be vacation.

Resolution 96-0345 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Park Place between Eighth and Ninth Avenues West, legally described as:

That portion of Park Place in the plat of Myer's Park Division, on file and of record in the office of the county recorder for St. Louis County, Minnesota, lying southwesterly of the northeasterly line of Lot 1, Block 2, Myer's Park Division, and as the same is extended to the southeast, and northeasterly of a line connecting the south corner of Lot 8, Block 2, Myer's Park Division, to a point on the northwesterly line of Lot 8, Block 1, Myer's Park Division, 25 feet southwesterly of the northeasterly corner of said Lot 8, Block 1; 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 9, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Park Place between Eighth and Ninth Avenues West, as described above, and as more particularly described on Public Document No. 96-0422-11.

BE IT FURTHER RESOLVED, that the city council retain the vacated portion of the street as utility easement.

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 Park Place to be vacated and the portion retained as utility easement.

Resolution 96-0346 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0365, by President Prettner, supporting the request by Warren and Sue Monson,

owners of the Mansion Bed and Breakfast, for variances from the state of Minnesota, was introduced for discussion.

Councilor Hardesty noted that a committee meeting was held on this issue, and the planning committee recommends approval of this resolution.

President Prettner said that this resolution if approved would be a recommendation to the state fire marshall for special consideration for these variances.

Councilor Talarico said that he is in favor of this resolution but only because it is a historical preservation issue, and the only way to create preservation and not disturb the historical nature would be to allow the variances. He said he would not approve this type of variance in other situations.

Resolution 96-0365 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the Duluth heritage preservation commission has recognized The Mansion (Harry C. and Marjorie Congdon Dudley residence) as an architecturally and historically significant property and recommended that The Mansion be designated a Duluth heritage preservation landmark by the city council; and

WHEREAS, the Duluth heritage preservation commission formally requested on April 10, 1996, the city council to support the Monson's request for variances from strict compliance with the current state fire code requirements for hotels in order to minimize negative impacts of this fully restored historic property; and

WHEREAS, the Duluth building appeal board voted unanimously on April 10, 1996, to support the Monson's request for variances from the state fire code; and

WHEREAS, the bed and breakfast operation run in this historic residential property has complied with all local regulations and requirements for the past 14 years; and

WHEREAS, the bed and breakfast use of this building is more akin to residential use with weekend guests than it is to a commercial hotel; and

WHEREAS, The Mansion serves as an important cultural tourism attraction for the city of Duluth;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth to fully support the Monson's request for variances from strict compliance with the current state fire code for hotels.

Resolution 96-0365 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Deans Trucking, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 430 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 \$7,925.89, terms net 30, FOB destination, \$3,225.65 payable out of Special League Fund 790, Dept./Agency 400, Object 5229; \$1,843.23 payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225 and \$2,857.01 payable out of General Fund 100, Dept./Agency 400, Organization 1812, Object 5229.

Resolution 96-0288 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR KEENAN:

RESOLVED, that the council of the city of Duluth, on its behalf and on behalf of all citizens of the city, gratefully acknowledges and accepts the following gifts from the following individuals: Barb and Steve Hauck, \$2,000; Ruth Shipley, \$2,500; Ellen Bertrum, \$25, which amounts shall be used for the preservation and betterment of Duluth's public gardens, and which shall be deposited in the Special Projects Fund 210-030-2105-4690.

Resolution 96-0347 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, filed as Public Document No. 96-0422-12 with the city clerk, with Jerry Hoover for the operation of a popcorn wagon at the Canal Park parking lot for the consideration of ten percent of gross receipts and reimbursement for electricity used in the operation. All proceeds are to be deposited in General Fund 100, Agency 400-1812-4623.

Resolution 96-0362 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0368, by Councilor Keenan, employing Steve Bubul to provide legal services to the city council, was introduced for discussion.

Councilor Keenan said the city attorney feels it is appropriate for the council to get outside attorney's help to evaluate statutes related to the HRA and feels it is needed to resolve the issues with the HRA.

President Prettnr stated concern regarding framing the question. She asked whether this would be specifically to determine whether the HRA has complied with statutory approval requirements.

Administrative Assistant Nollenberger said that he would work to frame the question so that the minimum amount of time can be spent on this issue. He felt the question can be answered with an expenditure of under \$1000.

City Attorney Dinan said the cost estimate is high because of the uncertainty regarding the work to be done.

Councilor Talarico moved to amend the resolution in the last paragraph to change the word "is" to the words "shall not exceed," which motion was seconded and unanimously carried.

Resolution 96-0368, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 26 of the Duluth City Charter, the city council hereby employs Steve Bubul of the law firm of Kennedy & Graven to provide legal services to the council in connection with the interpretation of statutory provisions applicable to the Duluth housing and redevelopment authority relating to city council approval of low income rental housing projects.

RESOLVED FURTHER, that the council hereby designates President Prettnr as its representative in communicating with Mr. Bubul regarding this matter.

RESOLVED FURTHER, that the estimated cost of such legal services shall not exceed \$3,000, which shall be payable from the General Fund 010-1101-5319.

Resolution 96-0368, as amended, was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Woodland Hills to operate the neighborhood youth service program through community resource program funds at a cost not to exceed \$25,000. Contract dates will run from January 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0422-13.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund 275, Budget Item 6004, Object C049.

Resolution 96-0336 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Women's Transitional Housing Coalition, Inc., to operate the women's and children's program through community resource program funds at a cost not to exceed \$20,000. Contract dates will run from January 1, 1996, through December 31, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0422-14.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund 275, Item 6004, Object C048.

Resolution 96-0337 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with Lutheran Social Services/Bethany Crisis Shelter to operate the truancy action project through community resource program funds at a cost not to exceed \$15,000. Contract dates will run from January 1, 1996, through August 31, 1996. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0422-15.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund No. 275, Budget Item 6004, Object C046.

Resolution 96-0338 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Westburne Supply be and hereby is awarded a contract for furnishing and delivering steel pipe and miscellaneous fittings of various sizes for the water and gas department in accordance with specifications on its low specification bid of \$13,191.82, terms 1-1/4% 10, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0321 was unanimously adopted.

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0334, by Councilor Talarico, authorizing the execution of an amendment to an agreement for services with the housing and redevelopment authority covering right-of-way acquisition (Kenwood Avenue and Arrowhead; Woodland and 21st; Joshua Avenue) was introduced for discussion.

Councilor Talarico said reimbursement is only for the part actually used in right-of-way, and that if more property is taken it must be paid from city funds.

In response to Councilor Hogg, Mr. Nollenberger said the city does not have an acquisition expert, so that city has contracted with the HRA for several years for this type of work because they have expertise in the uniform relocation act relating to relocation assistance.

Councilor Hogg questioned whether the city should negotiate for lower fees in the future for this type of work.

Resolution 96-0334 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an amendment to Agreement No. 17467 with the Housing and Redevelopment Authority, said amendment covering acquisition and relocation services in connection with City Job No. 8893TR94 (Woodland Avenue and 21st Avenue East intersection) and City Job No. 8746RS92 (Joshua Avenue immediately north of Highway 194), and reflecting revised acquisition and relocation figures for City Job No. 8689MA92 (Kenwood and Arrowhead intersection, etc.); the revised contract amount of an estimated \$447,000 to be paid from the P.I. fund, to be substantially reimbursed by the municipal state aid fund and the county state aid fund; said amendment to be substantially in the form of that certain agreement on file in the office of the city clerk as Public Document No. 96-0422-16.

Resolution 96-0334 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: Councilor Bohlmann -- 1

Approved April 22, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT PRETTNER

96-015 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PORTIONS OF LOTS 2 & 3, BLOCK 3, CENTRAL ACRES 2ND SUBDIVISION FROM R-2, TWO FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (LARSON).

- - -

BY PRESIDENT PRETTNER

96-017 - AN ORDINANCE DESIGNATING THE HARRY C. AND MARJORIE CONGDON DUDLEY RESIDENCE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

BY COUNCILOR KEENAN

96-018 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF N $\frac{1}{2}$ OF NE $\frac{1}{4}$ AND SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ SECTION 6-50-14 TO STATE OF MINNESOTA, DEPARTMENT OF MILITARY AFFAIRS.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HOGG

96-014 (9297) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT WATER MAIN EASEMENTS TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

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

- - -

The meeting was adjourned at 8:45 p.m.

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

- - -

ORDINANCE NO. 9297

BY COUNCILOR HOGG:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CONSTRUCTION AND PERMANENT WATER MAIN EASEMENTS TO THE WESTERN LAKE SUPERIOR SANITARY DISTRICT.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby sells its right, title and interest in and to construction and permanent easements for water line purposes to the Western Lake Superior Sanitary District, in the form of Public Document No. 96-0422-17, over the following described property:

land in St. Louis County, Minnesota:

southeast quarter of northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), Section six (6), Township fifty (50) north, Range fifteen (15) west, except all that part of the southeast quarter of northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$) lying southwesterly of the following described line:

beginning at a point on the south line of said southeast quarter of northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), west 608.8 feet from the southeast corner thereof; thence north 43°24'34" west, 35.30 feet; thence north 59°48'00" west, 798.59 feet to a point on the west line of said southeast quarter of northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$), north 00°05'00" west, 427.36 feet from the southwest corner thereof; also a strip of land 33 feet wide extending from the west line of said southeast quarter of northwest quarter (SE $\frac{1}{4}$ of NW $\frac{1}{4}$) to the south line thereof and lying 33 feet on the northeasterly side of the above-described line.

Section 2. That the city of Duluth hereby approves, pursuant to Laws 1969, Chapter 577, Section 5, Subd. 2(e), the sale by the Duluth airport authority, of its right, title and interest in and to construction and permanent easements for water line purposes to the Western Lake Superior Sanitary District, in the form of Public Document No. 96-0422-17, over the following described property:

land in St. Louis County, Minnesota:

north 1/2 of northeast quarter (N $\frac{1}{2}$ of NE $\frac{1}{4}$), Section six (6), Township fifty (50) north, Range fifteen (15) west.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 2, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 9

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 22, 1996
Approved April 22, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 29, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on August 14 and 28, 1995, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0429-01 Judie Cich petitioning to reclassify from S to M-2, Duluth lands in the city S/L 05 T/B 050 RG 14 ACR 79.91 N ½ of NW ¼ EX Hwy easement. -- Assessor

96-0429-02 City of Duluth, et al. (three signatures) petitioning to reclassify from R-2 to C-5 the south 50 feet of the north ½ of Lot 9, Block 5, Central Acres, Second Division. -- Assessor

96-0429-12 Central Hillside Community Club submitting letter supporting the proposed appointment of Stephen Shephard to the citywide citizens advisory committee (96-0388R). -- Received

96-0429-03 St. Louis County Heritage and Arts Center submitting an application for rental during which alcoholic beverages will be served on May 10, 1996, from Royal Bicycle Club of Bombay. -- Received

96-0429-13 The following submitting letters supporting the proposed reversal of the board of zoning appeals' denial to relax setbacks for the construction of an attached garage with living space above it (96-0398R): (a) Curtis Gunderson; (b) Rosemary Stratioti, et al. (17 signatures); (c) John Thompson. -- Received

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REPORTS OF OFFICERS

96-0429-04 Assessor submitting letter of sufficiency regarding construction of a permanent street on Tioga Street from Colorado Street to existing Tioga Street and construction of a sanitary sewer to serve Lots 1-5 of Block 1, Woodridge Division. -- Received

96-0429-05 Purchasing agent submitting emergency purchase order awarded to Mielke Electric Works for repair of three 40 H.P. electric motors located at the sewer division Lift Station No. 6. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0429-06 Alcoholic beverage board minutes of: (a) February 21; (b) March 20, 1996, meetings. -- Received

96-0429-07 Board of directors of trusts for Miller-Dwan Hospital and Medical Center: (a) Minutes of March 21, 1996, meeting; (b) 1995 management letter; (c) 1995 financial report. -- Received

96-0429-08 Board of zoning appeals minutes of March 26, 1996, meeting. -- Received

96-0429-09 Duluth airport authority minutes of: (a) March 5; (b) April 4, 1996, meetings; (c) Unaudited balance sheet for December 1995; (d) Unaudited balance sheet for January 1996. -- Received

96-0429-10 Planning commission minutes of: (a) February 12; (b) March 12, 1996, meetings. -- Received

96-0429-11 Special assessment board minutes of April 15, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeff Monaghan, representing Tapestries of Life Committee, thanked the council for its endorsement of Aids Memorial Quilt Names Project.

- - -

RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 96-0349, confirming appointment of Barbara Tusher to citywide citizens advisory committee replacing Melanie Shepard who resigned, which motion was seconded and unanimously carried.

Resolution 96-0349 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Barbara Tusher (at large) for a term expiring March 1, 1998, replacing Melanie Shepard who resigned.

Resolution 96-0349 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove from the table Resolution 96-0369, appointing George Parker to the Duluth community action program board replacing Dale Sisson, which motion was seconded and unanimously carried.

Resolution 96-0369 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby appoints the following person to the Duluth community action program board:

George E. Parker for a term expiring January 1, 1999, replacing Dale Sisson.

Resolution 96-0369 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with David M. Griffith & Associates, Ltd., to produce an appropriate cost allocation plan for city services that are provided to the public, the various departments of the city, the authorities and the various enterprise and other funds of the city, at a cost to the city of not to exceed \$10,000, which shall be payable from the General Fund 030-1324-5319.

Resolution 96-0361 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city has permitted certain vendors to set up carts on city property in the Canal

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 1996 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.

RESOLVED FURTHER, that such donation shall be paid from the General Fund 015-1514-2070 - aid to other agencies.

Resolution 96-0375 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, pursuant to Minnesota Statutes, Section 469.152 and 469.165, as amended (the "act"), the Seaway Port authority of Duluth (the "authority"), is authorized to issue refunding bonds for the purpose of providing financing (including refinancing) for the acquisition, construction and installation of projects consisting of real and personal properties used or useful in connection with a revenue producing enterprise engaged in any business; and

WHEREAS, on August 5, 1980, the authority issued its \$4,500,000 Industrial Development Dock and Wharf Revenue Bonds, Series E (Cargill, Incorporated) (the "prior bonds"), to provide financing for the construction of dock and wharf warehousing facilities and necessary complementary equipment for commodities handling, including a grain storage and handling facility and truck distribution conveyors, which project is owned by Cargill, Incorporated, a corporation duly constituted and existing under the laws of the state of Delaware (the "company"); and

WHEREAS, the company has requested that the authority issue its \$4,500,000 Industrial Development Dock and Wharf Revenue Refunding Bonds (Cargill, Incorporated project) Series 1996 E (the "bonds") for the purpose of refinancing the project by refunding the prior bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended, (the "code") requires that all industrial revenue bonds issued after July 31, 1982, satisfy certain public approval requirements prior to issuance; and

WHEREAS, the authority conducted a public hearing with respect to the issuance of its bonds to refund the prior bonds and refinance the project; and

WHEREAS, the authority conducted said public hearing as the issuer of the bonds ("issuer") and as the hearing agent for the city of Duluth (which is approving the bonds as "applicable elected representative" as the term is defined in the regulations promulgated under Section 147(f) of the Code); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, bond counsel has advised the city of Duluth that to ensure compliance with the public hearing requirements imposed by Section 147(f) of the code, the city of Duluth should, prior to the issuance of the bonds:

- (a) Ratify the authority as its hearing agent for the public hearing held on April 25, 1996, with respect to the project and the bonds to be issued by the authority; and
- (b) Approve the project and the issuance by the authority of the bonds.

NOW, THEREFORE, BE IT RESOLVED:

(a) That the authority is hereby ratified as the hearing agent of the city with respect to the public hearing that was conducted by the authority on April 25, 1996, with respect to the project and the bonds, and said public hearing is hereby ratified and shall be deemed to have been taken for the city of the purposes of conducting a public hearing required under Section 147(f) of the code;

(b) Issuance of the bonds (which shall bear interest at a lower rate per annum than the prior bonds) by the authority in accordance with the provisions of the resolution of the authority giving approval to the issuance of \$4,500,000 Industrial Development Dock and Wharf Revenue Refunding Bonds (Cargill, Incorporated project) Series 1996E, of the Seaway Port authority of Duluth, Minnesota, to refinance a project of Cargill, Incorporated, which was adopted by the authority on April 25, 1996, is hereby approved by the city for purposes of satisfying the public approval requirements of Section 147(f) of the code and regulations thereunder;

(c) The basis for this resolution and the legal basis upon which the bonds will be issued is that the bonds and the interest thereon are limited revenue obligations of the issuer and shall never constitute an indebtedness of the city, within the meaning of any state constitutional provision or statutory limitation, and shall not give rise to pecuniary liability of the city or a charge against its general credit, taxing powers or assets.

Resolution 96-0376 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that W.M.S. Aquatic Specialists be and hereby is awarded a contract for furnishing and delivering swimming pool equipment for the Washington Center in accordance with specifications on its low specification bid of \$9,897.90, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C412.

Resolution 96-0355 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that United Rotary Brush Corporation be and hereby is awarded a contract for furnishing and delivering approximately 25 tube sweeper brooms and 150 sets of gutter brooms for the fleet services division in accordance with specifications on its low specification bid of \$12,520.14, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0382 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

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 and any specific restrictions:

College of St. Scholastica, 1200 Kenwood Avenue, for May 1 & 3, 1996, with Melanie Rotz, manager.

Resolution 96-0383 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1996, and ending April 30, 1997, subject to departmental approvals and the payment of sales and property taxes:

Steve Dornfeld, Inc. (Enger Park Golf Course), 1801 West Skyline Parkway, with Steve and Alyssa Dornfeld, 100 percent stockholder.

Resolution 96-0384 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1996, and ending April 30, 1997, subject to departmental approvals and the payment of sales and property taxes:

J. William Winfield (Lester Park Golf Course), 1860 Lester River Road.

Resolution 96-0385 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1996, and ending April 30, 1997, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 96-0429-14.

Resolution 96-0386 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1996, and ending April 30, 1997, subject to departmental approvals, and the payment of sales and property taxes, as listed in Public Document No. 96-0429-15.

Resolution 96-0387 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the civil service classification of engineering apprentice, which were approved by the civil service board on February 6, 1996, and which are filed with the city clerk as Public Document No. 96-0429-16, are approved. This classification remains represented by the basic unit and compensated at range 23, \$1,966 to \$2,321 per month.

Resolution 96-0366 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH HOUSING TRUST FUND BOARD

David A. Grandaw (labor) for a term expiring September 30, 1998, replacing Kathy Stevens who resigned.

Resolution 96-0371 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0388, by Councilor Bohlmann, confirming appointment and reappointment of Stephen Shepherd to citywide citizen advisory committee and neighborhood advisory council replacing Teresa Simiyu, was introduced for discussion.

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

Vicky Ybanez, on behalf of the American Indian Community Housing Organization, stated concern about this appointment. She felt Mr. Shepherd is biased, saying that he has publicly expressed his attitudes about low income people in transitional housing programs and people of color in the community.

Tony Sheehy, Duluth Tenants Union/MN Clients Council, expressed concern about this appointment. She reported a recent altercation that she had with Mr. Shepherd where she said he threatened that her program will no longer receive CDBG funding. She said she is concerned about how his representation of issues in the Central Hillside will affect the Indian community and felt that nonprofit agencies such as hers could be excluded because of his personal biases.

Carman Johnson reported on the altercation between Ms. Sheehy and Mr. Shepherd and said he feels Mr. Shepherd is not an appropriate person to appoint to this commission.

In response to Councilor Bohlmann, President Prettner noted that Mr. Shepherd was approached prior to the council meeting to request that this resolution be tabled this evening and that Mr. Shepherd wishes were that the speakers be heard on this issue at this meeting.

George Parker supported the appointment of Mr. Shepherd, noting that the neighborhood voted for this representative to these committees.

Tom Sheehy spoke of his outrage regarding the altercation between Mr. Shepherd and Tony Sheehy related earlier by Ms. Sheehy and Mr. Johnson.

Mike Farrell stated concern about this appointment, saying that he has heard Mr. Shepherd make negative comments about Native American housing, transitional housing and nonprofits in general. He felt this individual is not appropriate to decide the fate of funding for certain programs.

Darrell Olson supported the appointment of Mr. Shepherd.

Zoe LeBeau noted that Mr. Shepherd was not elected by unanimous vote at the neighborhood coalition meeting and that the community was not well represented at the meeting.

Michelle LeBeau, representing Women's Transitional Housing Coalition, voiced concern about this appointment. She felt Mr. Shepherd's prejudice towards her program and other nonprofit organizations will jeopardize their funding.

Steve Shepherd spoke in support of his appointment and recited his volunteer experience in the community.

In response to Councilor Keenan, Mr. Shepherd denied allegations of previous speakers regarding the altercation between himself and Ms. Sheehy.

In response to President Prettner, Mr. Shepherd said that he made a statement to Ms. Sheehy that he is aware that the MN Clients Council is giving money to the Center for Community Empowerment headed by Kwiesi Jahi and that he has stated publicly that he does not feel that city money should be going to that organization.

In response to Councilor Hardesty, he said he wrote a letter to the MN Council of Churches for the purpose of requesting that member organizations meet with the Central Hillside community.

Councilor Wheeler stated concern about how Mr. Shepherd's confrontational style will fit in with building consensus and caring for the needs of the entire community.

In response to Councilor Talarico, Mr. Shepherd said he did not make racist remarks about Native American people and did not make a comment that he has council support to stop funding for certain housing organizations as was alleged by earlier speakers.

Deborah Kunnari said Mr. Shepherd's behavior poses a safety concern.

Councilor Bohlmann recommended the resolution for approval.

Councilor Hardesty said she cannot support the resolution because she feels the concerns brought forward are legitimate concerns and that it is not in the best interest of the CCAC to approve this appointment.

Councilor Wheeler said he will not support the resolution because he does not feel this appointment would enhance the effectiveness of the CDBG process.

Councilor Hales supported the appointment of Mr. Shepherd, noting that he has been a dedicated volunteer and has the support of the Central Hillside Community Club. She questioned the propriety of the procedure at this council meeting, and said this issue has divided the community.

Councilor Hogg said the neighborhood supports this appointment and that it was a fair election by the neighborhood coalition. He said that councilors should not allow a public character assassination to sway them to oppose the wishes of the neighborhood.

Councilor Hardesty said she may support Mr. Shepherd for the neighborhood advisory council but not the citywide committee. She suggested dividing the question to vote on the two committees separately.

Councilor Hales said there is not a prerequisite that you must be willing to support large nonprofits in order to serve on the CCAC. She said the essence of CDBG is grass roots representation.

Councilor Keenan said that he does not have information that would cause him to not support the appointment.

Councilor Wheeler said that prior to the meeting he requested that this resolution be tabled because he feared that this type of controversy may occur, but that Mr. Shepherd requested that the resolution be voted on tonight. He moved to call the question, which motion was seconded and carried upon a unanimous vote.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0388 failed upon the following vote (Public Document No. 96-0429-20):

Yeas: Councilors Bohlmann, Hales, Hogg and Keenan -- 4

Nays: Councilors Hardesty, Rapaich, Talarico, Wheeler and President Prettner -- 5

- - -

At this time, 8:50 p.m., President Prettner called the public hearing regarding the 1996 street improvement program to order (Public Document No. 96-0429-21).

- - -

At this time, 9:00 p.m., President Prettner declared the hearing closed and the regular order of business was resumed.

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Darrell Lee Olson (C. Hillside Rep.) for a term expiring June 1, 1996, replacing Teresa Simiyu who resigned.

BE IT FURTHER RESOLVED, that the following reappointment by Mayor Doty be and the same is hereby confirmed:

NEIGHBORHOOD ADVISORY COUNCIL

Darrell Lee Olson (C. Hillside Rep.) for a term expiring March 1, 1998.

Resolution 96-0393 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0395, affirming, and 96-0396, reversing, the decision of the board of zoning appeals to deny a request to relax the side yard corner lot setback from 20 feet to ten feet for construction of a 28 foot by 32 foot detached garage at property located at 4802 Oakley Street (William Niemi), by President Prettner, were introduced for discussion.

Councilor Keenan voiced support for Resolution 96-0396, saying he believes Mr. Niemi has the right to replace his garage and improve his property.

Councilor Hardesty also supported reversing the BZA in this instance, saying it is very unlikely the street will be improved.

President Prettner supported the BZA decision, noting that the applicant has other options.

Resolution 96-0396 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, William Niemi 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 20 feet to ten feet for construction of a 28 foot x 32 foot detached garage at property located at 4802 Oakley 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 28 foot x 32 foot detached garage ten feet from the side yard corner lot property line 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 February 27, 1996, is hereby reversed by the city council and the appeal is granted.

Resolution 96-0396 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich and Talarico -- 7

Nays: Councilor Wheeler and President Prettner -- 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0397, affirming, and Resolution 96-3098, reversing, the decision of the board of zoning appeals to deny a request to relax the side yard corner lot setback for dwellings and attached garages from 15 feet to six feet for construction of a 24 foot by 26 foot attached garage at basement level with living space above it at ground level at property located at 4427 West Seventh Street (Marvin Carlson), were introduced for discussion.

Councilors Keenan and Hardesty supported Resolution 96-0398 because they felt the hardship provision applies in this case.

President Prettner said she will support Resolution 96-0398 because it is unlikely that the street will ever be developed.

Resolution 96-0398 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, Marvin Carlson 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 for dwellings and attached garages from 15 feet to six feet for construction of a 24 foot x 26 foot attached garage at basement level with living space above it at ground level on property located at 4427 West Seventh 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 24 foot x 26 foot attached garage and living space addition six feet from a side yard corner lot property line 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 February 27, 1996, is hereby reversed by the city council and the appeal is granted.

Resolution 96-0398 was unanimously adopted.

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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 \$31,209.93, terms net 30, FOB destination, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0381 was unanimously adopted.

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, proper city officials are hereby authorized to amend city Contract #17422 to accept an additional \$157,365 in funds from the Minnesota department of economic security to continue operation of the Minnesota Youth Program for the period July 1, 1995, through June 30, 1997. This amendment brings total funding amount to \$410,468. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 96-0429-17.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

in Fund #268, Budget Item #6246.

Resolution 96-0372 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering various mechanical joint valves for the water and gas department in accordance with specifications on its low specification bid of \$33,950.62, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0354 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that North Country Equipment Company be and hereby is awarded a contract for rental of a John Deere excavator for the water and gas department in accordance with specifications on its low specification bid of \$5,964, terms net 30, FOB job site, \$5,264 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5415 and \$700 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5415.

Resolution 96-0356 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that an eight inch ductile iron water main be constructed in Rice Lake Road, from 2,634 feet north of Willow Street to approximately 210 feet northerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said water 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 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 96-0370 was unanimously adopted.

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 95-1057 the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Ethel Avenue from Springvale Road to 260 feet northerly (City Job No. 8937SA95); 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; 100 percent of the benefiting property owners have waived the right to a public hearing and a 60 day waiting period; 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 \$34,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5286, 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, which report is on file in the office of the city clerk as Public Document No. 96-0408-08(b)(1), which description is hereby incorporated herein by reference to said Public Document No. 96-0408-08(b)(1); that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; and 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 96-0268 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved April 29, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that North Country Equipment Company, Inc., be and hereby is awarded a contract for rental of a loader for the street maintenance division in accordance with specifications on its low specification bid of \$9,600, terms net 30, FOB pick up, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 96-0300 was unanimously adopted.

Approved April 29, 1996

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 1,975 gallons of yellow traffic marking paint and 1,905 gallons of white traffic marking paint for the traffic operations division in accordance with specifications on its low specification bid of \$22,505.96 terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 96-0326 was unanimously adopted.

Approved April 29, 1996

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 \$6,226.42, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 96-0327 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that North Country Equipment Company be and hereby is awarded a contract for rental of a motor grader for the 1996 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$12,780, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 96-0357 was unanimously adopted.

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0918 to Arrowhead Tree Service for furnishing trees, be amended to increase the amount by \$4,255.74 for a new total of \$11,848.82, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 96-0363 was unanimously adopted.

Approved April 29, 1996
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 \$9,500, from P.I. Fund 411, for providing certain engineering services to the city of Duluth in connection with 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. 96-0429-18.

Resolution 96-0377 was unanimously adopted.

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors of Duluth be and hereby is awarded a contract for the 1996 street improvement project for Parkville area for the engineering division in accordance with specifications on its low specification bid of \$322,817.56, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9602, Object 5530.

Resolution 96-0380 was unanimously adopted.

Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0373, by Councilor Hales, to rescind handicapped parking zones at various locations, was introduced for discussion.

Councilor Hales moved to table the resolution for further information, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HALES:

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: 1201 Lake Avenue, 2424 West Seventh Street, 5224 Wyoming Street, 5919 Bristol Street (Abundant Life Tabernacle).

Resolution 96-0374 was unanimously adopted.
Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY PRESIDENT PRETTNER

96-015 (9298) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PORTIONS OF LOTS 2 & 3, BLOCK 3, CENTRAL ACRES 2ND SUBDIVISION FROM R-2, TWO FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (LARSON).

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

- - -

BY PRESIDENT PRETTNER

96-017 (9299) - AN ORDINANCE DESIGNATING THE HARRY C. AND MARJORIE CONGDON DUDLEY RESIDENCE AS A DULUTH HERITAGE PRESERVATION LANDMARK.

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

- - -

BY COUNCILOR KEENAN

96-018 (9300) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF N½ of NE¼ AND SE¼ OF NW¼ SECTION 6-50-14 TO STATE OF MINNESOTA, DEPARTMENT OF MILITARY AFFAIRS.

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

- - -

The meeting was adjourned at 9:30 p.m.

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

- - -

ORDINANCE NO. 9298

BY PRESIDENT PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PORTIONS OF LOTS 2 & 3, BLOCK 3, CENTRAL ACRES SECOND SUBDIVISION FROM R-2, TWO FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (LARSON).

The city of Duluth does ordain:

Section 1. That Plate No. 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:

[map]
[refer to page 213]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 9, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 29, 1996
Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9299

BY PRESIDENT PRETTNER:

AN ORDINANCE DESIGNATING THE HARRY C. AND MARJORIE CONGDON
DUDLEY RESIDENCE 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 Harry C. and Marjorie Congdon Dudley residence (aka The Mansion Bed and Breakfast) as a Duluth heritage preservation landmark; said landmark is described in Public Document No. 96-0429-19 on file with the city clerk and is described as follows:

The exterior, grounds and certain interior portions of the residential/bed and breakfast property located on Lots 1 & 2, Block 50, and Lots 8 & 9, Block 51, Rearranged Part East Duluth & First Addition to East Duluth; address: 3600 London Road.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 9, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 29, 1996
Approved April 29, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9300

BY COUNCILOR KEENAN:

ORDINANCE AUTHORIZING THE CONVEYANCE OF N $\frac{1}{2}$ OF NE $\frac{1}{4}$ AND SE $\frac{1}{4}$ OF
NW $\frac{1}{4}$ SECTION 6-50-14 TO STATE OF MINNESOTA, DEPARTMENT OF
MILITARY AFFAIRS.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 1. That the city of Duluth hereby sells its right, title and interest, and pursuant to Laws 1969, Chapter 577, Section 5, Subd. 2(e), hereby approves the sale by the Duluth airport authority, of its right, title and interest in and to the following described property to the state of Minnesota, department of military affairs:

The north 1/2 of the northeast quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 6, Township 50, Range 14 West, subject to easements of record, for military aviation purposes, for \$40,743.46, to be deposited in Duluth Airport Authority Fund 590;

The southeast quarter of the northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 6, Township 50, Range 14 West, subject to easements of record, for \$21,175.08, to be deposited in the Duluth Airport Authority Fund 590.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 9, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 29, 1996
Approved April 29, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 6, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0506-06 William M. Burns submitting letter supporting the Women's Transitional Housing Coalition, Inc. (96-0394R). -- Received

96-0506-07 The following submitting letters supporting a public apology to Mr. Steve Shepherd (96-0423R): (a) Corinne Brown; (b) East Hillside/Endion Neighborhood Coalition; (c) Lincoln Park Neighborhood Coalition; (d) Ronald and Lorraine Johnson; (e) George Parker (supported by 21 signatures); (f) Roy St. George; (g) Kay Slack. -- Received

- - -

REPORTS OF OFFICERS

96-0506-01 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the Duluth City Council on May 13, 1996, at 8:00 p.m. regarding the proposed 1997 street improvement program;

(b) Letter resubmitted for confirmation of the assessment rolls levied to defray the assessable portion of the 1995 street program (Lester Park, Contract No. 7002 (assessable portion - \$246,920.40); Duluth Heights, Contract No. 7004 (assessable portion - \$187,704.90); Denfeld, Contract No. 7006 (assessable portion - \$128,950.20)). -- Clerk

(c) Letters of sufficiency regarding petitions to reclassify from:

(1) R-2 to C-5 the south 50 feet of the north ½ of Lot 9, Block 5, Central Acres, Second Division;

(2) S to M-2 Section 5, Township 50, Range 14, the north ½ of northwest ¼ ex highway easement. -- Received

96-0506-02 Assistant city attorney submitting lease agreement with the regional rail authority covering a portion of Municipal Lot D, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

95-0506-03 Citywide citizens advisory committee draft minutes of April 23, 1996 meeting. -- Received

96-0506-04 Housing and redevelopment authority of Duluth minutes of February 28, 1996 meeting. -- Received

96-0506-05 Technical design advisory committee for DWMX-D minutes of March 19, 1996 meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Betty Stucke stated that she was not at the previous meeting when Steven Shepherd's appointment was discussed, especially regarding the incident at the Damiano Center that she was a witness to. Ms. Stucke felt very disappointed about the incident and noted that the people in the Central Hillside voted for Mr. Shepherd to represent them and that she felt the two individuals who have problems with him could work out their differences.

Patty Martin, president of the Central Hillside Community Club, said she was appalled when she heard that the individual selected by the community and recommended by the mayor was not supported by the council. Ms. Martin stated that the apology in the resolution should instead be specific to the appointment of Mr. Shepherd and that the Central Hillside coalition will meet again to reaffirm their previous selection.

George Parker, Sr., expressed his belief in the process of the Central Hillside coalition and that the city council denied this neighborhood representation on the CCAC. He submitted a petition (Public Document No. 96-0506-07(e)) in support of Mr. Shepherd's appointment.

Gary Eckenberg, vice president of the CCAC, reviewed his letter (Public Document No. 96-0506-07(c)). He reviewed how important the CCAC process is in appropriating limited dollars and the importance of each neighborhood being represented. Mr. Eckenberg felt that a prior year's success of this neighborhood securing funds over another neighborhood has created this controversy.

Heather Odden urged each councilor to make his or her decision on the appointment of Mr. Shepherd based on logic and facts, not on hearsay and personal biases. She felt that an apology is necessary and that Mr. Shepherd should be appointed.

Roy St. George voiced his concern of how a few individuals at a prior council meeting were allowed to ostracize Mr. Shepherd and that the remarks and demands of a few should not overrule the vote of the community club.

Charles Montgomery noted that others and himself voted to be represented by Mr. Shepherd and he felt the claims by those that oppose him are a smoke screen to take away the focus on what the issues are with the CDBG funds and the process.

- - -

RESOLUTION FOR CONSIDERATION

Councilor Hogg moved to consider at this time Resolution 96-0423, of public apology to Mr. Steve Shepherd and all members who serve this city in any capacity, which motion was seconded and carried upon a unanimous vote.

Councilor Hogg noted that this resolution addresses only the council's intention to apologize for what happened and not the appointment of Mr. Shepherd to the CCAC.

Councilor Hales felt that the resolution does not go far enough in showing the Central Hillside community that the council will appoint Mr. Shepherd.

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

Mike Farrell felt that the councilors who voted against Mr. Shepherd acted in the best interest of the city of Duluth.

Maureen Booth read a poem that was intended as an amends to the community of color.

Peter Nickitas expressed his view that when Mr. Shepherd accepted the nomination he put himself open for public review and that the public has the absolute right to examine him. He felt that an apology is not necessary.

Maxine Taylor felt that all the citizens who spoke at the previous meeting deserve to receive an apology also. She felt that Mr. Shepherd should apologize for his comments about others and to the councilors, and that it would be a mistake to reconsider last week's vote on his appointment.

Patty Martin felt that only five councilors need to make an apology but that the real way to make the neighborhood feel better is to appoint Mr. Shepherd.

Councilor Bohlmann felt that without following up this apology with sincere actions that the apology doesn't mean anything. She questioned how the council can restore all that individuals "took away" from Mr. Shepherd, and because of that she felt that she might not be able to

support the resolution.

Councilor Keenan felt that the apology and the appointment are two separate issues and that each one should be discussed and decided on its own merits.

Councilor Hardesty felt this resolution shows that the council will try to utilize respect when dealing with individuals and would expect that from the public when they speak to the council.

Resolution 96-0423 was adopted as follows:

BY COUNCILORS HOGG, HALES AND TALARICO:

WHEREAS, hundreds of civic-minded Duluthians serve as volunteer members of city boards, commissions, committees and task forces; and

WHEREAS, the city of Duluth benefits greatly from the efforts and dedication of these many citizen volunteers; and

WHEREAS, the Duluth City Council and citizens of Duluth value and respect the willingness of such citizens to serve our community; and

WHEREAS, on April 29, 1996, the Duluth City Council chambers became the site of a public attack on the character of a citizen volunteer who had been elected by his neighborhood coalition and appointed by Mayor Doty to a position on the citizen's citywide advisory committee; and

WHEREAS, the city council should not allow such distasteful attacks to be perpetuated on citizens in the future.

BE IT RESOLVED, that the Duluth City Council offers a public apology to Mr. Steve Shepherd and any volunteer for permitting their character to be publicly attacked during a city council meeting.

BE IT FURTHER RESOLVED, that the Duluth City Council will promptly attempt to establish the necessary policies and procedures to insure that no future such incidents occur.

Resolution 96-0423 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

RESOLUTION TABLED

Councilor Hales moved to remove from the table Resolution 96-0373, to rescind handicapped parking zones at various locations, which motion was seconded and unanimously carried.

Resolution 96-0373 was adopted as follows:

BY COUNCILOR HALES:

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 rescinded: 407 East Sixth Street, 222 North 20th Avenue West, 916 West Fourth Street, 917 West Fourth Street, 2425 West Seventh Street, 522 North 11th Avenue East, 223 North 12th Avenue East.

Resolution 96-0373 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Lakeland Ford, Inc., be and hereby is awarded a contract for furnishing and delivering a cab and chassis for the fleet division in accordance with specifications on its low specification bid of \$46,007, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E515.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0378 was unanimously adopted.
Approved May 6, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, and any specific restrictions:

Grandma's Marathon-Duluth, Inc., Canal Park, for June 21, 22 & 23, 1996, with Donald Fennessy, manager, with the music and serving ceasing at 12:30 a.m.

Resolution 96-0390 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnr -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, with any specific restrictions:

Grandma's Saloon & Deli (Grandma's Saloon & Deli), 522 Lake Avenue South, for June 22 & 23, 1996, with the serving ceasing at midnight.

Resolution 96-0391 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 22, 1996, and confined to the fenced in parking lot at night on June 21-23, 1996, 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 96-0392 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnr -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Arrowhead Equipment Company be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12-month period for the fleet services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

division in accordance with specifications on its low specification bid, estimated to total of \$60,000, terms net 30, FOB destination, \$53,000 payable out of Fleet Fund 660, Dept./ Agency 015, Organization 1560, Object 5221 and \$7,000 payable out of Fleet Fund 660, Dept./ Agency 015, Organization 1560, Object 5404.

Resolution 96-0410 was unanimously adopted.

Approved May 6, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Performance Computer Forms be and hereby is awarded a contract for furnishing and delivering 400 cases of recycled copier paper for the various departments in accordance with specifications on its low specification bid of \$9,159, terms net 20, FOB Lakeville, MN, payable out of General Fund 100, Dept./Agency 015, Organization 2020, Object MS25.

Resolution 96-0411 was unanimously adopted.

Approved May 6, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SISTER CITY COMMISSION

Henry Hanka for a term expiring March 30, 1999.

Resolution 96-0400 was unanimously adopted.

Approved May 6, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0403, by Councilor Bohlmann, confirming appointment of Patti Simmons to Duluth SRO housing commission, was introduced for discussion.

Councilor Bohlmann moved to table the resolution in order to review the ordinance creating the commission and their by-laws, which motion was seconded and carried.

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the YWCA Kid's Corner Central Hillside project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0506-08, with the Young Women's Christian Association (YWCA), Inc., of Duluth, Minnesota, to implement the above project; payment for said services shall not exceed \$20,000, payable out of the 1996 Federal Program Fund 262 - community development - YWCA Central Hillside Kid's Corner Account No. 6921.

Resolution 96-0358 was unanimously adopted.

Approved May 6, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Neighborhood Youth Services

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Program project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0506-09, with Woodland Hills, Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$47,000, payable out of the 1996 Federal Program Fund 262 - community development- Neighborhood Youth Service Account No. 6918.

Resolution 96-0359 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the CAP Weatherization Program (regular) Project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0506-10, with the Duluth Community Action Program (CAP), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$200,000, payable out of the 1996 Federal Program Fund 262 - community development - CAP Weatherization (regular) Project - Account No. 6903.

Resolution 96-0360 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Women's Transitional Housing Coalition - Operational Project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0506-11, with the Women's Transitional Housing Coalition of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$16,000, payable out of the 1996 Federal Program Fund 262 - community development - Women's Transitional Housing - Operational Account No. 6924.

Resolution 96-0394 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Duluth Life House Youth Center project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0506-12, with Life House, Incorporated, of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$25,000, payable out of the 1996 Federal Program Fund 262 - community development - Life House Project Account No. 6923.

Resolution 96-0399 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0405, by President Prettner, of support for the striking workers of Bridgestone/Firestone, was introduced for discussion.

Councilor Keenan stated that he doesn't support boycott resolutions and moved to remove the resolution from the agenda, which motion was seconded. He felt it is not in the best interest of the city to act upon this resolution.

Councilors Hogg and Hales felt that the council has no business considering this type of resolution.

President Prettner stated that she felt that decisions affecting the American workers are an issue that the council should take a stand on.

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

Peter Nickitas supported the resolution, stating that he feels living wages are a council issue. He reviewed the actions of Bridgestone/Firestone and said he doesn't feel that they support their workers.

Bruce Lahti, president of Local No. 1028, supported the resolution, stating that the company has been charged by the national labor relations board for violations of American labor laws.

George Sundstrom reviewed the history of the labor movement as it related to the National Labor Relations Act of 1935 and the 1981 Supreme Court decision. In addition, he reviewed the past actions of Bridgestone/Firestone and felt taxpayer funds for tire purchases should not support this company.

Councilors Keenan, Hogg and Bohlmann stated that they support the issue but that they feel this is not the appropriate means to show that support.

Councilor Hales moved to call the question, which motion was seconded and carried.

Councilor Keenan's motion to remove the resolution from the agenda failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Keenan -- 4

Nays: Councilors Hardesty, Rapaich, Talarico, Wheeler and President Prettner -- 5

Resolution 96-0405 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the Firestone Corporation, prior to being purchased by Japanese owned Bridgestone Corporation, had a history of favorable labor relations with the United Rubber Workers; and

WHEREAS, Bridgestone/Firestone has attacked American workers by driving down wages, cutting health care benefits, destroying safety protection and making 12 hour work shifts mandatory; and

WHEREAS, when American workers stood up to these unreasonable demands, Bridgestone/Firestone permanently replaced them (which is illegal in Japan) and also brought in replacement workers from foreign countries (which is illegal in the United States); and

WHEREAS, locking out 4,000 American workers in five American communities has had a devastating impact on these workers, their families and communities; and

WHEREAS, it is not in the public interest to spend public money in support of a foreign corporation involved in this type of negative corporate behavior.

BE IT RESOLVED, that the city of Duluth goes on record in support of the striking Bridgestone/Firestone workers, and that a copy of this resolution be sent to Bridgestone/Firestone headquarters and the United Steel Workers of America.

BE IT FURTHER RESOLVED, that the city of Duluth goes on record to not purchase any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Bridgestone/Firestone products, consistent with state and local law, until this labor dispute is settled.

Resolution 96-0405 was adopted upon the following vote:

Yeas: Councilors Hardesty, Rapaich, Talarico, Wheeler and President Prettner -- 5

Nays: Councilors Bohlmann, Hales, Hogg and Keenan -- 4

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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 \$15,488, of which the city of Duluth's proportionate share would be \$5,157, be carried over from budget year 1995 to budget year 1996.

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 \$5,157 of the unspent contribution of the city of Duluth for budget year 1995-1996, and to carry over that amount for budget year 1996-1997.

Resolution 96-0415 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth commissioned a comprehensive study of traffic problems in its Downtown and adjoining areas; and

WHEREAS, there has been considerable public involvement, input and review of said study.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth accepts the report and findings of the Downtown Duluth traffic study.

BE IT FURTHER RESOLVED, that the city engineer is hereby directed to initiate actions to begin implementation of its recommendations.

Resolution 96-0418 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0419, by President Prettner, recommending Scott Keenan for membership on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

a work group which will develop strategies for implementation of a coastal management program, was introduced for discussion.

Councilor Keenan stated that he would not discuss or vote on this resolution.

Councilor Bohlmann stated that she has no objections to the appointment, but has concerns that the coastal zone management has not been presented to the council yet and that commitments haven't been made.

President Prettner noted that Councilor Keenan would watch for the city's and Councilor Bohlmann's concerns.

Resolution 96-0419 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the Minnesota department of natural resources, division of waters (Minnesota DNR), is seeking individuals to serve on work groups that will develop strategies for implementation of a coastal management program for Minnesota's Lake Superior coastal area; and

WHEREAS, Minnesota DNR desires to have public official representation on these work groups and has encouraged a Duluth city councilor to apply for membership on a work group; and

WHEREAS, Councilor Scott Keenan has decided to apply for a position on the organization and implementation work group, and the city council believes he would be an excellent member of that work group.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby strongly recommends to Minnesota DNR that Scott Keenan be appointed a member of the organization and implementation group.

Resolution 96-0419 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Keenan -- 1

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

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 \$1,500, from Capital Fund 450, Obj. C430, for providing certain additional engineering services to the city of Duluth in connection with the Woodland recreation center parking lot construction & restoration, 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. 96-0506-13.

Resolution 96-0401 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth transit authority under which the city leases a tram and tram trailer from the authority for nominal consideration for use in providing a shuttle service in the Canal Park area during the summer tourist season, which agreement is on file in the office of the city clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Document No. 96-0506-14.

Resolution 96-0402 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a memorandum of understanding with the Duluth Workforce Council, Inc., for the period July 1, 1996, to June 30, 1997. This memorandum of understanding outlines the responsibilities of both parties in regard to the administration, planning, evaluation, and provision of employment and training programs in the city. This is a nonfinancial agreement. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0506-15.

Resolution 96-0404 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Heritage Baptist Church relating to the construction of an eight inch water main in Rice Lake Road from 2,634 feet north of Willow Street to a point 210 feet northerly; said agreement to be in the form of Public Document No. 96-0506-16 on file in the office of the city clerk.

Resolution 96-0417 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for the 1996 street improvement project for lower Lester Park for the engineering division in accordance with specifications on its low specification bid of \$498,999.88, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9603, Object 5530.

Resolution 96-0408 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for the 1996 street improvement project for lower Hunters Park for the engineering division in accordance with specifications on its low specification bid of \$1,130,244.84, terms net 30, FOB

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9606, Object 5530.

Resolution 96-0413 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: None -- 0

Abstention: Councilor Hardesty -- 1

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Bergman Companies 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 \$.949 per pound applied on flat surfaces and \$1.01 per pound applied on hilly surfaces, not to exceed \$65,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403.

Resolution 96-0414 was unanimously adopted.

Approved May 6, 1996

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 the following streets and avenues, as additions to the 1996 street improvement program:

	<u>Total</u>	<u>Construction</u>	
	<u>Length</u>	<u>cost estimate</u>	
Seventh Street between 37 and 39½ Avenues West	733	\$132,000	
Vernon Street from Pacific to Grand Avenue	400	\$ 92,400	
Jefferson Street from 13th to 15th Avenues East; 13th Avenue East from Superior Street to London Road	1,400	\$294,000	

RESOLVED FURTHER, that the costs of said improvement shall be paid from the street improvement fund (Fund 440) and that ¼ 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 96-0416 was unanimously adopted.

Approved May 6, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0379, by Councilor Hales, awarding contract to Salo Trucking Company for demolition of ten structures in accordance with specifications on its low specification bid of \$19,840, was introduced for discussion.

Councilor Hales moved to table the resolution for further information, which motion was seconded and carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

96-022 - AN ORDINANCE AMENDING SECTION 20-12 OF THE CITY CODE TO AUTHORIZE THE MAYOR TO APPROVE EXPENDITURES IN CONNECTION WITH CERTAIN PUBLIC RECEPTIONS.

- - -

BY COUNCILOR WHEELER

96-024 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY COUNCILOR KEENAN

96-021 - AN ORDINANCE PERTAINING TO TRANSPORTATION ON DULUTH TRANSIT AUTHORITY BUSES; AUTHORIZING DRIVERS TO REFUSE TO TRANSPORT DISORDERLY PERSONS; AMENDING SECTION 34-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR HOGG

96-023 - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE PERTAINING TO WATER AND GAS; AMENDING SECTIONS 48-205 AND 48-207.

- - -

The meeting was adjourned at 9:40 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 13, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on September 11, 14, 18, 21 and 25, 1995, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0513-06 Steven LaTour submitting letter changing his construction plans so that BZA variances are no longer required for property located at 7501 Grand Avenue. -- Committee 2 (planning)

96-0513-11 The following submitting letters opposing portions of the proposed 1997 street improvement program (96-0421R): (a) Jeremy M. Fryberger; (b) Paul Gollinger (supported by 22 signatures); (c) Evelyn Krakovec; (d) Ted Krakovec; (e) Caroline Ormond (supported by ten signatures). -- Received

- - -

REPORTS OF OFFICERS

96-0513-01 Assistant city attorney submitting addendum to Limited Use Permit No. 15300 issued by Mn/DOT under which the city maintains various parking lots below Michigan Street and east of Fifth Avenue West, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

96-0513-02 Building official submitting appeal of the board of zoning appeals' approval of a variance to allow alterations or additions to nonconforming buildings, to relax the front yard and rear yard setbacks and relax the rule requiring dwelling to be a minimum of two feet wide for construction of a second story addition at 7501 Grand Avenue for Steven LaTour (Dorothy Kovich appealing). -- Committee 2 (planning)

96-0513-03 Clerk submitting applications to the Minnesota gambling control board from St. James Church for exemptions from lawful gambling licenses (raffles) on: (a) August 1, 1996; (b) November 1, 1996; (c) February 1, 1997; (d) May 1, 1997. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0513-04 Building appeal board minutes of April 10, 1996, meeting. -- Received

96-0513-05 Civil service board minutes of March 5, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

George Parker, Sr., commented on the prior action of the city council of not appointing the individual that the Central Hillside recommended to the CCAC. He stated that he will ask HUD to review that their neighborhood is not represented.

- - -

Tom Paradice, representing FIGHT, noted that property taxes have been increasing, even though there was an attempt to freeze them during this past legislative session. He said that FIGHT is circulating a petition requesting the governor to call a special session to enact an immediate freeze on property taxes and spending.

- - -

RESOLUTION TABLED

Councilor Hales moved to remove from the table Resolution 96-0379, awarding contract to Salo Trucking Company for demolition of ten structures in accordance with specifications on its low specification bid of \$19,840, which motion was seconded and unanimously carried.

Resolution 96-0379 was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that Salo Trucking Company be and hereby is awarded a contract for demolition of ten structures for the building inspection division in accordance with specifications on its low specification bid of \$19,840, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 100, Organization 1504, Object 5453.

Resolution 96-0379 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following be and the same are hereby confirmed:

1995 street program (Lester Park, Contract No. 7002 (assessable portion - \$246,920.40); Duluth Heights, Contract No. 7004 (assessable portion - \$187,704.90); Denfeld, Contract No. 7006 (assessable portion - \$128,950.20)).

Resolution 96-0424 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: Councilor Bohlmann -- 1

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, on April 8, 1996, the city council adopted Resolution 96-0295 approving proposed specifications and contract benefits for the new civil service classification of van driver; and

WHEREAS, such resolution established a new pay range 14A in the basic unit contract for such classification, but did not specify the dollar amounts for such pay range.

NOW, THEREFORE, BE IT RESOLVED, that the 1996 dollar amounts in Pay Range 14A in the basic unit contract shall be as follows:

	A	B	C	D	E
Range 14A	1,142	1,188	1,235	1,285	1,336

Resolution 96-0435 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, information signs on Interstate Highway 35 (I-35) presently refer to the "West End Business District" near the 21st Avenue West interchange; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the area formerly known as the West End has now been formally designated by city council resolution as Lincoln Park; and

WHEREAS, the city council desires to have information signs on I-35 changed to reflect this change in the name of this area of the city;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests that the Minnesota department of transportation change its signage along I-35 near the 21st Avenue West interchange so that it refers to the "Lincoln Park Business District" rather than the "West End Business District."

Resolution 96-0445 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Prettner called the public hearing regarding the 1997 street improvement program to order (Public Document No. 96-0513-12).

- - -

At this time, 9:20 p.m., President Prettner declared the hearing closed, and called to order the public hearing regarding the DTA teen pass (Public Document No. 96-0513-13).

- - -

At this time, 9:25 p.m., President Prettner declared the hearing closed and the regular order of business was resumed.

- - -

BY PRESIDENT 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. 96-0513-07, with the Duluth economic development authority pursuant to which said authority shall cause the city-owned parking lot located between Fourth and Fifth Avenues West and south of the Fourth Avenue West parking ramp to be paved in the amount of not to exceed \$66,500, payable from Fund 100, Organization 2726, Object 1601.

Resolution 96-0406 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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. 96-0513-08 with Howard Boeser for the construction of the skywalk through the Phase II building in the amount of \$185,000, payable from the Downtown Development Special Fund 430, to be reimbursed from the Duluth economic development authority.

Resolution 96-0407 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, May 12-18, 1996, is National Historic Preservation Week; and

WHEREAS, the theme of this year's preservation week is "preserving community"; and

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties worthy of preservation; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, preservation of the community's historic properties contributes to Duluth's uniqueness, attractiveness, livability and economic strength; and

WHEREAS, preservation of Duluth's heritage serves to enhance our community through connecting to the past and investing in irreplaceable community resources; 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 12 through May 18, 1996, is hereby declared Duluth Historic Preservation Week.

Resolution 96-0436 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0439, by President Prettner, authorizing the city to enter into an agreement regarding priority of liens on Women's Transitional Housing Coalition property located at 1431 East First Street, was introduced for discussion.

William Burns, attorney for Women's Transitional Housing Coalition, responded to Councilor Hogg's questions by explaining that the project is capable of amortizing a small loan. He stated that it was always contemplated that all or a portion of the Women's Transitional Housing contribution would be facilitated through a third party private loan.

Councilor Hogg stated that his concern is that Women's Transitional Housing is not putting any money of its own into this project and said that he feels that the existing agreement should not be changed.

Mr. Burns responded that there is no change in the city contribution and that he felt there is no difference between using the organization's own funds or those borrowed.

To concerns of councilors Bohlmann and Hogg, Mr. Burns stated that the Minnesota Housing Finance Agency has agreed to move from first to third position on the title.

Councilor Hales said that she needs more time to review the information and moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Rapaich -- 1

- - -

BY COUNCILOR KEENAN:

WHEREAS, the Duluth transit authority (DTA) has requested the city council to approve the reduction in cost of the Teen Pass from \$23 to \$16 for the months of June, July and August, 1996; and

WHEREAS, this request is being made as part of a summer ridership promotion; and

WHEREAS, the promotion is expected to increase ridership without a loss of revenue; and

WHEREAS, the city council has held a public hearing on such proposed fare change, as required by Laws of Minnesota, Chapter 720, Sec. 6(g).

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request for a temporary fare decrease for the Teen Pass.

Resolution 96-0425 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0427, by Councilor Keenan, awarding contract to Erling R. Hansen Construction for repair of old main arches in accordance with specifications on its low specification bid of \$48,420, was introduced for discussion.

In response to councilor questions, Administrative Assistant Nollenberger said that the city owns the property but that it isn't park property. He said that \$50,000 of casino funds in 1994 was budgeted and \$15,000 was contributed from the University of Minnesota for annual maintenance costs, and that the neighborhood is also doing fund raising.

Resolution 96-0427 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that Erling R. Hansen Construction be and hereby is awarded a contract for the repair of Old Main Arches in accordance with specifications on its low specification bid of \$48,420, terms N/30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C418.

Resolution 96-0427 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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 April 1, 1996, through December 31, 1996. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6306.

Resolution 96-0412 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Silverness Plumbing of Duluth be and hereby is awarded a contract for furnishing and delivering construction of 1/2 inch and one inch gas services and miscellaneous one inch, two inch and three inch gas mains at various locations in the city for the gas department in accordance with specifications on its low specification bid of \$92,055, terms N/30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0428 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that C/J Trucking be and hereby is awarded a contract for furnishing and delivering 1996 estimated annual requirements of pit run gravel for the water and gas department in accordance with specifications on its low specification bid of \$27,390, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0431 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR TALARICO:

RESOLVED, that the city council hereby dedicates the following easement for utility purposes (City Job No. 8906SA96):

the easterly twenty feet (e'ly 20') of Lot 3, Block 1, Central Acres Division, according to the recorded plat thereof, on file in the office of the St. Louis County, Minnesota, county recorders office.

Resolution 96-0420 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0421, by Councilor Talarico, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth (1997 street improvement program), was introduced for discussion.

Councilor Talarico moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Leif and Gloria D. Brush relating to the relocation of a sanitary sewer near 29th Avenue East and Jefferson Street; said agreement to be in the form of Public Document No. 96-0513-09 on file with the city clerk.

Resolution 96-0422 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to pay an amount not to exceed \$7,650 to the North Shore Bank of Commerce for storm sewer modifications; said amount to be paid from the Storm Sewer Liability I and I Fund No. 530.

Resolution 96-0426 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Minnesota department of transportation to provide maintenance and electrical energy for the new traffic control signal with street lights and signing, and the new highway lighting system on Trunk Highway No. 53 (Piedmont Avenue) - County State Aid Highway No. 54 (Piedmont Avenue) at Trunk Highway No. 53 (Trinity Road) - 24th Avenue West at Skyline Parkway in accordance with the terms and conditions set forth and contained in Agreement No. 74925M, on file with the city clerk as Public Document No. 96-0513-10.

Resolution 96-0437 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that E.F. Anderson, Inc., be and hereby is awarded a contract for furnishing and

delivering 1,000 sign posts for the traffic operations division in accordance with specifications on its low specification bid of \$5,160, terms N/30, FOB Duluth, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 96-0430 was unanimously adopted.

Approved May 13, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

96-019 - 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.

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

Tom Paradice, representing FIGHT, stated that many families are concerned if they will be able to keep their homes and that there is a need to use property taxes to fund only the basic services and that those property taxes shouldn't be used to guarantee the full faith and credit of the city in the case of issuing bonds.

Councilor Hogg noted that the city had previously agreed to contribute \$2.5 million and now it appears that it is \$3 million. He felt that this change and the reference to issuing future bonds by resolution are issues that need to be discussed.

Mr. Nollenberger said that it has never been the intent to use the property tax levy for this bond issue, that from the beginning there was the intent to use a one percent hotel-motel tax yielding approximately \$2.7 million.

- - -

BY COUNCILOR HALES

96-025 - AN ORDINANCE RELATING TO PARKING METER VIOLATIONS; ESTABLISHING AGGRAVATED VIOLATIONS AND AUTHORIZING THE USE OF APPROVED TOKENS IN METERS; AMENDING SECTIONS 33-104, 33-107 AND 33-111 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

96-022 (9301) - AN ORDINANCE AMENDING SECTION 20-12 OF THE CITY CODE TO AUTHORIZE THE MAYOR TO APPROVE EXPENDITURES IN CONNECTION WITH CERTAIN PUBLIC RECEPTIONS.

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

- - -

BY COUNCILOR WHEELER

92-024 (9302) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

- - -

BY COUNCILOR KEENAN

96-021 (9303) - AN ORDINANCE PERTAINING TO TRANSPORTATION ON DULUTH TRANSIT AUTHORITY BUSES; AUTHORIZING DRIVERS TO REFUSE TO TRANSPORT DISORDERLY PERSONS; AMENDING SECTION 34-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR HOGG

96-023 (9304) - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE PERTAINING TO WATER AND GAS: AMENDING SECTIONS 48-205 AND 48-207.

Councilor Hogg 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. 9301

BY COUNCILOR WHEELER:

AN ORDINANCE AMENDING SECTION 20-12 OF THE CITY CODE TO AUTHORIZE THE MAYOR TO APPROVE EXPENDITURES IN CONNECTION WITH CERTAIN PUBLIC RECEPTIONS.

The city of Duluth does ordain:

Section 1. That Section 20-12 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 20-12. City officers defined; council expenses generally; special expenditures authorized by mayor.

For the purposes of this Division, in addition to all elected and appointed personnel of the city, including members of the city council, the designation city officers shall mean and include only duly appointed and qualified members of boards and commissions of the city which are or may be established by ordinances of the city; provided however, that:

(a) Such designation shall also mean and include persons who assist the department of administration in preparing or conducting tests and other persons who render volunteer services to the city at the request of the mayor;

(b) The city council may in its discretion and upon approval of the president or vice president of the council, and under the procedures as hereinafter outlined, incur reasonable expenses on behalf of the city when attending meetings or other affairs which further the public interests of the city, including the reasonable expenses of persons other than city council members who participate in such meetings or other affairs;

(c) The mayor may authorize the payment of the reasonable expenses of state and federal officials or employees in connection with meetings held with city officials or employees for the purpose of discussing state or federal grants;

(d) The mayor may authorize the payment of costs connected to meetings between the mayor and/or members of the city's administrative staff and citizen groups, provided

that such meetings relate to public issues affecting such citizen groups;

(e) The mayor may authorize the payment of costs in connection with receptions held for the purpose of recognizing board or commission members or other officers or employees of the city or for the purpose of celebrating special days or events or the initiation of a new city project or program or completion of a city project.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 23, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 13, 1996
Approved May 13, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9302

BY COUNCILOR WHEELER:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1996 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9283 passed and approved December 11, 1995, is hereby amended by appropriating an additional \$478,100 from the general fund's undesignated, unreserved fund blance as follows:

Department 500 - public works
Division 1920 - maintenance.....\$478,100

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 23, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 13, 1996
Approved May 13, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9303

BY COUNCILOR KEENAN:

AN ORDINANCE PERTAINING TO TRANSPORTATION ON DULUTH TRANSIT AUTHORITY BUSES; AUTHORIZING DRIVERS TO REFUSE TO TRANSPORT DISORDERLY PERSONS; AMENDING SECTION 34-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 1. That Section 34-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 34-7. Prohibited conduct on Duluth transit authority buses.

(a) No person shall, while a passenger on any vehicle seating 12 or more persons that is operated by the Duluth transit authority as a public conveyance, do any of the following acts:

(1) Smoke or possess any lighted or smoldering pipe, cigar or cigarette;
(2) Consume any beverages, food or alcohol;
(3) Intentionally deface, damage, write upon or soil any part of such vehicle;
(4) Spit, urinate or defecate in or upon any part of such vehicle;
(5) Throw, deposit or place any paper, bottles, cans or any other garbage or solid waste in or upon any such vehicle;

(6) Throw any object of any kind within such vehicle or out any door or window of such vehicle;

(7) Play any radio, cassette or tape player, record player, or similar electronic sound amplification device unless it is played through an earphone so that it is totally inaudible to all other persons;

(8) Bring any pet or animal on to such vehicle other than a service animal accompanying a disabled person or an animal in a cage or held exclusively on the lap of the rider with a leash;

(9) Stand or remain in front of any white line marked on the forward end of the floor of any such vehicle after being asked to step back by the driver;

(10) Enter a bus through the rear door unless authorized to do so by the driver or other transit authority employee;

(11) Possess any high explosives or carry any corrosive acid or flammable liquid not in a sealed container;

(12) Intentionally interfere with the bus driver's operation of the vehicle;

(b) The bus driver or other transit authority employee may refuse to transport or order off the vehicle any person violating the provisions of this Section or Section 34-6, or any person who has violated the provisions of this Section or Section 34-6 while riding a Duluth transit authority bus in the previous 12 month period;

(c) No person shall refuse to depart from a transit authority bus when ordered to do so by the bus driver or other transit authority employee;

(d) No person shall enter a transit authority bus when ordered not to do so by the bus driver or other transit authority employee;

(e) Any person aggrieved by being refused Duluth transit authority bus transportation pursuant to this Section may request a hearing before the executive director, or if none, the chief administrative officer of the Duluth transit authority. The request for hearing must be made in writing and must state the reasons the person requesting the hearing believes the service refusal was improper. At the hearing both the appellant and Duluth transit authority employees may present evidence and argument, examine and cross-examine witnesses, and be represented by counsel at their option. After hearing all evidence and arguments, the executive director shall affirm or reverse the refusal of service and may grant any relief or impose any conditions on ridership deemed to be reasonable and appropriate.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 23, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 13, 1996
Approved May 13, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9304

BY COUNCILOR HOGG:

AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE PERTAINING TO WATER AND GAS; AMENDING SECTIONS 48-205 AND 48-207.

The city of Duluth does ordain:

Section 1. That Section 48-205 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-205. Permit to temporarily take water from fire hydrant generally.

The department may grant a permit that water be taken temporarily from a fire hydrant for other than domestic purposes in localities where other arrangement for supply would be unduly difficult. In this case, a flow control assembly shall be attached to one of the hydrant openings by a department employee and the hydrant opened full, the supply of water being controlled entirely by the control valve attached to the small nozzle. Upon discontinuation of supply through a hydrant, the department shall be notified and the hydrant shall be closed and fittings removed therefrom by an authorized employee of the department.

Section 2. That Section 48-207 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-207. Same--Fees.

A fee based on current service charges shall be billed for each permit to take water from a fire hydrant and for establishing supply thereunder. This fee shall not be part of any charge for water used from the hydrant.

Section 3. That this ordinance shall be in force and take effect 30 days from and after its passage and publication. (Effective date: June 23, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 13, 1996
Approved May 13, 1996
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 20, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0520-01 Barbara J. Hegg, et al. (16 signatures), submitting petition for construction of a permanent alley in Fourth Street Alley from 44th Avenue West to 436 feet westerly. -- Assessor

96-0520-02 Minnesota state auditor submitting audit report on the Duluth state convention center administrative board for the year ended December 31, 1995. -- Received

96-0520-10 Bob Carlson submitting letter opposing the proposed parking meter enforcement on Superior Street (96-0446R). -- Received

96-0520-25 The following submitted communications opposing the Martha Street portion of the proposed 1997 street improvement program (96-0464R): (a) Hartley Schilling, et al. (23 signatures); (b) Scott Anderson. -- Received

96-0520-09 St. Louis County Heritage and Arts Center submitting application during which alcoholic beverages will be served from Tony Kroska for August 31, 1996. -- Received

- - -

REPORTS OF OFFICERS

96-0520-03 Assessor submitting letter of sufficiency regarding petition to construct a permanent alley in Fourth Street Alley from 44th Avenue West to 436 feet westerly. -- Received

96-0520-04 Engineering division submitting monthly project status report of May 1, 1996. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0520-05 Duluth housing trust fund board minutes of April 11, 1996, meeting. -- Received

96-0520-06 Duluth transit authority submitting: (a) Income statement for March 1996; (b) Minutes of April 24, 1996, meeting. -- Received

96-0520-07 Heritage preservation commission minutes of April 10, 1996, meeting. -- Received

96-0520-08 Special assessment board minutes of April 30, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Hartley Schilling commented on the proposed Martha Street road construction project, and presented a petition from the neighborhood (Public Document No. 96-0520-25(a)) and letter from Scott Anderson (Public Document No. 95-0520-25(b)).

- - -

RESOLUTIONS TABLED

Councilor Bohlmann moved to remove from the table Resolution 96-0195, confirming appointments to the human rights commission, which motion was seconded and unanimously carried.

Councilor Bohlmann moved to refer the resolution to the administration for further review, which motion was seconded and unanimously carried.

- - -

Councilor Wheeler moved to remove from the table Resolution 96-0403, by Councilor Bohlmann, confirming appointment of Patti Simmons to Duluth SRO housing commission, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hales -- 2

Councilor Wheeler felt it would be appropriate to appoint Ms. Simmons at this time.

Councilor Hales said it is her understanding that there would be further discussion about the potential for conflict of interest regarding the makeup of the SRO commission and the number of HRA representatives. She felt the ordinance should be reviewed and changes made before further appointments are made.

Councilor Hogg said he is concerned about the number of HRA representatives on the commission, and felt the process should begin to amend the ordinance.

Councilor Hardesty noted that this appointment is for a short time to finish an unexpired term. She felt the position should be filled now because it is a lengthy process to change an ordinance.

Councilor Talarico agreed with this appointment at this time, and requested that the administration begin the process to review the makeup of the SRO commission.

Councilor Bohlmann requested that this resolution stay on the table until the next meeting.

Resolution 96-0403 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH SRO HOUSING COMMISSION

Patti Gene Simmons (HRA) for a term expiring March 1, 1997.

Resolution 96-0403 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to remove from the table Resolution 96-0421, ordering the improvement of various streets and avenues pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth (1997 street improvement program), which motion was seconded and unanimously carried.

- - -

At this time, 8:00 p.m., President Prettner called the public hearing regarding the 1997 street improvement program continuation to order (Public Document No. 96-0520-15).

- - -

At this time, 8:15 p.m., President Prettner declared the hearing closed and the regular order of business was resumed.

- - -

Councilor Talarico moved to amend the resolution to incorporate memos dated May 15, 1996, and May 20, 1996, as part of the resolution, which motion was seconded and unanimously carried.

Resolution 96-0421, as amended, was 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. 96-0520-11 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 ¼ 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.

BE IT FURTHER RESOLVED, that memos dated May 15, 1996 (Public Document No. 96-0520-12), and May 20, 1996 (Public Document No. 96-0520-13), be incorporated into this resolution in their entirety.

Resolution 96-0421, as amended, was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

Resolution 96-0440, by Councilor Wheeler, authorizing an amended and restated development agreement to city contract with Lake Superior Center Authority and Lake Superior Center modifying the amount and fund disbursement authority, was introduced for discussion.

The rules were suspended upon a unanimous vote to also consider Ordinance 96-019 (9305) at this time, by Councilor Wheeler, 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 amend the ordinance in Section 1.03, after the words "if any" to insert the words "not exceeding two percent of the amount otherwise authorized herein," which motion was seconded.

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

Arend Sandbulte spoke in support of the Lake Superior Center project.

In response to Councilor Hales, Mr. Sandbulte said that if the gate revenue is insufficient to fund the operation, the state will not fund the shortfall.

Administrative Assistant Nollenberger said that state legislation requires that the city will not request operational funds from the state in the future for the center and leaves unresolved what will happen if there is a shortage at the gate since it is technically a state agency. He said the option is left open for the center to request funds from the city but does not give any guarantee that the city has an obligation to cover any shortfalls.

Councilor Wheeler's amendment to the ordinance passed upon a unanimous vote.

Councilor Hogg moved to amend Resolution 96-0440 by adding the following paragraph to Article II, Section A(2): "d. Upon completion of design documents sufficient to bid the project or upon payment of \$2,415,000, whichever occurs first, the Authority shall provide the City with such evidence of payment and progress as will enable the City to determine that additional City funding will be required to complete the Project and to determine the amount of that funding

which shall not exceed the amount set forth in subsection A.1," which amendment was seconded and carried upon a unanimous vote.

Councilor Bohlmann said she will not support the resolution or the ordinance. She said she does not agree with putting this amount of money into design and engineering and that it is not fair to taxpayers because the full faith and credit of the city is pledged. She said she believes that overhead costs will be very high and that eventually the citizens of Duluth will need to subsidize the operation because the gate revenue will not be sufficient. She did not agree with the stipulation that DEDA would be reimbursed for losses while the city will not.

Mr. Nollenberger clarified that the agreement is in place for the one percent hotel-motel tax to be used to finance the bond issue, and that DEDA's agreement is to pay the entire debt service for the canal park bonds from tax increment so that the tourism dollars can be rededicated to this project.

In response to Councilor Bohlmann, Chuck Koosman, project manager of Lake Superior Center, said two design firms from Duluth are currently involved in the project, as well as other firms from around the state.

Councilor Hardesty supported the resolution, stating the Lake Superior Center is a resource that is being developed in the community that can't exist in many other places in the world. She stated belief that the center will be a success and a great advantage to the city.

Resolution 96-0440, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to amend City Contract #16951 authorized pursuant to Resolutions #93-0670 and #94-1075 and entered into on November 15, 1993, and amended May 22, 1995, with the Lake Superior Center authority and Lake Superior Center by amending and restating said agreement, which amendment is on file in the office of the city clerk as Public Document No. 96-0520-14. The amended and restated development agreement modifies the amount and the terms and conditions of disbursement of funds to said parties.

Resolution 96-0440, as amended, was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

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

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

- - -

Resolution 96-0447, by Councilor Wheeler, establishing an account in the general fund for deposit and expenditure of incremental revenue from parking meters in the Downtown area of Duluth, was introduced for discussion.

The rules were suspended upon a unanimous vote to consider at this time Resolution 96-0446, by Councilor Hales, authorizing and implementing an angled, metered parking plan on Superior Street from Sixth Avenue West to Fourth Avenue East.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hales moved to amend Resolution 96-0446, in the fifth paragraph, to change "8:00 p.m." to "9:00 p.m.," which motion was seconded.

Councilor Hogg offered an amendment to the amendment to add the words "on a trial basis through September 1996" after the words "9:00 p.m." In response to Mr. Nollenberger, Councilor Hogg said his intent is for the council to review this issue in September.

In response to Councilor Wheeler, Mr. Nollenberger said he feels there would be adequate income to pay for the additional staff hours required to monitor the meters.

Councilor Talarico expressed concern about the amendment to the amendment, saying that he feels it may be difficult to administer.

Councilor Hogg agreed to withdraw his amendment, stating that if the administration wishes to recommend a change or issue a report they could do that.

Councilor Hales' amendment carried upon a unanimous vote.

Resolution 96-0447 and Resolution 96-0446, as amended, were adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to establish an account in the general fund for deposit of incremental revenue from on street parking meters in the downtown area of Duluth. "Incremental revenue" shall mean the amount by which the revenue from parking meters exceeds the amount of parking meter revenue received in 1994.

RESOLVED FURTHER, that monies in this account shall only be spent for programs or improvements that benefit parking in the downtown area of Duluth.

Resolution 96-0447 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, the city of Duluth has requested and received from the commissioner of transportation a variance to allow diagonal parking on Superior Street between Fourth Avenue East and Sixth Avenue West; and

WHEREAS, the city of Duluth has, on an experimental basis, implemented a diagonal parking plan on Superior Street between Fourth Avenue East and Sixth Avenue West for several months; and

WHEREAS, the city is now ready to implement a diagonal parking plan from Fourth Avenue East to Sixth Avenue West on Superior Street on a permanent basis and is desirous of having parking meters at the parking spaces in the area.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Sections 33-94, 33-108 and 33-110, respectively, of the Duluth City Code, the city of Duluth hereby adopts a diagonal parking plan on Superior Street between Sixth Avenue West and Fourth Avenue East as set forth in the attachments appended to this resolution and made a part hereof (Public Document No. 96-0520-22).

FURTHER RESOLVED, that the Duluth City Council hereby authorizes parking meters at locations in Public Document No. 96-0520-22 and hereby designates extended hours of operation for the meters from Lake Avenue to Third Avenue East, said extended hours being 8:30 a.m. to 9:00 p.m. on Monday through Saturday of each week.

FURTHER RESOLVED, that the Duluth City Council hereby limits the length of vehicles parked in any diagonal space on Superior Street from Sixth Avenue West to Fourth Avenue East to 19 feet.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

FURTHER RESOLVED, that this resolution hereby rescinds any previous resolutions inconsistent with its provisions.

Resolution 96-0446, as amended, was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

The rules were suspended at this time to consider Ordinance 96-025 (9306), relating to parking meter violations; establishing aggravated violations and authorizing the use of approved tokens in meters; amending Sections 33-104, 33-107 and 33-111 of the Duluth City Code, 1959, as amended.

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

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city has entered into an agreement with the Duluth Convention and Visitors Bureau under which the bureau is to provide advertising and promotional services to the city during 1996; and

WHEREAS, the city desires to increase the publicity and advertising for our community to enhance visitation during the upcoming summer months; and

WHEREAS, the city council would like to establish a long term goal for the allocation of tourism tax revenues to publicity and advertising.

NOW, THEREFORE, BE IT RESOLVED, that the city is authorized to execute an amendment to the agreement with the Convention and Visitors Bureau for publicity and advertising in 1996, which amendment is on file in the office of the city clerk as Public Document No. 96-0520-16.

BE IT FURTHER RESOLVED, that the city will work towards a goal of allocating 33.25 percent of the hotel-motel food and beverage taxes for publicity and advertising in the future (excluding the one percent hotel-motel tax adopted in 1990 for public improvements) in an effort to stabilize financing for this effort. The city will attempt to attain this goal by 1998, with the desire that the distribution of these revenues to the Convention and Visitors Bureau will occur on a monthly basis as revenues are received by the city, with an advance early in the year to assist the bureau with cash flow and a reconciliation of payments later in the year.

Resolution 96-0462 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city of Duluth desires to increase the publicity and advertising for our community to enhance visitation during the upcoming summer months; and

WHEREAS, there is an available fund balance in the tourism taxes fund of the city of Duluth; and

WHEREAS, the city would like to establish a long term goal for the allocation of funds to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

publicity and advertising.

NOW, THEREFORE, BE IT RESOLVED, that \$20,000 additional funds will be allocated to the Duluth Convention and Visitors Bureau for publicity and advertising in 1996 beyond the \$710,000 already accorded by contract, this source coming from the fund balance in the fund.

BE IT FURTHER RESOLVED, that the city will work towards a policy allocating 33.25 percent of the future hotel/motel food and beverage taxes for publicity and advertising (other than the one percent hotel/motel tax adopted in 1990 for public improvements) in an effort to stabilize financing.

BE IT FURTHER RESOLVED, that \$35,000 additional funds will be allocated to Spirit Mountain for their 1996 cost allocation charges, to be funded from fund balance.

BE IT FURTHER RESOLVED, that sister cities receive an additional \$2,500 to their allocation, bringing their total to \$26,500; and Heritage and Arts Center allocation be reduced by \$2,500 bringing their total to \$147,500. This action requires a shift in the allocation of the hotel/motel food and beverage taxes between the two entities.

Resolution 96-0471 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that NorthStar Ford, Inc., be and hereby is awarded a contract for furnishing and delivering a 1996 4X4 pickup truck for the fire department in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E602.

Resolution 96-0449 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 one day off site 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>
American Red Cross	Ridgeview Country Club	April 15, 1996
	one day off site	

Resolution 96-0474 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

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, with any specific restrictions:

PDMM, Inc. (Green Mill), 340 Lake Avenue South, for May 29-31, 1996.

Resolution 96-0476 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 of DDE, Inc. (Main Restaurant and Lounge), for the period ending August 31, 1996, subject to departmental approvals and the payment of sales and property taxes, to:

Rilind, Inc. (Main Cocktail Lounge), 20 North Third Avenue West, with Richard Grayson, 50 percent stockholder, and Linda Grayson, 50 percent stockholder.

Resolution 96-0477 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 1 and 2, 1996, with Darrell Eckenberg, manager.

Mr. D's Men's and Women's Softball Teams (Wheeler Field), for June 15 and 16, 1996, with Al Terwey, manager.

Resolution 96-0478 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ANIMAL HUMANE BOARD

Cherie A. Franzen for a term expiring October 31, 2000, replacing Beatrice Johnson.

Patricia A. Moyer for a term expiring October 31, 2000, replacing Julie Nielsen who resigned.

Resolution 96-0451 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITES

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Lesley A. Pownall for a term expiring November 1, 1998, replacing Marvin Heide.
Resolution 96-0452 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PLANNING COMMISSION

John LaForge for a term expiring December 31, 1999, replacing Louis Pichetti.
Resolution 96-0453 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SISTER CITY COMMISSION

Allan J. Gummert (business community) for a term expiring March 30, 1999, replacing Joan DeVault.

Rodger E. Palmer for a term expiring March 30, 1998, replacing JoAnne Axtell, who resigned.
Resolution 96-0454 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

LAWFUL GAMBLING COMMISSION

Gregory Goldman for a term expiring April 30, 1999.
Resolution 96-0455 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON AGING

Florence J. Baker, Rilla A. Opelt, Catherine C. Phillips, Brian P. Smith, Gordon C. Switzer and Nortrud Villones for terms expiring July 1, 1998.

Resolution 96-0467 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0485, by Councilor Bohlmann, confirming appointment of Daniel Williams replacing Gary Eckenberg to citywide citizens advisory committee and neighborhood advisory council, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlmann moved to amend the resolution to change the start dates from June to March, which motion was seconded and unanimously carried.

Resolution 96-0485, as amended, was adopted as follows:

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Daniel Williams (West End/Lincoln Park) for a term expiring March 1, 1999, replacing Gary Eckenberg.

NEIGHBORHOOD ADVISORY COUNCIL

Daniel Williams (West End/Lincoln Park) for a term expiring March 1, 1999, replacing Gary Eckenberg.

Resolution 96-0485, as amended, was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0438, by President Prettner, approving the allocation of low-income housing tax credits for 1996, was introduced for discussion.

Councilor Keenan spoke in opposition to the resolution, saying he feels the \$125,000 cost per unit is excessive.

Councilor Hogg said he is in favor of the project and in particular its location, but agreed that the cost per unit is too high.

Councilor Hardesty noted that the purpose of the resolution is to authorize tax credits, not approve the project cost. She spoke in support of the project, saying she feels it is a good way to utilize some of the resources that have been offered through the federal government program for rehabilitation of housing.

Councilor Talarico supported the resolution, saying that the cost of historic preservation is high and that this type of tax increment financing benefits all citizens of Duluth. He agreed that the cost per unit is high, but urged support because of the need for low income housing.

Councilor Wheeler supported the resolution, stating he feels there is a need for private financing for low income housing.

Councilor Bohlmann opposed the resolution, saying she feels there should be limits on the amount that is spent for this type of housing.

President Prettner agreed that the project is costly, but did not agree that the way to voice displeasure is to turn down these tax credits which would then be awarded to another community.

Resolution 96-0438 was adopted upon the following vote:

BY PRESIDENT PRETTNER:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462A.221, et seq. (the "act"), the city of Duluth, Minnesota (the "city") is a suballocator of low-income housing tax credits (LIHTC); and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended (the "code"), the city has adopted a qualified allocation plan (the "plan") for 1996 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received one complete application for the LIHTCs and the application has been scored in accordance with the plan;

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(a) The city hereby finds and determines that the application of Buckingham Green Limited Partnership for LIHTCs for its Buckingham Green Apartments project is complete in all material respects with the exceptions noted in (c) below, and meets the selection criteria set forth in the plan. The request for allocation in the amount of \$155,689 does not exceed the amount which is necessary for the financial feasibility of the Buckingham Green Apartments project and its viability as a qualified low-income housing project throughout the ten year credit period;

(b) In making the determination set forth above, the city considered the following with respect to each application submitted:

- (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;

(4) The reasonableness of the developmental and operational costs of the project;

(c) There is hereby allocated \$155,689 of the city's 1996 LIHTC allocation to Buckingham Green Limited Partnership for the Buckingham Green Apartments project, subject to obtaining full site control; further verification of a plan for and evidence of the ability to sell tax credits; and an agreement to utilize an experienced construction manager/general contractor.

Staff is authorized to prepare, execute and deliver all documentation 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.

Resolution 96-0438 was adopted upon the following vote:

Yeas: Councilors Hardesty, Rapaich, Talarico, Wheeler and President Prettner -- 5

Nays: Councilors Bohlmann, Hales, Hogg and Keenan -- 4

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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. 96-0520-17, with Maki & Overom, Chartered, for legal services related to the Northwest Airlines project, increasing the amount payable thereunder by \$3,900, payable from Construction Fund 420.

Resolution 96-0441 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Cushman Motor, Inc., be and hereby is awarded a contract for furnishing and delivering two reel and two rotary mowers for the Enger and Lester golf courses in accordance with specifications on its low specification bid of \$123,405.81, terms N/30, FOB destination, payable out of Golf Enterprise Fund 503, Dept./Agency 400, Organization 0505, Object E625.

Resolution 96-0459 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, filed as Public Document No. 96-0520-18 with the city clerk, with Teri Wehner for the operation of an arts and crafts stand at the Canal Park parking lot for the consideration of ten percent of gross receipts.

Resolution 96-0461 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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 3, 1996, through August 2, 1996, 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. 96-0520-19.

FURTHER RESOLVED, that costs incurred shall be charged to Fund #268, Budget Items 6246 and 6253.

Resolution 96-0442 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a contract with Independent School District #709 to provide two evaluation staff persons at the Cooperative Evaluation Facility to Summer Youth Employment Training Program clients for the Summer Youth Employment Program's academic enrichment component for the period June 10, 1996, through August 30, 1996, at costs not to exceed \$5,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0520-20.

FURTHER RESOLVED, that costs incurred shall be charged to Fund #268, Budget Item 6253.

Resolution 96-0443 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officers are hereby authorized to accept funds from the local rotary organizations and private sector businesses for participation in the Y.E.S. Duluth Summer Youth Employment Program. Said funds to be deposited in Fund #268, Budget Item 6254.

Resolution 96-0444 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to amend city Contract #17566 with the housing and redevelopment authority to accept an additional \$2,000 in supportive service funding, bringing the contract budget total up to \$41,686. The additional funds will be used to provide supportive service funding to client's enrolled in the Family Self-Sufficiency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Program. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0520-21.

FURTHER RESOLVED, that funds receive under this agreement shall be deposited in Fund #269, Budget Item #6292.

Resolution 96-0472 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Johnson Controls be and hereby is awarded a contract for providing telemetry system maintenance for the water and gas department in accordance with specifications on its low specification bid of \$15,000, terms net 30, FOB destination, 34 percent payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5404 and 66 percent payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5404.

Resolution 96-0450 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering 1996 estimated annual requirements of bedding sand for the sewer division in accordance with specifications on its low specification bid of \$7,210.88, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 96-0432 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Dougherty Trucking be and hereby is awarded a contract for furnishing and delivering 1996 estimated annual requirements of crushed and washed rock for the sewer division in accordance with specifications on its low specification bid of \$5,390.50, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 96-0433 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering 1996 estimated annual requirements for class 5 gravel for the street maintenance and sewer division in accordance with specifications on its low specification bid of \$25,564.50, terms net 30, FOB destination, \$22,241.10 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224 and \$3,323.40 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 96-0434 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the commissioner of transportation for the state of Minnesota has prepared plans, special provisions and specifications for the improvement of Trunk Highway No. 106, renumbered as Trunk Highway No. 53, within the corporate limits of the city of Duluth, from Fourth Street to Skyline Boulevard, (State Project 6915-115 (53=106)) and seeks the approval thereof;

NOW, THEN, BE IT RESOLVED, that said plans and special provisions for the improvement of said trunk highway within said corporate limits of the city be and hereby are approved including the elevations and grades as shown and consent is hereby given to any and all changes in grade occasioned by said construction.

BE IT FURTHER RESOLVED, that the city does hereby agree to require the parking of all vehicles, if such parking is permitted within the corporate limits of said city, on said trunk highway, to be parallel with the curb adjacent to the highway, and at least 20 feet from any crosswalks on all public streets intersecting said trunk highway.

Resolution 96-0456 was unanimously adopted.

Approved May 20, 1996
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 Western Lake Superior Sanitary District relating to the design and reconstruction of Jefferson Street from 13th to 15th Avenues East and 13th Avenue East from Superior Street to London Road; said agreement to be substantially in the form of Public Document No. 96-0520-23; the estimated \$400,000 payable thereunder to be paid from the street improvement fund.

Resolution 96-0458 was unanimously adopted.

Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that pursuant to Minnesota Statutes, Section 161.36, the commissioner of transportation be appointed as agent of the city of Duluth to accept as its agent federal aid funds which may be made available for eligible transportation related projects.

RESOLVED FURTHER, that the proper city officers are hereby authorized and directed for and on behalf of the city to execute and enter into an agreement with the commissioner of transportation prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota Department of Transportation Agency Agreement No. 74987, a copy of which said agreement was before the city council and on file with the city clerk as Public Document No. 96-0520-24.

Resolution 96-0460 was unanimously adopted.

Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city of Duluth desires to complete the design and construction of SIP projects; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to do the design and construction; and

WHEREAS, Salo Engineering has submitted a proposal for such 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 to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at a total of \$31,621.32; \$27,237.86 will be payable from the Fund 440, Dept./Agency 38, Organization 9607, Object 5303; \$2,231.84 will be payable from Fund 810, Dept./Agency 38, Organization 5282, Object 5530; and \$2,151.52 will be payable from Fund 810, Dept./Agency 38, Organization 5283, Object 5530.

Resolution 96-0463 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the construction staking of the 1994 SIP projects; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to do the construction staking; and

WHEREAS, Seaway Engineering 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 to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$53,260, will be payable from the SIP Fund 440, Dept./Agency 038, Organization 9311, Object 5303.

Resolution 96-0464 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the design and construction of the 1996 SIP projects (8942SA96); and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to do the design and construction; and

WHEREAS, LHB 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 LHB Architects and Engineers to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$17,833, will be payable from the SIP Fund 440, Dept./Agency 038, Organization 9608, Object

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

5303.

Resolution 96-0465 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the construction staking of the 1994 SIP projects; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to do the construction staking; and

WHEREAS, LHB Engineers & 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 LHB Engineers & Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$53,719, will be payable from the SIP Fund 440, Dept./Agency 038, Organization 9307, Object 5303.

Resolution 96-0466 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 93-1003 to LHB Engineers and Architects for furnishing professional engineering services, be amended to increase the amount by \$60,682 for a new total of \$116,916, \$27,129 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2152, Object 5303 and \$33,553 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2151, Object 5303.

Resolution 96-0468 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0999 to L.H.B. Engineers and Architects, R.R.E.M., Inc., and Salo Engineering, Inc., for furnishing professional engineering services, be amended to increase the respective amount by \$148,497 to L.H.B. Engineers and Architects for a new total of \$253,748; \$47,994 to R.R.E.M., Inc., for a new total of \$92,995; and \$39,874.03 to Salo Engineering, Inc., for a new total of \$81,937.25, payable out of Street Improvement Fund 440, Dept./Agency 038, Organization 9606, 9603 and 9602, Object 5303.

Resolution 96-0469 was unanimously adopted.
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Goodwill Industries Vocational Enterprises (\$6,642.41), Ballavance Lawn Care (\$5,582.73) and Bohmerts Home and Lawn Care (\$15,373.28) be and hereby is awarded a contract for furnishing grass cutting services for the various departments/divisions in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

accordance with specifications on its low specification bid of a total of \$27,598.42, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0470 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent alley in Fourth Street Alley from 44th Avenue West to 436 feet westerly (City Job No. 8757RS96).

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 96-0483 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Baker Fire Equipment be and hereby is awarded a contract for furnishing and delivering 15 sets of turn out gear for the fire department in accordance with specifications on its low specification bid of \$8,550, terms N/30, FOB Duluth, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.

Resolution 96-0429 was unanimously adopted.

Approved May 20, 1996

GARY L. DOTY, Mayor

- - -

Lengthy discussion ensued regarding the summer council meeting schedule.

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

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

The meeting was adjourned at 9:50 p.m.

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

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ORDINANCE NO. 9305

BY COUNCILOR WHEELER:

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.

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 City participate in the development of a fresh water education facility, including a fresh water aquarium within the City (the "Project") with Lake Superior Center Authority and Lake Superior Center. The City, Lake Superior Center Authority and Lake Superior Center have entered into a Development Agreement dated November 15, 1994, and an Amendment to Development Agreement dated May 22, 1995, regarding development and financing of the Project.

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, Chapter 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 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. Lake Superior Center Authority has received grants from private contributors and grant funds have been appropriated by the State of Minnesota to aid the Project. Based on such grants received to date, the amount of the City's contribution for the Project from the proceeds of the bonds, as further described in Section 1.03 below, or otherwise, will not exceed the limitations set forth in said law.

1.03. Pursuant to the authority herein recited, the City Council authorizes and directs the issuance and sale of general obligation bonds of the City to finance design and engineering costs and a portion of the construction costs of the Project in an amount not to exceed \$2,555,000 (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 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 Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. Revenues and Accounts.

3.01. All or a portion of the proceeds of the bonds, as provided by Council resolution, shall be credited to a separate account within Capital Improvement Fund No. 450, 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.

3.02. The City Council shall, by resolution or resolutions, establish such further funds or accounts and credit monies from the proceeds of the bonds herein authorized to funds or accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 account in 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 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 funds. If the balance in such separate account of the Debt Service Fund 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 Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such accounts. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the City Council 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 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 office of the City Clerk is 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 acts appear from the official books and records in the officer's custody or are otherwise known to him. 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: June 30, 1996)

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

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 8

Nays: Councilor Bohlmann -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 20, 1996
Approved May 20, 1996
GARY L. DOTY, Mayor

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ORDINANCE NO. 9306

BY COUNCILOR HALES:

AN ORDINANCE RELATING TO PARKING METER VIOLATIONS;
ESTABLISHING AGGRAVATED VIOLATIONS AND AUTHORIZING THE USE OF
APPROVED TOKENS IN METERS; AMENDING SECTIONS 33-104, 33-107,
33-109 AND 33-111 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-104 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-104. Specifications.

Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of the appropriate coin, lawful money of the United States of America or an approved token, for the period of time prescribed by this Division. Each device shall be so arranged that, upon the expiration of the lawful time limit, it will indicate, by a proper visible signal, that the lawful parking period has expired and, in such case, the right of such vehicle to occupy such space shall cease and the operator, owner, possessor or manager thereof shall be subject to the penalties provided in this Division.

Section 2. That Section 33-107 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-107. Operation.

Except in a period of emergency determined by an officer of the fire or police division or in compliance with the directions of a police officer or traffic-control sign or signal, when any vehicle shall be parked in any parking space alongside or next to which a parking meter is located, the operator of such vehicle shall, upon entering the parking meter space, immediately deposit or cause to be deposited in such meter such proper coin of the United States or a token approved by written order of the chief of police, as is required for such parking meter and as is designated by proper directions on the meter. When required by the directions on the meter, the operator of such vehicle, after the deposit of the proper coins or tokens, shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon. Failure to deposit such proper coin or tokens and to set the timing mechanism in operation, when so required, shall constitute a violation of this Division. Upon the deposit of such appropriate coins, lawful money of the United States of America or approved tokens, and the setting of the timing mechanism in operation when so required, the parking space may be lawfully occupied by such vehicle during the period of time registered on the meter adjacent to such parking space; provided, that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by a previous occupant of the space shall not be required to deposit a coin or token so long as his occupancy of such space does not exceed the indicated unused parking time. Upon the expiration of such unused time, if such vehicle shall remain parked in any such parking space and if the meter shall indicate such illegal parking, such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this Division.

Section 3. That Section 33-109 of the Duluth City Code, 1959, as amended, be amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Sec. 33-109. Parking longer than maximum time specified on meter prohibited.

No person, by the deposit of additional coins or tokens or in any other manner, shall cause a vehicle to occupy a metered parking space for a period of time longer than the maximum time limit provided on such meter.

Section 4. That Section 33-111 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-111. Prohibited acts.

It shall be unlawful and a violation of the provisions of this Division for any person:

(a) To cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any metered parking space or to deposit in any meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter space;

(b) To permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space;

(c) To park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings;

(d) To deface, injure, tamper with, open or wilfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Division;

(e) To deposit or cause to be deposited in any parking meter any slugs, device or metal substance or other substitute for lawful coins or tokens approved by written order of the chief of police;

(f) To fail to comply with any of the provisions of this Division;

(g) Any owner or operator of any vehicle who causes, allows or permits the vehicle to remain parked unlawfully at a parking meter for over two hours shall be guilty of an aggravated violation of this Division and shall be subject to double the fine for an ordinary violation.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 30, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 20, 1996
Approved May 20, 1996
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 10, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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The minutes of council meetings held on October 2, 5, 10, 16, 23 and 30, 1995, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0610-03 John Avery, et al. (four signatures), submitting petition for construction of a two inch P.E.H.P. gas main on the south side of West Wabasha Road from 271 feet to 131 feet east of Alden Avenue. -- Assessor

96-0610-04 Kenny Conito, et al. (ten signatures), submitting petition for construction of a bituminous overlay on 38th Avenue West from Second Street to Grand Avenue. -- Assessor

96-0610-02 Duluth economic development authority, et al. (four signatures), submitting petition for vacation of a portion of Fremont Street, 69th Alley and 68th Avenue West in Fremont Point Phase III. -- Assessor

96-0610-05 Habitat for Humanity - Duluth submitting petition for construction of a two inch copper water main and a two inch P.E.H.P. gas main in Keene Avenue, from 93rd Avenue West to 220 feet easterly. -- Assessor

96-0610-06 Earl Richards, et al. (three signatures) submitting petition for storm sewer modifications to St. Benedicts Alley west of Kenwood Avenue. -- Assessor

96-0610-01 T & S Properties of Duluth, Inc., et al. (two signatures), submitting petition to vacate part of Fifth Avenue East between Blocks 4 and 5, Portland Division. -- Assessor

96-0610-07 Minnesota state auditor submitting financial statements for the Duluth transit authority for the years ended December 31, 1995, and 1994. -- Received

96-0610-08 Minnesota Power submitting acceptance of terms, conditions and provisions granted by Ordinance 9295 on April 1, 1996. -- Received

96-0610-09 St. Louis County Heritage and Arts Center submitting applications for rental during which alcoholic beverages will be served from: (a) Sandy Ehle on August 17, 1996; (b) Tony Korska and Mary Jo Cipov on August 31, 1996; (c) Mike Oswald on July 5, 1996. -- Received

96-0610-22 West Spirit Community Club submitting communication regarding Memorial Park apartments (96-0528R). -- Received

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REPORTS OF OFFICERS

96-0610-10 Assessor submitting letters of sufficiency for: (a) Petition to vacate part of Fifth Avenue East, between Blocks 4 and 5, Portland Division; (b) Petition for storm sewer modifications to St. Benedicts Alley west of Kenwood Avenue; (c) Petition to construct a bituminous overlay on 38th Avenue West from Second Street to Grand Avenue. -- Received

96-0610-11 Building official submitting appeals of: (a) Building appeal board decision to reinstate a condemnation for demolition order at 209 Pittsburgh Avenue (Tony Cozzi); (b) Board of zoning appeals' decision to deny a request to allow the operation of a 40 acre earthen material

extraction, removal or processing facility on Rice Lake Road property (J&D Enterprises).
-- Committee 2 (planning)

96-0610-12 Community development and housing division submitting: (a) HRA report for the HUD CD-funded housing rehabilitation program for March 1996; (b) Community development status report for the 1996 first quarter. -- Received

96-0610-13 Parks and recreation department director submitting minutes of Lake Superior Zoological Society minutes of March 28, 1996, meeting. -- Received

96-0610-14 Water and gas department engineer submitting letters of sufficiency for construction of: (a) Two inch P.E.H.P. gas main on the south side of West Wabasha Road from 271 feet to 131 feet east of Alden Avenue; (b) Two inch copper water main and a two inch P.E.H.P. gas main in Keene Avenue from 93rd Avenue West to 220 feet easterly. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0610-15 Alcoholic beverage board minutes of April 23, 1996, meeting. -- Received

96-0610-20 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of April 18, 1996, meeting. -- Received

96-0610-16 Board of zoning appeals minutes of April 23, 1996, meeting. -- Received

96-0610-17 Citywide citizens advisory committee minutes of May 28, 1996, meeting.
-- Received

96-0610-18 Civil service board minutes of April 2, 1996, meeting. -- Received

96-0610-19 Duluth airport authority: (a) Minutes of April 16, 1996, meeting; (b) February 29, 1996, unaudited balance sheet. -- Received

96-0610-21 Seaway Port authority of Duluth: (a) Minutes of March 18, 1996, meeting; (b) February 1996 balance sheet. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dudley Russell, member of the charter commission at the time the Charter was adopted in 1955, commented that he feels the form of government adopted is working well.

- - -

Dan Shapiro discussed the city's use of chemical pesticides and herbicides.

- - -

Michelle LeBeau thanked the council for its support of safe affordable housing for low income families, and noted the award received by Transitional Housing for service-enriched new construction.

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RESOLUTION TABLED

President Prettner moved to remove from the table Resolution 96-0439, authorizing the city to enter into an agreement regarding priority of liens on Women's Transitional Housing Coalition property located at 1431 East First Street, which motion was seconded and unanimously carried.

Resolution 96-0439 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, on August 8, 1995, pursuant to City Council Resolution No. 95-0705, the city entered into a grant agreement with Women's Transitional Housing Coalition, Inc. (women's transitional), to rehabilitate certain property located at 1431 East First Street; and

WHEREAS, the grant agreement established a mortgage lien in the full amount of the sum granted, which lien was subordinated only to a lien in favor of the Minnesota housing finance agency (MHFA); and

WHEREAS, women's transitional desires to secure funding in the amount of \$15,000 from Park State Bank, which bank requires a first priority position; and

WHEREAS, MHFA has agreed to be in a third priority position, behind the city of Duluth.

BE IT RESOLVED, that the proper city officials are hereby authorized to enter into a priority agreement, substantially in the form of that copy on file in the office of the city clerk as Public Document No. 96-0610-23, with women's transitional, MHFA and Park State Bank in which the city takes a priority position as follows:

First priority Park State Bank

Second priority City of Duluth

Third priority MHFA

Resolution 96-0439 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

Resolution 96-0535, by Councilor Wheeler, requesting the charter commission to recommend adoption of amendments to Sections 8 and 11 of the City Charter relating to procedures for the approval of resolutions awarding the sale of bonds and other financial obligations, which motion was seconded and unanimously carried.

Councilor Hogg moved to amend the resolution, in the title and body, to delete the words "and other financial obligations" and insert the words "certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation and installment purchase agreements," which motion was seconded.

In response to Councilor Bohlmann, Todd Torvinen, finance director, said the city has very little debt outside of the bond market.

The amendment was adopted upon a unanimous vote.

Resolution 96-0535, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city council hereby requests the Duluth charter commission to recommend adoption of an ordinance amending Sections 8 and 11 of the Duluth City Charter to change the procedural requirements for the approval of resolutions awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation and installment purchase agreements, which ordinance is on file in the office of the city clerk as Public Document No. 96-0610-24.

Resolution 96-0535, as amended, was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0538, by Councilor Wheeler, requesting the administration to develop a plan for paving the parking areas adjacent to Wade Stadium, was introduced for discussion.

Councilor Hogg questioned if there are alternatives to the dust problem, and said he will not support the resolution because he feels the cost is too high.

In response to Councilor Hardesty, Administrative Assistant Nollenberger said passage of this resolution would indicate the council's desire to have this project included in the capital improvement program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlmann stated that she feels it is the city's obligation to pave the parking lot because the city created the stadium.

In response to Councilor Keenan, Mr. Nollenberger said extensive renovations for the stadium and parking lot amount to over \$500,000, and is part of the capital improvement program, but he noted capital improvement projects have not been prioritized.

Resolution 96-0538 was adopted as follows:

BY COUNCILORS WHEELER, RAPAICH AND BOHLMANN:

WHEREAS, the gravel parking areas adjacent to Wade Stadium have become more heavily used in recent years because of the presence of the Duluth Dukes baseball team and other sport activity; and

WHEREAS, this increased use has resulted in a serious dust problem for the residents who live near Wade Stadium; and

WHEREAS, the ownership of the Duluth Dukes has expressed an interest in having these parking areas paved; and

WHEREAS, improvement of these parking areas will allow for greater flexibility in their use; and

WHEREAS, the cost of paving these parking areas (approximately \$100,000) may be offset by revenues from charges for their use;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city administration to develop a plan for paving the parking areas adjacent to Wade Stadium and for paying for the cost of such improvement.

Resolution 96-0538 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Hogg -- 1

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 license period beginning July 1, 1996, and ending June 30, 1997, 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 96-0492 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Card Building, Inc., be and hereby is awarded a contract for streetscape improvements of Lincoln Park business district, Phase 1 - rebid for the Lincoln Park business revitalization in accordance with specifications on its low specification bid of \$63,059, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Organization 1994, Object C421.

Resolution 96-0517 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license and an on sale nonintoxicating malt liquor license, for the period ending August 31, 1996, and April 30, 1997, respectively, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Louis Cafe of Duluth, Inc. (Louis Cafe), 1500 London Road, with Louis Letsos, Jr., 100 percent stockholder.

Resolution 96-0520 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Swan & Associates, for the sum of not to exceed \$4,330, from General Fund 100, Agency 700, Org. 2726, Obj. I424, for providing certain environmental monitoring services to the city of Duluth in connection with the City Hall water pipe replacement, 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. 96-0610-25.

Resolution 96-0527 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Amendola Construction Company be and hereby is awarded a contract for installing playground equipment at Fond-du-Lac, Norton Park and Portman recreation centers/ rebid for the city architect division in accordance with specifications on its low specification bid of \$68,260, terms net 30, FOB job sites, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C410.

Resolution 96-0529 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that A.G. O'Brien Plumbing and Heating Company be and hereby is awarded a contract for relocating and installing water pipe at City Hall for the property management in accordance with specifications on its low specification bid of \$38,218, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I424.

Resolution 96-0531 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Envirobate Northland Environmental Services be and hereby is awarded a contract for asbestos abatement at City Hall for property management in accordance with specifications on its low specification bid of \$9,700, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I424.

Resolution 96-0532 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0550, by Councilor Rapaich, approving the issuance of a lawful gambling premise permit, was introduced for discussion.

Councilor Hogg noted that he will support this resolution because it is not an expansion of charitable gambling in the community.

Councilor Keenan noted the positive impact that legal gambling has on youth organizations, and said the city is not in a position to fund those activities.

Councilor Bohlmann noted that the youth programs were funded before charitable gambling, and said she feels gambling is causing more problems than what is attained from their contributions to those programs.

Councilor Rapaich moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Resolution 96-0550 was adopted as follows:

BY COUNCILOR RAPAICH:

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>
Lester Park Hockey Association	Norman's Bar	May 21, 1996

Resolution 96-0550 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0195, by Councilor Bohlmann, confirming appointments to the human rights commission, was introduced for discussion.

Councilor Bohlmann noted that group interviews will be conducted of the candidates at the request of the other members of the personnel committee, but that she felt that the interviews should be individual.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Talarico moved to table the resolution until June 24, 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:

DULUTH AIRPORT AUTHORITY

John Arotta and Kathy Forslund for terms expiring July 1, 1999.

Resolution 96-0479 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0480, by Councilor Bohlmann, confirming reappointments of Royal D. Alworth and Steven O. Jackson to the sanitary sewer board of the Western Lake Superior Sanitary District, was introduced for discussion.

Councilor Bohlmann moved to divide the resolution to vote on the candidates separately, which motion was seconded and unanimously carried.

Resolutions 96-0480(a) and 96-0480(b) were adopted as follows:

BY COUNCILOR BOHLMANN:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

Royal D. Alworth for a term expiring July 1, 1999.

Resolution 96-0480(a) was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SANITARY SEWER BOARD of the Western Lake Superior Sanitary District

Steven O. Jackson for a term expiring July 1, 1999.

Resolution 96-0480(b) was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Wayne Brandt and William Zimbinski for terms expiring June 30, 1999.

Resolution 96-0481 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

John Scott for a term expiring June 30, 1999.

Resolution 96-0482 was unanimously adopted.

Approved June 10, 1996

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

M. George Downs for a term expiring June 30, 1999, replacing James Shearer.

Resolution 96-0496 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

LIBRARY BOARD

Mark P. Melhus for a term expiring June 1, 2001, replacing Thomas Conklin.

Resolution 96-0497 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

SPIRIT MOUNTAIN RECREATION AREA AUTHORITY

Charles H. Andresen for a term expiring June 30, 1999, replacing S. C. Welles.

Resolution 96-0498 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Jennifer Peterson (Duluth housing trust fund board) for a term expiring March 1, 1998, replacing Kathy Stevens who resigned.

Resolution 96-0521 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Boys/Girls Club Youth & Family Center project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0610-26, with the Boys Club of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$54,000, payable out of the 1996 Federal Program Fund 262 - community development - Boys/Girls Club Youth & Family Center Account No. 6920.

Resolution 96-0484 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0486, by President Prettner, authorizing an agreement with the Minnesota Clients' Council/Tenants Union for \$28,000, payable from the 1996 community development program, was introduced for discussion.

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

Toni Sheehy, Minnesota Clients Council, responded to Councilor Hales regarding the number of clients served, internal revenue filing information and audits.

Councilor Hales stated that she is concerned about the accountability of this nonprofit agency, adding that she has heard of problems with the Tenants Union.

Ms. Sheehy noted her work to make her organization a credible agency, and said it is endorsed by many organizations to continue its work.

Councilor Hogg felt funds should not be released until the organization provides its current 990 form. He moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Mr. Nollenberger pointed out that there is no policy that the 990's be included, but that the organizations are supplying them as a courtesy.

Councilor Wheeler felt the type of questions directed at the organization's representative is not appropriate and not good public policy or process.

Councilor Hardesty felt that a committee meeting should be held regarding the issue of why a few nonprofits are being targeted for accountability.

Councilor Hales said she does not feel it is out of line to request that current tax forms are available because it is the council's responsibility to assure that nonprofits are following the rules.

Councilor Talarico said the issue is not whether councilors have a right to ask hard questions, but he felt those questions should have been asked at the agenda session. He moved to call the question, which motion was seconded and unanimously carried.

Resolution 96-0486 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Minnesota Clients' Council/Tenants' Union project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0610-27, with the Minnesota Clients' Council of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$28,000, payable out of the 1996

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Federal Program Fund 262 - community development - Minnesota Clients' Council Tenants' Union Account No. 6927.

Resolution 96-0486 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnner -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of an easement (vacated alley) lying at the rear of the Chromaline property located at 4832 Grand Avenue, legally described as:

that portion of an easement (vacated alley) lying northeast of west line of Lots 1 and 9 through to the eastern most line of Lots 4 and 12 of Block 66 - Oneota 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 May 14, 1996, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of an easement (vacated alley) lying northeast of west line of Lots 1 and 9 through to the eastern most line of Lots 4 and 12 of Block 66 - Oneota Duluth described above, and as more particularly described on Public Document No. 96-0610-28.

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 being vacated.

Resolution 96-0487 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of various easements in Fremont Street, 58th Avenue West, 59th Avenue West, 60th Avenue West, 59th Alley, 60th Alley and 61st Alley, all south of Sherburne Street in West Duluth, legally described as:

In the plat of West Duluth, Fourth Division:

(a) The northerly 1/2 of Fremont Street, lying west of the westerly line of 58th Avenue West and east of the easterly line of 59th Avenue West;

(b) That portion of 58th Avenue West lying south of a line 50 feet south of and parallel with the centerline of Waseca Street and north of the south line of Block 293 and as extended;

(c) The easterly nine feet of 59th Avenue West lying north of the southerly line of Block 294, and as extended, and south of the southerly line of Fremont Street;

(d) That portion of 60th Avenue West lying north of the northerly line of Waseca Street and south of the northerly line of Block 284 and as the same is extended;

(e) That portion of the alley between 60th Avenue West and 61st Avenue West lying north of the northerly line of Waseca Street and south of the northerly line of Block 284 and as the same is extended;

(f) That portion of the alley between 58th Avenue West and 59th Avenue West lying 50 feet south of and parallel with the centerline of Waseca Street;

(g) That portion of the alley between 59th Avenue West and 60th Avenue West lying north of the northerly line of Waseca Street and south of the northerly line of Block 284 and as the same is extended; 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 14, 1996, meeting.

NOW THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of portions of Fremont Street, 58th Avenue West, 59th Avenue West, 60th Avenue West, 59th Alley, 60th Alley and 61st Alley, all south of Sherburne Street in West Duluth described above, and as more particularly described on Public Document No. 96-0610-40.

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 easements being vacated.

Resolution 96-0488 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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Resolution 96-0489, by President Prettner, granting a special use permit to Duluth Care Center for a supervised living facility on property located at 420 East McCuen Street, was introduced for discussion.

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

Ralph Florestano spoke in opposition to the project, stating that the community opposes it. He felt a better location could be found, questioned who will pay the assessments involved, and suggested that two smaller homes would be favorable to the one large home proposed.

Julie Kromschroeder spoke in opposition to the project, stating that she feels that it does not fit in the neighborhood.

Michael Mills, Duluth Regional Care Center, reviewed that the project involves relocation of the existing program from its current facility that no longer serves the needs of the residents because of poor accessibility. He said that they want to be a good neighbor. He noted that funding requirements will not permit constructing two smaller buildings instead of one large one. In response to Councilor Hogg, he said two buildings would require additional staff and make the project not feasible.

Lynne Frigaard, ARCC, supported the development as proposed. She said that besides funding requirements and staffing costs, the residents deserve to stay together as they have for many years. She said concerns about people with disabilities not being good neighbors are usually unfounded, and that they fit very well into the neighborhood.

Jim Tracy spoke in support of the program, stating that he is a neighbor to the current operation and has found the residents to be good neighbors.

Mark Nelson, St. Louis County social services, said all residents are funded by medical assistance, and noted the possibility of loss of funding if the program is changed. He stated that there are many operations of this type in the city and none have caused neighborhood problems. In response to Councilor Bohlmann, he said this would not set a precedent for development of large facilities, and reviewed the history of these residents being together for many years.

Connie Kimball felt the project is too large for the area.

In response to Councilor Hogg, Mr. Mills said the project will be set back on the property as far as possible and will be landscaped.

Councilor Hogg noted that the Gary New-Duluth Community Club does not oppose the project and that the developers are willing to work with the neighborhood to resolve any issues.

Councilor Keenan questioned the environmental impact and stated concern about the size of the facility. In response to Councilor Keenan, Mr. Mills said that if the resolution is delayed, the property acquisition agreements would need to be renegotiated. Councilor Keenan moved to table the resolution until June 24 for a response from the administration regarding environmental issues, and in order to review the impact on the neighborhood, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan and Rapaich -- 4

Nays: Councilors Hardesty, Hogg, Talarico, Wheeler and President Prettner -- 5

Councilor Bohlmann said she will not support the project because she feels the proposed building is too large.

Councilor Wheeler noted that the proposal was approved by the planning commission, and said he felt concerns have been addressed.

Councilor Hogg did not support the tabling motion because of the uncertainty of renegotiating the property acquisition.

President Prettner spoke in support of the resolution, stating that she is familiar with this type of facility and that she feels the residents will be good neighbors.

Councilor Keenan said that because he cannot get his concerns addressed regarding the neighborhood issues, he will vote against the resolution.

Resolution 96-0489 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, Duluth Regional Care Center has submitted to the city council a request for a special use permit for a state licensed supervised living facility for nine residents, on property described as Block 12, Lots 1-10, Smith's Addition to New Duluth, First Division and located at 420 McCuen 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 Duluth Regional Care Center for a supervised living facility licensed pursuant to Minnesota Statutes, Section 144.50, Subdivision 6, on the condition that operation of the facility be maintained in compliance with provisions of Minnesota Statutes governing the licensing of

supervised living facilities with the City Code.

Resolution 96-0489 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Talarico, Wheeler and President Prettner -- 5

Nays: Councilors Bohlmann, Hales, Keenan and Rapaich -- 4

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, Section 45-4.1 of the Duluth City Code, 1959, as amended, allows the city council, by resolution, to allow the placement of objects or materials on the public sidewalks or boulevard areas where the city council finds that such objects will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare; and

WHEREAS, the DeWitt-Seitz Marketplace (Sam Atkins), has requested permission to place a three bin recycling receptacle on the sidewalk of the Buchanan Street right-of-way in front of the DeWitt-Seitz Marketplace property located at 394 Lake Avenue South, property described as Lots 5, 7, 9, 11 and the south 28 feet of Lot 13 and all of Lot 14, Lake Avenue, Cowell's Addition to Duluth; and

WHEREAS, per Section 45-4.1, the city planning commission has reviewed this request and considered the comments and recommendations of the director of public works and recommends the conditional placement of a three bin recycling receptacle.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the DeWitt-Seitz Marketplace is hereby permitted to place a three bin recycling receptacle in accordance with the drawing identified as city council Public Document No. 96-0610-29 in the sidewalk area of the right-of-way of Buchanan Street, of the city of Duluth, subject to the following conditions:

(a) The specific installation shall be as described in the Downtown Waterfront Mixed- Use Design Review District Certificate of Appropriateness No. 21;

(b) That the applicant shall be responsible for maintenance of the recycling bins and policing refuse in the immediate area;

(c) That the term of the permit be limited to the term of the applicant's ownership and operation of the property or until May 1, 2000, whichever is less.

BE IT FURTHER RESOLVED, that in the event that the conditions imposed by this resolution differ from any conditions imposed by the DWMX-D, design review committee, the more stringent conditions shall apply.

Resolution 96-0490 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of Fremont Street between 68th Avenue West and the Burlington Northern Santa Fe Railway right-of-way (BNSF ROW), 68th Avenue West and the alley between 68th Avenue West and 69th Avenue West between Fremont Street and the BNSF ROW in West Duluth legally described as:

(a) That part of Fremont Street as dedicated in Hunter's Grassy Point Addition, 2nd Division, St. Louis County, Minnesota, that is north and west of the following described line: Beginning at the intersection of the east line of the BNSF ROW and the centerline of Fremont

Street; thence south 89 degrees 24 minutes 50 seconds east 116.57 feet along said centerline; thence northerly along a line parallel to the west line of 67th Avenue West to the north right-of-way line of Fremont Street and there terminating; retaining a pedestrian and utility easement over, under and across said above-described portion of Fremont Street;

(b) That part of Fremont Street as designated in Hunter's Grassy Point Addition, 2nd Division, St. Louis County, Minnesota, that is south and west of the following described line: Beginning at the intersection of the east line of the BNSF ROW and the centerline of Fremont Street; thence south 89 degrees 24 minutes 50 seconds east 116.57 feet along said centerline; thence south 0 degrees 35 minutes 10 seconds west 27.00 feet; thence southerly along a tangential curve concave to the east 6.01 feet, radius 60 feet, to the south right-of-way line of Fremont Street and there terminating;

(c) The alley between 68th Avenue West and 69th Avenue West between the northerly right-of-way line of Fremont Street and the BNSF ROW adjacent to Block 5 & Outlot "F", Hunter's Grassy Point Addition, 2nd Division;

(d) The westerly 33' of 68th Avenue West, between the northerly right-of-way line of Fremont Street and the BNSF ROW adjacent to Block 5, Hunter's Grassy Point Addition, 2nd 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 14, 1996 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the portions of Fremont Street, 68th Avenue West and the alley between 68th Avenue West and 69th Avenue West described above, and as more particularly described on Public Document No. 96-0610-30.

BE IT FURTHER RESOLVED, an easement be retained for pedestrian and utility purposes as described in item (a) above.

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 streets and alley easements being vacated and the pedestrian and utility easements being retained.

Resolution 96-0491 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Truancy Action Project (TAP) pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0610-31, with Lutheran Social Services (LSS), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$16,000, payable out of the 1996

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Federal Program Fund 262 - community development - Truancy Action Project Account No. 6928.

Resolution 96-0501 was unanimously adopted.
Approved June 10, 1996
GARY L. DOTY, Mayor

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Resolution 96-0502, by President Prettner, transferring funds within the 1996 HUD community development block grant program, was introduced for discussion.

President Prettner noted that the Men's Transitional Housing program will not be ready. She moved to amend the resolution to transfer the additional \$14,000 allocation to that program to contingency, which motion was seconded and unanimously carried.

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

Jeff Jackson, member of the NAC and CCAC, reviewed at length the process of the CCAC recommendation and urged the council's approval.

Councilor Hogg moved to divide the question to vote separately on the CAP weatherization - regular program allocation, which motion was seconded and unanimously carried.

Councilor Hales moved to divide the question to vote separately on the allocations for American Indian Women/Children's Transitional Housing, Depot Arts Connection and YMCA Mentoring Program, which motion was seconded and unanimously carried.

Resolutions 96-0502(a), 95-0502(b) and 96-0502(c) were adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth has received an additional funding allocation from the government for the HUD funded community development block grant (CDBG) program; and

WHEREAS, the citywide citizens advisory committee (CCAC) for community development at their meeting on May 28, 1996, has passed a resolution to accept the city council "intent" with respect to public service projects as set forth in city council Resolution 95-0916 passed on October 23, 1995, and also passed a resolution recommending funding changes as set forth below;

NOW, THEREFORE, BE IT RESOLVED, the proper city officers are authorized to make the following funding transfer in the federal program Fund 262 - 1996 HUD funded community development account as set forth below:

1996 Duluth HUD Funded CDBG Program

<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>		
6903	CAP weatherization regular program	\$350,000	+150,000	\$500,000		

Resolution 96-0502(a) was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hales -- 1

Approved June 10, 1996
GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth has received an additional funding allocation from the government for the HUD funded community development block grant (CDBG) program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the citywide citizens advisory committee (CCAC) for community development at their meeting on May 28, 1996, has passed a resolution to accept the city council "intent" with respect to public service projects as set forth in city council Resolution 95-0916 passed on October 23, 1995, and also passed a resolution recommending funding changes as set forth below;

NOW, THEREFORE, BE IT RESOLVED, the proper city officers are authorized to make the following funding transfer in the federal program Fund 262 - 1996 HUD funded community development accounts as set forth below:

<u>1996 Duluth HUD Funded CDBG Program</u>				
<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>
6929	American Indian women/children's transitional housing	\$ 1,000	+ 14,000	\$ 15,000
6931	Depot Arts Program	1,000	+ 4,000	5,000
6932	YMCA mentoring program	1,000	+ 14,000	15,000

Resolution 96-0502(b) was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth has received an additional funding allocation from the government for the HUD funded community development block grant (CDBG) program; and

WHEREAS, the citywide citizen advisory committee (CCAC) for community development at their meeting on May 28, 1996, has passed a resolution to accept the city council "intent" with respect to public service projects as set forth in city council Resolution 95-0916 passed on October 23, 1995 and also passed a resolution recommending funding changes as set forth below:

NOW, THEREFORE, BE IT RESOLVED, the proper city officers are authorized to make the following funding transfers in the Federal Program Fund 262 - 1996 HUD-funded community development accounts as set forth below:

<u>1996 Duluth HUD Funded CDBG Program</u>				
<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>
HOUSING PROJECTS				
6901	HRA housing rehabilitation	\$725,000	+ 25,000	\$750,000
6902	Neighborhood Housing Services (NHS)	350,000	+ 25,000	375,000
6904	CAP weatherization - sliding fee	57,000	+ 18,000	75,000
PHYSICAL IMPROVEMENTS				
6905	Fairmont area streets - West Duluth	293,000	+ 40,000	333,000
6906	Endion area streets - East Hillside	221,000	+ 24,000	245,000
6908	Grant Recreation Center improvements	35,000	+ 12,000	47,000
6910	Lincoln Park restoration	33,000	+ 7,000	40,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

6913	Hillside Sports Court Basketball Hoops	13,000	+ 10,000	23,000
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PUBLIC SERVICE PROJECTS

6924	Women's Transitional Housing	39,000	+ 2,000	41,000
6925	Family Transitional Housing-Salvation Army	33,000	+ 2,000	35,000
6930	Men's Transitional Housing	1,000	- 0 -	1,000

ADMINISTRATION/PLANNING/CONTINGENCY

6935	Contingency - other projects	34,000	+ 35,000	69,000
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Resolution 96-0502(c), as amended, was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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Resolution 96-0506, by President Prettner, authorizing an agreement with Neighborhood Housing Services (NHS) for a residential rehabilitation program revolving loan fund (RLF) in the amount of \$120,000, was introduced for discussion.

Councilor Hogg said he will not support this resolution because he has not received copies of the organization's current 990's as requested.

Councilor Talarico noted that he will abstain from voting on this resolution because of litigation that his firm is involved with.

Resolution 96-0506 was adopted as follows:

BY PRESIDENT 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. 96-0610-32, with Neighborhood Housing Services, Inc. (NHS), for the operation of a revolving loan fund for residential rehabilitation in the amount of not to exceed \$120,000, payable out of the 1996 Federal Program Fund 262 - Neighborhood Housing Services Project Account 6902.

Resolution 96-0506 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Wheeler and President Prettner -- 7

Nays: Councilor Hogg -- 1

Abstention: Councilor Talarico -- 1

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city has received a request for the vacation of an easement for slopes and fills filed November 1, 1921, in Book 25 of miscellaneous, page 353, covering a portion of the following property:

westerly ten feet of the southerly 60 feet of Lot 366 and the southerly 60 feet of Lot 368, Block 146, Duluth Proper, Second Division; and

WHEREAS, an appropriate staff review of this request has been conducted, and staff has recommended that the request vacation be granted.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth vacates the portion of the slope and fill easement covering the above-described portions of Lots 366 and 368, Block 146, Duluth Proper, Second Division.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record with the St. Louis County recorder a certified copy of this resolution.

Resolution 96-0507 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city has received a request for the vacation of an easement for slopes and fills filed August 28, 1925, as Document No. 76006, covering a portion of the following property:

Lot 1 and the northerly 12.15 feet of Lot 2, Block 2, Woodland Park, Sixth Division; and

WHEREAS, an appropriate staff review of this request has been conducted, and staff has recommended that the request vacation be granted.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth vacates the portion of the slope and fill easement covering the above-described portions of Lots 1 and 2, Block 2, Woodland Park, Sixth Division.

BE IT FURTHER RESOLVED, that the city clerk is hereby directed to record with the St. Louis County recorder a certified copy of this resolution.

Resolution 96-0508 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, Section 45-4.1 of the Duluth City Code, 1959, as amended, allows the city council, by resolution, to allow the placement of objects or material on the public sidewalks or boulevard areas where the city council finds that such objects will not substantially interfere with pedestrian traffic and that the placement of such objects is beneficial to the public welfare; and

WHEREAS, the Amazing Grace Bakery and Cafe has requested permission to place tables and chairs on the sidewalk of the Buchanan Street right-of-way in front of the DeWitt-Seitz Marketplace property located at 394 Lake Avenue South, property described as Lots 5, 7, 9, 11 and the south 28 feet of Lot 13 and all of Lot 14, Lake Avenue, Cowells Addition to Duluth; and

WHEREAS, per Section 45-4.1, the city planning commission has reviewed this request and considered the comments and recommendations of the director of public works and recommends the conditional placement of the tables and chairs.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the Amazing Grace Bakery and Cafe (Doug Zaun) is hereby permitted to place six tables and 22 chairs in accordance with the drawing identified as city council Public Document No. 96-0610-33 on or within the sidewalk area of the right-of-way of Buchanan Street, of the city of Duluth, subject to the following conditions:

(a) The specific table and chair design shall be as described in the Downtown Waterfront Mixed-Use Design Review District, Certificate of Appropriateness No. 22;

(b) That the applicant shall be on notice that this permit is not exclusive, and that the city may cause the tables and chairs to be removed for specific events conducted in the Canal Park area;

(c) That the applicant shall be responsible for policing refuse in the immediate area;

(d) That the placement of the tables and chairs shall be located within the approved sidewalk area during the hours of operation of the bakery and cafe and shall be removed from the sidewalk when the business is closed;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(e) The maximum number of six tables and 22 chairs permitted in the Buchanan Street sidewalk in front of the DeWitt-Seitz Marketplace building shall be located only in the area illustrated in the city council public document;

(f) That the term of the permit be limited to the term of the applicant's ownership and operation of the business or until May 1, 2000;

(g) This resolution shall not be effective until the date that the permittee has filed the insurance certificate as required per Section 45-4.1 of the Code;

(h) That the general public shall be allowed to sit on this furniture without the requirement of a purchase from the permittee, signage may be required to so state, and said signage must be approved by the DWMX-D design review committee.

Resolution 96-0524 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

BE IT RESOLVED, by the city of Duluth that the city enter into the grant agreement (Public Document No. 96-0610-41) with the Minnesota pollution control agency (MPCA) for a clean water partnership grant to conduct the following project:

Miller Creek watershed preservation and restoration project.

BE IT FURTHER RESOLVED, by the city of Duluth that the mayor, Gary L. Doty, be authorized to execute the grant agreement for the above mentioned project on behalf of the city of Duluth.

BE IT FURTHER RESOLVED, that the city of Duluth will accept the Minnesota pollution control agency clean water partnership grant for the Miller Creek restoration project in the sum of \$18,262 to be deposited in the city of Duluth, Kohl's Miller Creek restoration fund.

BE IT FURTHER RESOLVED, by the city of Duluth that the project representative for the Miller Creek clean water partnership project will be John Klaers, city planner/zoning administrator for city of Hermantown.

BE IT FURTHER RESOLVED, by the city of Duluth that the project fiscal agent for the Miller Creek clean water partnership project will be Richard Harms, district manager, South St. Louis County soil and water conservation district.

Resolution 96-0525 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the first amendment to the pedestrian passageway agreement pertaining to the Palladio Building, First Street connection, a copy of which is on file in the office of the city clerk as Public Document No. 96-0610-34, with James A. Jauss, amending the agreement for extension of the skywalk system through the building to connect to First Street.

Resolution 96-0526 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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Resolution 96-0528, by President Prettnner, authorizing the city to enter into a priority agreement with respect to Memorial Park Apartments and authorizing amendments to the

community development block grant and HOME program loan agreements, was introduced for discussion.

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

Tom Hystead said that this project has been in the works for over five years, and that Center City Housing has been seeking capital funding for the second phase. He said the project represents a solid commitment to decent and safe affordable housing in a good neighborhood. He reviewed that the resolution represents some technical modifications and a priority agreement, and that tax credit investors and permanent construction financing are committed. He said the resolution allows the bank to carry through on its commitment and allows finalization of partnership agreements with entities involved as limited partners. He encouraged adoption of the resolution.

In response to Councilor Rapaich, Mr. Hystead said it has been their intent to try to keep the community involved and appraised, specifically regarding the progress of the project and parking issues, but that he felt that communication has not been as good as it should have been.

Shari Bjorlin, ad hoc committee member, felt that one of the problems has been poor communication. She stated that she was led to believe that the construction phase would start and it hasn't yet, and that funding was in place several years ago. She stated concern regarding how long it has taken to complete Phase 2. She related problems with the management council in addressing concerns, in keeping lines of communication open and providing notice of meetings. She voiced support for the project with the following compromises: that regular meetings be held with the committee, that the building be constructed within one year, and that responses regarding concerns be presented in writing to the community, and if responses are not acceptable, that arbitration is used to resolve the issues.

In response to Councilor Rapaich, Mr. Hystead said the neighbors' concerns are valid and their expectations are reasonable, and that shortcomings are Center City Housing's. He said the support of the neighbors is needed so that the residents can feel part of the neighborhood, and expressed desire to work with the community club.

Bill Burns, attorney for Center City Housing, noted that there have been problems with allocations of tax credits for this project, but that commitments have now been secured from local businesses to purchase the tax credits. He said that construction is expected to start within 30 to 45 days, and noted that this resolution has been approved by all of the other parties involved.

In response to Councilor Talarico, Mr. Burns agreed that the compromises requested by Ms. Bjorlin regarding regular meetings, construction within one year and responses to neighborhood concerns can be added to the April 3, 1991, agreement.

In response to Councilor Keenan, Mr. Burns said the operating history of the SRO portion of the project is not strong. He also responded that he feels the project will succeed when it is completed and he answered questions regarding the operating and construction budget.

In response to Councilor Hogg, Pam Kramer, community development and housing division manager and Mr. Burns reviewed that the city is currently in first position for loan repayment, and that this resolution would approve a shared second position. Mr. Burns said that there is a significant delusion of the city's position and said that most loans are repaid through the continued dedication of the facility to low income housing for a period of time. He reviewed the financial and loan status of the project.

Councilor Hogg said he would feel more comfortable supporting this if there was assurance that there will not be further financial requests for this project, noting the substantial dollars invested in the project to date. He expressed doubt about the financial viability of the project.

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Councilor Hales reviewed the operating statement and said she will not support the resolution because she does not feel the bank should have first position before taxpayers, and she does not agree with funding a project that continues to lose funds.

President Prettner noted that the council understood when approving Phase 1 that Phase 2 would be necessary for this project to proceed.

Resolution 96-0528 was adopted as follows:

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a priority agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 96-0610-35(a), in which the city agrees to a shared second position behind a first mortgage to North Shore Bank of Commerce in an amount not to exceed \$420,000, with respect to the city's urban revitalization action program (URAP) agreement, community development block grant (CDBG) SRO acquisition loan, CDBG grant agreement and HOME program loan agreement with MPA Limited Partners II Limited Partnership (MPA Limited Partners).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the HOME program loan agreement, substantially in the form of that which is on file in the office of the city clerk as Public Document No. 96-0610-35(b), to City Contract No. 17641 with MPA Limited Partners extending the time for completion of construction.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the CDBG agreement substantially in the form of that which is on file in the office of the city clerk as Public Document No. 96-0610-35(c), to City Contract No. 17621 with MPA Limited Partners II extending the time for completion of construction.

Resolution 96-0528 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officers, on behalf of the Duluth heritage preservation commission, are hereby authorized to sell books, including *The Zenith City of the Unsalted Sea - Duluth Historic Contexts Study*, *The Zenith Industrial District - The Historic Development of Canal Park*, each for \$8.95 retail or \$5.37 wholesale, and *Duluth Legacy Volume 1 Architecture* for \$19.95 retail, and to sell buttons, and to accept donations in amounts of \$100 or less, the proceeds of which shall be deposited in Fund 100-015-2020-4644 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 1996 heritage preservation fair and other public education initiatives by the heritage preservation commission up to the amount in the said account.

Resolution 96-0536 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0495, by Councilor Keenan, authorizing the Duluth transit authority to enter into an extension of its management agreement with ATE Management of Duluth, Inc., was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hogg questioned whether the city is getting its money out of this company, and requested a committee meeting to discuss it. He felt the council does not have the information it needs to take a position on this issue.

President Prettner and Councilor Keenan felt it would be more appropriate to meet with the DTA board members after the board has made a decision.

- - -

At this time, 11:00 p.m., Councilor Wheeler made a motion to continue the meeting for another 20 minutes, which motion was seconded and unanimously carried.

- - -

Councilor Bohlmann felt the council should ask questions before a decision is made. She felt the authority should be held accountable.

Councilor Wheeler moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Keenan -- 1

Resolution 96-0495 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the city council hereby authorizes the Duluth transit authority to enter into a 90 day extension of its current management agreement with ATE Management of Duluth, Inc., which extension agreement is on file in the office of the city clerk as Public Document No. 96-0610-36.

Resolution 96-0495 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to accept a matching grant of \$550 from the Minnesota state board of the arts to present a program of the Minnesota Scandinavian ensemble at the Duluth public library plaza on Monday, July 8; monies to be deposited in the General Fund 100, Agency 300, Organization 1704, Revenue Source 4230.

Resolution 96-0499 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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 and writing workshops at the library: James Wedgwood, Kenny Ahern, Sean Emery, Mary Casanova, Norm Barnhart, Steve Russell, John Coy, Rodney Brown, Kit & Kaboodle, and Nancy Fitzgerald in an amount not to exceed \$4,225.

Resolution 96-0500 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby agrees to indemnify N.C. Companies and Marine

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Tech of Duluth, Inc., in consideration for N.C. Companies and Marine Tech of Duluth, Inc., 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, 1996.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute a hold harmless agreement in favor of N.C. Companies and Marine Tech of Duluth, Inc., in consideration of grant of permission.

Resolution 96-0505 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into a memorandum of understanding with the Duluth job service office to continue a cooperative agreement addressing employment and training program coordination in accordance with the requirements set forth in the Job Training Partnership Act (Public Law 97-300) and the guidelines of the Minnesota workforce center system. This agreement will become effective July 1, 1996, and will remain in effect until it is terminated by either party. This is a nonfinancial agreement. A copy of this memorandum shall be on file in the city clerk's office as Public Document No. 96-0610-37.

Resolution 96-0503 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a two inch polyethylene high pressure gas main be constructed in Wabasha Road on the south side from 271 feet to 131 feet east of Alden Avenue.

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 96-0493 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Erling R. Hansen General Contractor, Inc., be and hereby is awarded a contract for window replacement at the water and gas Garfield lunchroom for the water and gas department in accordance with specifications on its low specification bid of \$6,088, terms net 30, FOB job site, \$3,044 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5255 and \$3,044 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5255.

Resolution 96-0510 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HOGG:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for the painting of approximately 2,273 gas meter piping sets in Lakeside neighborhood for the water and gas department in accordance with specifications on its low specification bid of \$19,797.83, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5319.

Resolution 96-0512 was unanimously adopted.
Approved June 10, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering various size tapping sleeves for cast iron pipe for the water and gas department in accordance with specifications on its low specification bid of \$5,381.21, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0518 was unanimously adopted.
Approved June 10, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a two inch copper water main and a two inch P.E.H.P. gas main be constructed in Keene Avenue, from 93rd Avenue West to 220 feet easterly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said water 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 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 96-0522 was unanimously adopted.
Approved June 10, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Dahlen, Berg, and Company for professional services relating to natural gas sales and transportation rate schedules, which agreement is on file in the office of the city clerk as Public Document No. 96-0610-38; payment not to exceed \$14,600, payable from the Public Utility Gas Fund 510.

Resolution 96-0523 was unanimously adopted.
Approved June 10, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that it 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 Project No.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

8841SW96).

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 \$459,000, payable from the Special Assessment Fund 810, Agency 038, Organization 5279, Object 5530; that approximately \$140,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund, for American Disabilities Act curb cuts and sidewalk ramps; that \$60,000 of the cost of said improvements be payable from the community development block grant West Duluth Sidewalk Safety Account 6907; that \$21,000 of the cost of said improvements be payable from the Lincoln Park Sidewalk Safety Account 6911; that \$33,000 of the cost of said improvement be payable from community development block grant Lincoln Park "park" Access Improvements Account 6910; that approximately \$5,000 be payable from the Sanitary Sewer Utility Fund 530; that approximately \$5,000 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 96-0494 was unanimously adopted.

Approved June 10, 1996

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., for professional engineering services in connection with former Duluth Dump Site No. 1, which agreement is on file in the office of the city clerk as Public Document No. 96-0610-39, at an estimated cost to the city of \$15,720, which shall be paid from the self insurance fund.

Resolution 96-0504 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0999 to Seaway Engineering, Inc., for furnishing professional engineering services, be amended to increase the amount by \$115,500 for a new total of \$190,945, payable out of Street Improvement Fund 440, Dept./Agency 038, Organization 9601, Object 5303.

Resolution 96-0509 was unanimously adopted.

Approved June 10, 1996

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 1996 street patching program for the engineering division in accordance with specifications on its low specification bid of \$297,140.60, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2164, Object 5530.

Resolution 96-0511 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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BY COUNCILOR TALARICO:

RESOLVED, that A.W. Kuettel and Sons, Inc., be and hereby is awarded a contract for installing a ventilation system for the sewer lift station No. 6 for the sewer division in accordance with specifications on its low specification bid of \$18,777, terms net 30, FOB job site, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 96-0513 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0413 to Seaway Engineering Company for furnishing construction engineering consultant services for Arrowhead Road; Kenwood Avenue; Howard Gnesen Road, be amended to increase the amount by \$126,065 for a new total of \$224,906, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5285, Object 5530.

Resolution 96-0515 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0833 to Salo Engineering, Inc., for furnishing engineering and surveying services required for sanitary sewer on Willow Street, be amended to increase the amount by \$11,240.10 for a new total of \$19,962.05, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5287, Object 5530.

Resolution 96-0519 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a design study; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design of 21st Avenue East, between London Road and Fourth Street; and

WHEREAS, S.R.F. Consulting Group, 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 S.R.F. Consulting Group, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$6,500, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 96-0530 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a construction engineering study; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for staking and surveying of 1994 street improvement project; 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 \$18,790, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9319, Object 5303.

Resolution 96-0533 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Voyageur Bus Company be and hereby is awarded a contract for the Waterfront tram service for the property management division in accordance with specifications on its low specification bid of \$8,027, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

Resolution 96-0534 was unanimously adopted.

Approved June 10, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, the Duluth City Council hereby indicates that on Monday, June 24, 1996, at 7:00 p.m. in the Council Chambers on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate certain parking areas on certain streets in the vicinity of Wade Stadium as resident permit parking zones, as manifested by proposed Resolution 96-0540 and the map attached hereto.

RESOLVED FURTHER, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to "occupant" at each address abutting the parking areas of the streets proposed to be so designated.

Resolution 96-0539 was unanimously adopted.

Approved June 10, 1996

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 BOHLMANN

96-028 - AN ORDINANCE AMENDING SECTION 2-100 OF THE CITY CODE RELATING TO THE MEMBERSHIP OF THE DULUTH SRO HOUSING COMMISSION.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER

96-026 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF A PORTION OF LOT 9, BLOCK 5, CENTRAL ACRES SECOND DIVISION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL (CITY OF DULUTH).

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BY COUNCILOR TALARICO

96-027 - AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE ORDEAN FOUNDATION RELATING TO CONVEYANCE OF A SIDEWALK DECK AND STORAGE AREA TO THE ORDEAN FOUNDATION.

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The meeting was adjourned at 11:20 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 24, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 8

Absent: Councilor Talarico -- 1

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The minutes of council meetings held on November 6, 9, 13, 16, 20 and 27, 1995, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0624-01 Brian Daugherty, et al. (four signatures), petitioning to reclassify from residential to commercial portions of Section 19, Township 50 North, Range 14 West. -- Assessor

96-0624-02 Gloria Hovland, et al. (two signatures), petitioning for vacation of that portion of Chester Way described as the northerly 14 feet of Chester Way running from the westerly line of Missouri Avenue to the westerly line of Lot 16, block 5, Superior View Addition. -- Assessor

96-0624-03 James R. and Nancy S. Marchetti submitting petition to construct a three inch P.E.H.P. gas main in Everett Street from 240 feet west of Middle Street to 200 feet easterly. -- Assessor

96-0624-04 Cindy A. Newville submitting petitions for construction of: (a) Sanitary sewer in 87th Avenue West from 1200 feet north of the center line of Lawn Street to 150 feet northerly; (b) Six inch D.I. water main in 87th Avenue West from 1,525 feet north of Vinland Street to approximately 150 feet northerly. -- Assessor

96-0624-05 Minnesota state auditor submitting financial statements for Duluth airport authority for the years ended December 31, 1995, and 1994. -- Received

96-0624-19 Stephen J. Bubul submitting communication regarding public low rent housing projects (96-0557R). -- Received

96-0624-06 Central Hillside Neighborhood Coalition submitting letter regarding Steve Shepherd as the Central Hillside CCAC representative (96-0560R). -- Received

96-0624-17 Darrel Musick submitting letter regarding the proposed Wade Stadium resident permit parking zone (96-0540R). -- Received

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REPORTS OF OFFICERS

96-0624-07 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on June 25, 1996, at 4:30 p.m. regarding proposed improvement of 38th Avenue West from Second Street to Third Street;

(b) Affidavit of mailing of notice of public hearing by the special assessment board on June 25, 1996, at 5:00 p.m. regarding proposed improvement of Fourth Street Alley from 44th Avenue West to 460 feet westerly. -- Clerk

(c) Letter of sufficiency regarding petition to vacate that portion of Chester Way described as the northerly 14 feet of Chester Way running from the westerly line of Missouri Avenue to the westerly line of Lot 16, block 5, Superior View Addition;

(d) Letter of sufficiency regarding petition to vacate a portion of Fremont Street, 69th Alley and 68th Avenue West in Fremont Point Phase III. -- Received

96-0624-15 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle and bingo) from St. Margaret Mary Church at same. -- Received

96-0624-39 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for April 1996. -- Received

96-0624-08 Engineering division submitting June 1, 1996, project status report. -- Received

96-0624-09 Finance department director submitting comprehensive annual financial report for the fiscal year ended December 31, 1995. -- Received

96-0624-18 Water and gas department director submitting 1995 annual report. -- Received

96-0624-16 Water and gas department engineer submitting letters of:

(a) Sufficiency regarding petitions for construction of:

(1) Six inch D.I. water main in 87th Avenue West from 1,525 feet north of Vinland Street to approximately 150 feet northerly;

(2) Three inch P.E.H.P. gas main in Everett Street from 240 feet west of Middle Street to 200 feet easterly;

(b) Insufficiency regarding petition for construction of six inch D.I. water main in 87th Avenue West from 1,525 feet north of Vinland Street to approximately 150 feet northerly. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0624-10 Board of review minutes of May 21, 1996, meeting. -- Received

96-0624-11 Board of zoning appeals minutes of May 28, 1996, meeting. -- Received

96-0624-12 Building appeal board minutes of May 8, 1996, meeting. -- Received

96-0624-13 Duluth transit authority submitting: (a) April 1996 financial statement summary; (b) April 1996 income statement. -- Received

96-0624-14 Special assessment board minutes of May 21, 1996, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Russ Geyer, Top Hat Carriage, addressed traffic on Canal Park and cited what he feels are potential problems with the planning and police department proposal, specifically emphasizing safety issues.

- - -

Joel Sipress commented on the 2001 committee's recommendation regarding a comprehensive land use plan. Mr. Sipress urged consideration of this land use plan in future decisions.

- - -

Alan Kehr expressed concern regarding the proposed DWP development in the Riverside neighborhood. He said that he has gathered a petition with 114 signatures and that the DWP has not been receptive to the concerns voiced by individuals that requests preservation of the urban wilderness.

Bob Kosuth voiced support for preserving existing green spaces.

- - -

Cliff Olson, former city council president, noted the support for the Central Hillside Community Club from the council and requested support for the Neighborhood Housing Services which assists in home ownership.

- - -

RESOLUTION TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlmann moved to remove from the table Resolution 96-0195, confirming appointments to the human rights commission, which motion was seconded and carried.

Councilor Bohlmann reviewed that 14 people have been interviewed and that Barbara Sosa has informed her that she wishes to withdraw her name because she is moving out of town.

Councilor Hardesty moved to amend the resolution to remove the name of Barbara Sosa, which motion was seconded and unanimously carried.

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

Tom Haney questioned the purpose of the human rights commission and expressed displeasure with the process that was used to select the individuals.

Jim VanDell said that some of the individuals recommended don't know the contents of the ordinance. He said that he applied for the commission and that he felt that the viewpoints of individuals like himself were not even considered. He felt that legal action against the process should begin.

Jan Hankiewicz said that he also applied for the human rights commission, and that many people who applied have affiliations with groups that they would feel a need to protect.

Councilor Hogg reviewed some of the comments of the people who were interviewed and what they felt the paramount issues are, and said that he feels this group of candidates definitely has the best interests of the community at heart.

Councilor Bohlmann questioned what future costs will be for enforcement of the ordinance, and questioned the city's liability if legal action is brought against the city for any false accusation of a violation of the ordinance.

Resolution 96-0195 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HUMAN RIGHTS COMMISSION

Jacquelyn Byers for a term expiring March 1, 1999.

Judith Gillen Dahl for a term expiring March 1, 1999.

Mark C. Danielson for a term expiring March 1, 1999.

Kevin Galazen for a term expiring March 1, 1999.

Lorene M. Glenn for a term expiring March 1, 1999.

Mary Isaura Hernandez for a term expiring March 1, 1998.

Robert Jansen for a term expiring March 1, 1998.

Kent Lundahl for a term expiring March 1, 1998.

Mary A. Meierhoff for a term expiring March 1, 1998.

Donald Ness for a term expiring March 1, 1998.

Chau B. Nguyen for a term expiring March 1, 1997.

Rick J. Smith for a term expiring March 1, 1997.

Russell Stover for a term expiring March 1, 1997.

Christine S. Bowlin for a term expiring March 1, 1997.

Resolution 96-0195, as amended, was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

At this time, 8:00 p.m., President Prettner called the public hearing regarding Wade Stadium resident parking zone to order (Public Document No. 96-0624-40).

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At this time, 8:10 p.m., President Prettner declared the hearing closed and the regular order of business was resumed.

- - -

MOTIONS AND RESOLUTIONS

Resolution 96-0553, by Councilor Wheeler, authorizing the contribution of \$50,000 to the University of Minnesota for the replacement of the roof of the Glensheen Mansion, was introduced for discussion.

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

Mary Evans reviewed problems with the roof and said that if it isn't repaired there would be significant damage to the contents of the mansion, which is a successful tourist attraction.

Resolution 96-0553 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to contribute \$50,000 to the University of Minnesota to assist with the replacement of the Glensheen Mansion roof, such donation to be made from the Tourism Tax Fund 258-030-1431-5490.

RESOLVED FURTHER, that \$50,000 from the tourism tax capital projects reserve is hereby allocated to the Tourism Tax Fund 258-030-1431-5490.

Resolution 96-0553 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to provide a subsidy in the amount of \$6,000 to the Duluth transit authority for the operation of the Port Town Trolley during the summer of 1996, payment of which shall be made from the Tourism Tax Fund 258-030-1431-5490.

Resolution 96-0554 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0568, by Councilor Wheeler, approving the operation budget for the fiscal year May 1, 1996, to April 30, 1997, in the following amount of \$2,780,482 for the Spirit Mountain recreation area authority, was introduced for discussion.

Councilor Wheeler moved to table the resolution for further financial information, which motion was seconded and unanimously carried.

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BY COUNCILOR WHEELER:

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

1. The City has issued and sold the following bonds (collectively referred to as the "Bonds"):

(a) General Obligation Gas Revenue Bonds dated April 1, 1978, in the total principal amount of \$2,000,000. There remains outstanding \$165,000 of such bonds which are subject to redemption and prepayment on any interest payment date, including August 1, 1996, at a price of par plus accrued interest;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(b) General Obligation Gas Revenue Bonds dated June 1, 1979, in the total principal amount of \$1,500,000. There remains outstanding \$250,000 of such bonds which are subject to redemption and prepayment on any interest payment date, including August 1, 1996, at a price of par plus accrued interest;

(c) General Obligation Gas Revenue Bonds dated June 1, 1980, in the total principal amount of \$1,525,000. There remains outstanding \$525,000 of such bonds, which are subject to redemption and prepayment on any interest payment date, including August 1, 1996, at a price of par plus accrued interest;

(d) Home Energy Conservation Program Revenue Bonds, Series 1987A and Series 1987B, dated May 15, 1987, in the aggregate principal amount of \$5,000,000. \$210,000 of the Series 1987A Bonds and \$415,000 of the Series 1987B Bonds maturing on and after February 1, 1997, are subject to redemption and prepayment on August 1, 1996, at a price of par plus accrued interest;

2. It is determined that it is in the best interests of the sound financial management of the City that the Bonds maturing on February 1 in the year 1997 and thereafter, be prepaid and redeemed on August 1, 1996, and those Bonds are hereby called for redemption on that date;

3. The City Clerk is authorized and directed to publish, in accordance with law, Notices of Call for Redemption of the Bonds in the forms attached hereto as Exhibits A, B, C and D and to mail a copy of the Notices to Norwest Bank Minnesota, National Association, registrar for the Bonds, and to the original purchaser of the Bonds. The Treasurer is authorized to pay the fees and expenses in connection with the redemption of the bonds being redeemed.

Resolution 96-0580 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Western Area Civic and Business Club, under which the city will reimburse such business club for the purchase of Christmas lighting and banners in exchange for certain services, which agreement is on file in the office of the city clerk as Public Document No. 96-0624-20, at a cost to the city of \$36,475, which shall be paid from the Economic Development Fund 255.

Resolution 96-0448 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Equipment Rental Company be and hereby is awarded a contract for furnishing and delivering labor and materials to repair Reach All knuckle boom truck for the fleet services in accordance with specifications on its low specification bid of \$6,198, terms net 30, FOB job site, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0514 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that Eggebrecht Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering a 4WD pickup truck for the fire department in accordance with specifications on its low specification bid of \$28,853, terms net 30, FOB department, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E603.

Resolution 96-0563 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that U.S. West Cellular and Cellular One be and hereby is awarded a contract for furnishing and delivering cellular air time service and hardware for the various department/divisions in accordance with specifications on its low specification bid of \$35,524 (total), terms net 30, FOB job site, payable out of various funds.

Resolution 96-0570 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that 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 \$352,078, terms net, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E601.

Resolution 96-0576 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the liquor control commissioner issuing the following on sale intoxicating club liquor license for the period ending August 31, 1996, subject to departmental approvals and the payment of sales and property taxes:

Moose, Loyal Order 505, 114 East First Street.

Resolution 96-0581 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 intoxicating Sunday license, for the period ending August 31, 1996, subject to departmental approvals, and the payment of sales and property taxes:

Danricco Limited, Inc. (Bella Vita Restaurant), 21 North Fourth Avenue West, transferred from Moose, Loyal Order 505, 114 East First Street, with Dan Cohen, 51 percent stockholder and Richard Reiss, 49 percent stockholder.

Resolution 96-0582 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale nonintoxicating malt liquor license for the period ending April 30, 1997, subject to departmental approvals, and the payment of sales and property taxes:

Khoe Tran and Nhanh Dinh (Saigon Cafe), 915 West Central Entrance.

Resolution 96-0583 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1997, subject to departmental approvals, and the payment of sales and property taxes:

Wayne J. Olson (Spirit Lake Bait and Tackle), 121 Spring Street.

Resolution 96-0584 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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:

Woodland Fast Pitch Association (Miller Genuine Draft Fastpitch), Anoka and Woodland Avenue, for July 13 and 14, 1996, with Gary Luke, manager;

Mr. D's Softball Teams (Mr. D's MGD (Miller Genuine Draft) coed softball tournament), Wheeler Field, for July 13 and 14, 1996, with William Black, manager;

Copasetic Softball Team, Wheeler Field, for July 27 and 28, 1996, with Paul King, manager.

Resolution 96-0585 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 with music ceasing at 11:00 p.m. and serving ceasing at midnight:

Roby's Bar & Lounge, Inc. (Roby's Bar & Lounge), 2023 West Superior Street, for July 27, 1996 (rain date: September 7, 1996);

Joel Baker (Curly's), 2013 West Superior Street, for July 27, 1996 (rain date: September 7, 1996);

D & D Enterprises of Cloquet, Inc. (Mr. D's Spirit Valley Lounge), 5622 Grand Avenue, for August 2, 1996 (rain date: August 3, 1996);

Dwayne & Kimberly, Inc. (Kom-on-Inn), 332 North 57th Avenue West, for August 2, 1996 (rain date: August 3, 1996);

Rustic Bar, Inc., 401 North Central Avenue, for August 2, 1996 (rain date: August 3, 1996);

Modern Hotel (Twin's Bar), 501 East Fourth Street, for July 26, 1996 (rain date: July 27, 1996);

L W Duluth, Inc. (Pioneer Bar), 323 West First Street, for July 19, 1996 (rain date: July 20, 1996);

Wizner Company (Norman's Bar), 113 West First Street, for July 19, 1996 (rain date: July 20, 1996).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0586 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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.

Greater Downtown Council, for the Downtown sidewalk days, on First Street between First and Second Avenue West and Third and Fourth Avenue West, on July 19, 1996, with a rain date of July 20, 1996;

Western Area Business and Civic Club Association, for Spirit Valley days, on portions of Ramsey Street and 58th Avenue West between Grand Avenue and Central Avenue, on August 2, 1996, with a rain date of August 3, 1996.

Resolution 96-0589 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, the proposed specifications for the new civil service classification of support analyst, which were approved by the civil service board on June 4, 1996, and which are filed with the city clerk as Public Document No. 96-0624-21 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 131.

Resolution 96-0542 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, the proposed amendments to the specifications for the civil service classification of zookeeper I, which were approved by the civil service board on June 4, 1996, and which are filed with the city clerk as Public Document No. 96-0624-22, are approved.

Resolution 96-0543 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0544, by Councilor Bohlmann, approving proposed amendments to the specifications for the civil service classification of van driver, was introduced for discussion.

Councilors Bohlmann and Hogg expressed concern that the amount of driving experience required has been reduced in order to get more applicants.

Resolution 96-0544 was adopted as follows:

BY COUNCILOR BOHLMANN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the proposed amendments to the specifications for the civil service classification of van driver, which were approved by the civil service board on June 4, 1996, and which are filed with the city clerk as Public Document No. 96-0624-23, are approved.

Resolution 96-0544 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Wheeler and President Prettner -- 6

Nays: Councilors Bohlmann and Hogg -- 2

Absent: Councilor Talarico -- 1

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Joan Hackner Barrett (East Hillside/Endion) for a term expiring March 1, 1997.

Shari Bjorlin (at large), Kay Slack (at large) and Jeffrey Jackson (West Duluth) for terms expiring March 1, 1999.

Resolution 96-0548 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Jeffrey Jackson (West Duluth) and Roger Johnson (East Hillside/Endion) for terms expiring March 1, 1999.

Michael Lang for a term expiring March 1, 1998, replacing Alan Billington.

Resolution 96-0549 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0560, by Councilor Bohlmann, confirming appointment and reappointment of Stephen Shepherd to citywide citizens advisory committee and neighborhood advisory council replacing Teresa Simiyu, was introduced for discussion.

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

George Parker supported the resolution, saying that the Central Hillside is a unique area and Mr. Shepherd is willing to serve and is recommended by the community.

Tom Haney supported the resolution, stating that Mr. Shepherd represents the people and will work for the district.

Joyce Lusnia supported the resolution, saying that she felt some councilors were intimidated at the time of the prior consideration and that special attention has been given to organizations because of their funding needs.

Roy St. George supported the resolution, stating that the council requested that the community club review this issue and that they have reaffirmed their recommendation of Mr. Shepherd.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler stated concern that everyone in the neighborhood will be represented and that there will be no intimidation.

Councilor Hales pointed out the neighborhood's hard work in this process.

Councilor Hardesty said that originally information from individuals was that the appointment process had not been fair and now that it has been reconsidered she will support the recommendation.

Resolution 96-0560 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

CITYWIDE CITIZEN ADVISORY COMMITTEE

Stephen Shepherd (Central Hillside representative) for a term expiring March 1, 1999, replacing Teresa Simiyu who resigned.

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

NEIGHBORHOOD ADVISORY COUNCIL

Stephen Shepherd (Central Hillside representative) for a term expiring March 1, 1999.

Resolution 96-0560 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the HRA housing rehabilitation program project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, a copy of which is on file with the city clerk as Public Document No. 96-0624-24, with the housing and redevelopment authority of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$750,000, payable out of the 1996 Federal Program Fund 262 - Community Development - HRA Housing Rehabilitation Program Account No. 6901.

Resolution 96-0557 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into the amended and restated master subordination agreement, substantially in the form of the copy which is on file in the office of the city clerk as Public Document No. 96-0624-25, with Washington Studios Limited Partnership ("partnership"), Artspace Projects, Inc., TCF Bank Minnesota, fsb ("TCF"), Duluth economic development authority ("DEDA"), housing and redevelopment authority of Duluth, Minnesota ("HRA"), and Duluth Housing Trust Fund, Inc. ("trust"), regarding the Washington school project.

Resolution 96-0564 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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. 96-0624-26, for the following amounts and projects listed:

Round II, 1996 Neighborhood Matching Grants Fund

Tier II grants (\$3,001 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$20,000	Birchwood School playground improvements project	Birchwood School PTA
\$10,905	Congdon Park field renovation project	Congdon Park Recreational Association, Inc.
\$ 3,600	Hillside sport court project	Hillside Sports Club Association
\$20,000	Klang Park renovation project	Klang Park neighborhood committee
\$10,000	Lafayette Park improvements project	Park Point Community Club
\$ 4,855	Piedmont School playground improvements project	Piedmont School PTA
<u>\$69,360</u>	Total grants (Tier II)	

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 the Tier II neighborhood matching grants authorized by this resolution, as well Tier I grants which are approved by the city interdepartmental team for projects of less than \$3,000, shall not exceed \$100,000.

Resolution 96-0569 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT 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. 96-0624-27 with Northwest Publications, Inc., for the extension of the skywalk system through the Warehouse and Duluth News-Tribune buildings.

Resolution 96-0587 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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, 1996, appearances of Don McLean and Ricky Van Shelton, and other groups at Bayfront Festival Park, said amendment to be substantially in the form of Public Document No. 96-0624-37, on file in the office of the city clerk, the costs not to exceed \$20,000, payable Special Projects and Events Account 100-015-1514-2030.

Resolution 96-0552 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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. 96-0624-28, with the state of Minnesota, department of natural resources, authorizing the city to perform certain 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 96-0556 was unanimously adopted.

Approved June 24, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement for \$800 with LeRoy Larson and the Minnesota Scandinavian Ensemble to provide a program on July 8, 1996, at the library, payable from General Fund 100, Agency 300, Organization 2120, Object 5319.

Resolution 96-0559 was unanimously adopted.

Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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, \$88,820 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0624-29.

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6322.

Resolution 96-0545 was unanimously adopted.

Approved June 24, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute a five year lease agreement with the department of administration, state of Minnesota, covering approximately 12 acres of land in the Lake Superior College campus to be used for a police training facility, said lease agreement to be substantially in the form of the certain document on file with the city clerk as Public Document No. 96-0624-30.

Resolution 96-0546 was unanimously adopted.

Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$90,000 in funds from the Minnesota department of economic security to operate the juvenile alcohol/curfew offender

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

program (JACOP) for the period July 1, 1996, through June 30, 1997. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 96-0624-31.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund No. 268, Budget Item No. 6258.

Resolution 96-0551 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

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 Senior Citizens Education & Research Center, Inc., grant in the amount of \$188,804 for the period July 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0624-32.

FURTHER RESOLVED, that monies received shall be deposited in Fund No. 270, Budget Item 6323.

Resolution 96-0555 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to submit a joint local service unit (L.S.U.) plan with St. Louis County for the provision of employment and training services and coordination for state fiscal year 1997 (July 1, 1996, to June 30, 1997). A copy of this update will be on file in the city clerk's office as Public Document No. 96-0624-33.

Resolution 96-0565 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Arrowhead Regional Development Commission for the furnishing of meals for senior citizens during the period from July 1, 1996, through December 31, 1996, said agreement filed as Public Document No. 96-0624-34.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Fund No. 272-031-6300.

Resolution 96-0567 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Waterpro-Gas Division be and hereby is awarded a contract for rebuilding and delivering one Mueller C1-36 tapping machine for the water and gas department in accordance with specifications on its low specification bid of \$5,724.44, terms net 30, FOB shipping point, \$1,431.11 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5404 and \$4,293.33 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5404.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0516 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the Duluth steam utility division of the water and gas department of the city of Duluth is hereby authorized to provide steam to commercial customers for cooling purposes only between April 1 and October 31st of each year on a contract basis. The provisions of past and future general steam rate resolutions shall not apply to steam services provided by contract pursuant to this resolution unless the rates are specifically incorporated into the contract.

Resolution 96-0541 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, by resolution of intent numbered 96-0522 approved on the tenth of June, 1996, the council did request the administration to prepare plans and specifications for the extension of a two inch copper water main and a two inch P.E.H.P. gas main in Keene Avenue from 93rd Avenue West to 220 feet easterly; 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 engineers is \$11,000, 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 96-0558 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Silverness Plumbing be and hereby is awarded a contract for furnishing and delivering construction of replacement gas services, gas meter and fuel pipe revisions for the East Eighth, Ninth and Tenth Street area in accordance with specifications on its low specification bid of \$113,480, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0561 was unanimously adopted.
Approved June 24, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with WLSSD relating to the construction of a water main in an easement through the Minnesota air national guard property, Duluth International Airport and in Ridgeview Road from Haines Road to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Rice Lake Road (City Job No. W2396); said agreement to be in the form of Public Document No. 96-0624-35 on file in the office of the city clerk, the \$63,192 payable thereunder to be paid from Water Fund - 510, Object 5533, capital improvements.

Resolution 96-0577 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city desires to plan and develop a storm water utility and has put forth a request for proposals for professional services to assist in this process; and

WHEREAS, Camp, Dresser & McKee, Inc., has represented that it is qualified and willing to perform the services set forth in its proposal to assist the city in the planning and implementation of a storm water utility.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 96-0624-36, for professional services in the planning, development and implementation of a storm water utility in the city of Duluth. The compensation under this agreement shall not exceed \$315,000 and these payments shall be made from Fund 530-500-0585-5303.

Resolution 96-0566 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of the sanitary sewer on Ethel Avenue for the engineering division in accordance with specifications on its low specification bid of \$31,320.50, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5286, Object 5530.

Resolution 96-0571 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of 1996 SIP at Woodland West I for the engineering division in accordance with specifications on its low specification bid of \$797,758.53, terms net 30, FOB job site, payable out of SIP Fund 440, Dept./Agency 038, Organization 9601, Object 5530.

Resolution 96-0572 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

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 15th Avenue East, 19th Avenue East, 75th Avenue West, 93rd Avenue West, Pacific Avenue and Pulasky Street

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(S.P. 118-080-14, Minn. Proj. No. IX DULT (022), City Job Nos. 8816FA93, 8817FA93, 8819FA93, 8818FA93, 8821FA93, 8819XA93).

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. 118-080-14	improvement of 15th Avenue East, 19th Avenue
Minn. Proj. No. IX DULT (022)	East, 75th Avenue West, 93rd Avenue West, Pacific
	Avenue and Pulasky Street

\$925,409.80 Northland Constructors, Inc., of Duluth, Minnesota

Resolution 96-0573 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to complete conceptual design engineering, surveying and subsurface investigation for four of the proposed street projects comprising the 1997 street improvement program; and

WHEREAS, the city desires to hire consulting engineers to provide the engineering services required to complete the conceptual design engineering, surveying, and subsurface investigation; 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 subsurface investigation services in connection with those projects.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with L.H.B. Engineering and Architects, R.R.E.M., Inc., Salo Engineering, Inc., and Seaway Engineering Company, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of preliminary survey and mapping services, estimated at \$25,667 will be payable from the Street Improvement Fund 440, Department/Agency 038, Organization 9704, Object 5530; \$30,354 will be payable from the Street Improvement Fund 440, Department/Agency 038, Organization 9705, Object 5530; \$11,500 will be payable from the Street Improvement Fund 440, Department/Agency 038, Organization 9701, Object 5530; and \$43,447 will be payable from the Street Improvement Fund 440, Department/Agency 038, Organization 9703, Object 5530.

Resolution 96-0575 was unanimously adopted.

Approved June 24, 1996

GARY L. DOTY, Mayor

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Resolution 96-0540, by Councilor Hales, designating portions of certain streets in the vicinity of Wade Stadium as resident permit parking zones; and specifying a fee for residents' parking permits, was introduced for discussion.

Councilor Hogg pointed out that only 50 percent of the neighbors responded to the survey on this issue, and said he did not want to act on the resolution until they get responses from more of the neighborhood.

Councilor Wheeler moved to table the resolution, which motion was seconded and carried.

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Resolution 96-0547, by Councilor Hales, to establish a no parking zone on both sides of London Road from Superior Street at Tenth Avenue East to approximately 400 feet southeasterly on the north side and to 300 feet southeasterly on the south side (end of the 32 foot wide roadway), was introduced for discussion.

Councilor Hales moved to table the resolution for a map and information if the neighborhood had been notified, which motion was seconded and carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY PRESIDENT PRETTNER

96-029 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES TO T. & S. PROPERTIES OF DULUTH, INC.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

96-028 - AN ORDINANCE AMENDING SECTION 2-100 OF THE CITY CODE RELATING TO THE MEMBERSHIP OF THE DULUTH SRO HOUSING COMMISSION.

Councilor Wheeler moved to table the ordinance for further review, which motion was seconded and carried.

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BY PRESIDENT PRETTNER

96-026 (9307) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF A PORTION OF LOT 9, BLOCK 5, CENTRAL ACRES SECOND DIVISION FROM R-2, TWO FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL (CITY OF DULUTH).

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

- - -

BY COUNCILOR HOGG (introduced by Councilor Talarico)

96-027 (9308) - AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE ORDEAN FOUNDATION RELATING TO CONVEYANCE OF A SIDEWALK DECK AND STORAGE AREA TO THE ORDEAN FOUNDATION.

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

- - -

The meeting was adjourned at 9:20 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9307

BY PRESIDENT PRETTNER:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF A PORTION OF LOT 9, BLOCK 5, CENTRAL ACRES SECOND DIVISION FROM

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

R-2, TWO FAMILY RESIDENTIAL TO C-5, PLANNED COMMERCIAL (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That Plate No. 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:

[map]
[refer to page at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 8

Nays: None -- 0

Absent: Councilor Talarico -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 24, 1996
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9308

BY COUNCILOR HOGG (introduced by Councilor Talarico):

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE ORDEAN FOUNDATION RELATING TO CONVEYANCE OF A SIDEWALK DECK AND STORAGE AREA TO THE ORDEAN FOUNDATION.

The city of Duluth does ordain:

Section 1. That the proper city officers are hereby authorized to execute an agreement with the Ordean Foundation, which agreement is on file in the office of the city clerk as Public Document No. 96-0624-38, providing for the conveyance of a sidewalk deck and a storage area, and an easement for the use and maintenance of such sidewalk deck and storage area, to the Ordean Foundation, and providing for payment by the city to Ordean Foundation of not to exceed \$60,000 for the repair of such sidewalk deck and storage area, which payment shall be made from the permanent improvement fund.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 4, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 8

Nays: None -- 0

Absent: Councilor Talarico -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 24, 1996
Approved June 24, 1996
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 8, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0708-01 Bryan and Nancy Bushy petitioning for vacation of utility easement in a portion of Lot 3, Block 1, Woodland Avenue Gardens, First Addition. -- Assessor

96-0708-02 William K. Swanstrom, et al. (four signatures) submitting petition to vacate the alley in Block 005, Lyman Park Division of Duluth. -- Assessor

96-0708-12 Allan Gummert submitting communication regarding fair housing recommendations (96-0600R). -- Received

96-0708-03 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served on September 21, 1996, from Tom Edwards. -- Received

- - -

REPORTS OF OFFICERS

96-0708-04 Assessor submitting:

(a) Letters of sufficiency for petitions regarding:

(1) Vacation of the alley in Block 5, Lyman Park Division;

(2) Reclassification from residential to commercial portions of Section 19, Township 50, Range 14 West;

(3) Vacation of a utility easement that is running through part of the property described as Woodland Avenue Gardens, First Addition, Lot 3, Block 1;

(b) Letter of insufficiency for petition regarding the construction of a sanitary sewer in 87th Avenue West from 1,200 feet north of the center line of Lawn Street to 150 feet northerly;

(c) Affidavit of mailing of notice to levy to defray in full the expense of solid waste collection during the period March 1, 1995, through June 1, 1996, for which the licensed collector has not been reimbursed. -- Received

96-0708-05 Treasurer submitting acceptance of gambling funds from Congdon Park Recreation Association for utility costs incurred by the youth hockey ice arenas (\$5,000). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-0708-06 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of May 16, 1996, meeting. -- Received

96-0708-07 Citywide citizens advisory committee minutes of June 25, 1996, meeting. -- Received

96-0708-08 Civil service board minutes of: (a) May 7; (b) May 16, 1996, meetings. -- Received

96-0708-09 Duluth airport authority: (a) March 31, 1996, unaudited balance sheet; (b) Minutes of May 21, 1996, meeting. -- Received

96-0708-10 Planning commission minutes of: (a) May 14; (b) June 11, 1996, meetings. -- Received

96-0708-11 Special assessment board minutes of June 12, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Darlene Kehr spoke against the proposed DWP development plan, stating that she feels the area should remain an urban wilderness. She felt that people who have provided input at meetings have not been listened to.

- - -

RESOLUTIONS TABLED

Councilor Wheeler moved to remove from the table Resolution 96-0568, approving the operation budget for the fiscal year May 1, 1996, to April 30, 1997, in the following amount of \$2,780,482 for the Spirit Mountain recreation area authority, which motion was seconded and unanimously carried.

Resolution 96-0568 was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, the operation budget for the fiscal year May 1, 1996, to April 30, 1997, in the amount of \$2,780,482 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 96-0568 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

Councilor Hales moved to remove from the table Resolution 96-0540, designating portions of certain streets in the vicinity of Wade Stadium as resident permit parking zones; and specifying a fee for residents' parking permits, which motion was seconded and unanimously carried.

Councilor Hales moved to return the resolution to the administration for further research, which motion was seconded and unanimously carried.

- - -

Councilor Hales moved to remove from the table Resolution 96-0547, to establish a no parking zone on both sides of London Road from Superior Street at Tenth Avenue East to approximately 400 feet southeasterly on the north side and to 300 feet southeasterly on the south side (end of the 32 foot wide roadway), which motion was seconded and unanimously carried.

Resolution 96-0547 was adopted as follows:

BY COUNCILOR HALES:

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 London Road from Superior Street at Tenth Avenue East to approximately 400 feet southeasterly on the north side and to 300 feet southeasterly on the south side (end of the 32 foot wide roadway).

Resolution 96-0547 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

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

WHEREAS, the City has designated, within its boundaries, a certain geographic area referred to as Development District No. 6 - St. Louis Bay Energy and Industrial Park - West Duluth (the "District"), an industrial development district and a tax increment financing district, all pursuant to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Minnesota Statutes, Chapter 469, or its predecessor statutes, in order to promote economic and industrial development; and

WHEREAS, in order to provide for the financing of the acquisition, construction and installation of a project consisting of a paper mill within the District, the City has issued its \$29,300,000 Tax Increment Revenue Bonds (Lake Superior Paper Company Project), Series 1985 (the "Bonds"), pursuant to an Indenture of Trust, dated as of December 1, 1985, between the City and The First National Bank of Chicago (the "Trustee") (such Indenture having been amended and supplemented from time to time, the "Indenture"); and

WHEREAS, the Bonds are secured by a pledge and assignment of the tax increment revenues generated by a portion of the District; and

WHEREAS, to enhance the marketability of the Bonds, the City entered into a Letter of Credit and Reimbursement Agreement dated as of July 1, 1986 (the "Existing Agreement"), with National Australia Bank Limited, New York Branch (the "Original Bank"), pursuant to which the Original Bank issued its irrevocable letter of credit to secure the payment of principal, interest on and purchase price of the Bonds; and

WHEREAS, pursuant to an Assignment dated as of June 1, 1988 between the Original Bank and National Australia Bank Limited, Chicago Branch (the "Existing Bank"), and acknowledged and agreed to by the City and the Trustee, the Original Bank assigned to the Existing Bank, among other things, all of the Original Bank's rights and interest in and to the Existing Agreement; and

WHEREAS, in connection with the execution of the Assignment, the Existing Bank issued its irrevocable letter of credit to secure the Bonds and replace the original letter of credit; and

WHEREAS, the City desires to provide a substitute letter of credit under the terms of the Indenture to secure the Bonds; and

WHEREAS, Wachovia Bank of Georgia, N.A. (the "Bank") has agreed to provide such substitute letter of credit; and

WHEREAS, to accomplish such substitution of the letter of credit, the letter of credit documents, including the Existing Agreement, together with the Bond Collateral and Bank Security, as described therein, will be assigned to the Bank and the Bank and the City wish to amend and restate the Existing Agreement and certain of such collateral documents as hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Duluth:

1. The City hereby consents to the assignment by the Original Bank and the Existing Bank to the Bank of the Existing Agreement and all collateral documents referred to therein.

2. The City is hereby authorized to enter into the Amended and Restated Letter of Credit and Reimbursement Agreement between the City and the Bank; the Amended and Restated Custody, Pledge and Security Agreement among the City, the Bank and First Chicago Trust Company of New York; the First Amendment to Statutory Mortgage, Security Agreement and Fixture Financing Statement among the City, the Bank and the Trustee and the City's Consent to the Assignment Agreement (collectively the "Amended Documents"). The Amended Documents are substantially in the form now on file with the City Clerk, as Public Document No. 96-0708-13, with such additions as do not materially affect the substance of the transaction, as the Mayor and the City Attorney, in their discretion, shall determine. The execution of the Amended Documents by the Mayor with the advice of the City Attorney shall be conclusive evidence of such determination. All the provisions of the Amended Documents, 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.

3. The Mayor and the City Clerk are hereby authorized to execute and deliver on behalf of the City the Amended Documents and such other documents and certificates as are necessary or appropriate in connection with the obtaining of the substitute letter of credit.

4. The officers and other agents or employees of the City are hereby authorized to do all lawful acts and things required of them by or in connection with this resolution, the aforementioned documents, and complete performance of the terms, conditions and agreements contained therein and in this resolution.

Resolution 96-0603 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0621, by Councilor Wheeler, authorizing the issuance and providing for the public sale of \$5,650,000 general obligation improvement bonds, Series 1996A and \$2,720,000 general obligation bonds, Series 1996B, was introduced for discussion.

Councilor Bohlmann voiced her concern because some of this money is intended for the design and engineering costs for the Lake Superior Center, and she does not feel that those are appropriate uses of bonding money.

Resolution 96-0621 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. 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:

a. \$5,650,000 General Obligation Improvement Bonds, Series 1996A, 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;

b. \$2,720,000 General Obligation Bonds, Series 1996B, are hereby authorized and shall be issued, pursuant to the provisions of Minnesota Laws 1974, Chapter 130, and Minnesota Statutes, Chapter 475, for the purpose of financing (i) project design and engineering costs of Lake Superior Center and costs of issuance for such financing in the amount of \$2,495,000, as previously approved by Ordinance No. 9305 adopted May 20, 1996; and (ii) the remaining project costs for the city-wide soccer field additions and alterations and costs of issuance therefor in the amount of \$221,000, as previously approved by Ordinance No. 9216, adopted October 11, 1994, and an additional amount of \$4,000 representing part of the interest costs of such bond issue, as authorized by Minnesota Statutes, Section 475.56 (collectively referred to as the "Bonds").

2. Issuance and Sale of Bonds. The terms and conditions of the 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 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 Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to solicit proposals for the sale of the Bonds as provided by Minnesota Statutes, Section 475.60, subdivision 2(9).

4. Subsequent Resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this City Council.

Resolution 96-0621 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ericsson G.E. Mobile Communications, Inc., be and hereby is awarded a contract for furnishing and delivering emergency radio equipment for the fire department in accordance with specifications on its low specification bid of \$8,516.53, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B626.

Resolution 96-0610 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Fair Manufacturing, Inc., be and hereby is awarded a contract for furnishing and delivering four snow body inserts for dump trucks for the street maintenance division in accordance with specifications on its low specification bid of \$22,543, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E524.

Resolution 96-0612 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0615, by Councilor Rapaich, awarding contract to Duluth-Superior Blacktop, Inc., Glacier Paving, Inc., and Northland Constructors of Duluth, Inc., for annual requirements of bituminous material as required for 12 months in accordance with specifications on its low specification bid of \$146,438, was introduced for discussion.

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

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Resolution 96-0615 was adopted as follows:

BY COUNCILOR RAPAICH:

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, street maintenance division and sewer division in accordance with specifications on its low specification bid of \$146,438, 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; \$114,594 payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232; and \$2,024 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 96-0615 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hogg -- 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Abstention: Councilor Hales -- 1
Approved July 8, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0579, by President Prettner, declaring intent to proceed with realignment of a portion of West Michigan Street and to issue general obligation bonds in an approximate amount of \$1,400,000 to finance a portion of the costs thereof, was introduced for discussion.

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

- - -

BY PRESIDENT PRETTNER:

WHEREAS, the McQuade public access committee (the "committee") has received partial project funding for project design and property acquisition from the state legislature under the bonding program; and

WHEREAS, the committee continues to coordinate activities toward the completion of the project; and

WHEREAS, the Western Lake Superior Trollers Association has determined that additional administrative funding is needed to support these activities and has offered to contribute \$500 toward such expenses of the committee; and

WHEREAS, the committee funding is administered through the city of Duluth finance department.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials be authorized to accept the \$500 donation from the Western Lake Superior Trollers Association to be used toward the payment of expenses of the committee as directed by the committee, such funds to be deposited in Fund 100, Agency 015, Org. 1514, Rev. Source 4690, Activity MS-26.

Resolution 96-0588 was unanimously adopted.

Approved July 8, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-0708-14, to City Contract No. 17066 with housing and redevelopment authority of Duluth, Minnesota, extending its term, extending the post-abatement assessment period with respect to certain properties and increasing the amount of the contract by an additional \$67,000 payable from Community Development Fund 262, Agency 020.

Resolution 96-0591 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved July 8, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the city of Duluth hereby accepts the dedication of the following utility easement from J & S Partnership:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

a 20 foot wide easement for utilities over, under and across Lot 15, Block 1, Oneota Industrial Park. The center line of said easement is described as follows: beginning at the south corner of said Lot 15; thence north 35 degrees 27 minutes 01 seconds west 142.72 feet; thence north 7 degrees 36 minutes 49 seconds west 175.01 feet to the north line of said Lot 15 and there terminating. The sidelines of said easement shall be prolonged or shortened to terminate on the property line of said Lot 15.

Resolution 96-0592 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the 20 foot wide storm sewer utility easement legally described as:

the "20 foot utility easement" across Lot 15, Block 1, Oneota Industrial Park, according to the plat thereof on file with the register of deeds and/or registrar of titles of St. Louis County, Minnesota; 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, unanimously, the vacation petition at its March 8, 1994, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the 20 foot utility easement as described above, and as more particularly described on Public Document No. 96-0708-15.

BE IT FURTHER RESOLVED, that the vacation of the above described easement is conditioned upon the dedication of a replacement easement centered on the actual center line of the underground storm sewer line.

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

Resolution 96-0593 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0595, by President Prettnner, supporting making public land available for use at the McQuade public protected access project, was introduced for discussion.

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

Clyde Ritchie spoke against the resolution as he doesn't support the boat launch at McQuade Road. He continued saying that this project was not to be supported by tax dollars, but now it is. Mr. Ritchie voiced concern that this project will jeopardize the Congdon trust property and its intended use by Mr. Congdon. He further stated that this project will end up in litigation, and that will cost taxpayers money.

To questioning from Councilor Hogg, City Attorney Dinan replied that their office has researched the terms of the Congdon trust, and their opinion is that this use of the property is within the terms of the trust set up by the Congdon family.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Keenan voiced his support of the resolution, stating that there have been several public hearings where many diverse opinions from different groups have come together and compromises have been reached to move forward with this project.

Councilor Wheeler stated he can't support the resolution because he has yet to see plans showing how this structure will be built to survive the effects of the lake over a period of time and until he sees those plans, he will be unable to vote yes.

Councilor Bohlmann said she wants a public hearing held by the councilors so they can hear for themselves that the public is in favor of the project. She stated belief that eventually tax dollars will be used for a lawsuit over this action.

Resolution 96-0595 was adopted as follows:

BY PRESIDENT PRETTNER:

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 boat access to Lake Superior at the McQuade Road location (the "project"); and

WHEREAS, the committee has over the past two years, with engineering assistance from the department of natural resources, collected technical data, reviewed designs and have recommended the size, configuration, amenities and the location of the project; and

WHEREAS, MPAC's design advisory committee with representation from those properties most impacted by the project, has reviewed design proposals and provided recommendations for an acceptable facility to MPAC; and

WHEREAS, the project has received general support from the public; and

WHEREAS, the Minnesota Legislature has provided \$500,000 toward property acquisition and project development and an additional \$350,000 in funding has been requested from the Iron Range resources and rehabilitation board for the same; and

WHEREAS, the success of the project is dependent upon public lands, including lands owned by the city, being made available for project use.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports making public land, including land owned by the city of Duluth, available for public access and use in this project.

Resolution 96-0595 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Abstention: Councilor Wheeler -- 1

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0600, by President Prettner, approving the city of Duluth analysis of impediments and fair housing plan, was introduced for discussion.

Pam Kramer, director of housing and community development, said there is a July 15 deadline by HUD for the city to establish and have in place an analysis of impediments and fair housing plan. She further stated that the city does not need to send a copy of the plan to HUD, but that they do need to send a letter outlining their findings.

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

Michael Thomas Allen stated that he is a low income person that the report talks about, and that there is nothing in the report that deals with the problems of low income housing. He stated his main concern is that it requires no one to be responsible for housing problems.

Corinne Brown stated that she attended the public hearings but feels the report does not reflect the opinions shared at the meetings. She continued saying that not mentioned is what happens to the funding if this document does not get approved, attitudes and perceptions, and the impact of crime in the neighborhoods. Ms. Brown emphasized that responsibility is not taken seriously and not enforced when unfair housing practices occur.

Allan Gummert stated he does not think the study represents the input of the neighborhoods. Mr. Gummert stated that he has been a landlord for 30 years in St. Paul and six years in Duluth, and that the policies stated in this report are the same as the policies that led to the destruction of the neighborhoods in St. Paul. He further emphasized that these policies will be bad for elderly.

George Hoene requested that the city not forward this report to HUD as it relies on 43 affidavits of people that say that they have been discriminated against, but there has been no follow up on those complaints.

Debra Branley stated that she is a low income person who is a tenant that has been discriminated against and physically hurt because of a housing problem, and that she received no help from the police or other organizations. She felt that the goal should be to get tenants and landlords together to solve problems and to prevent discrimination.

Councilor Hogg stated that he was at both public meetings held by the community development and housing division. He said he doesn't like the tone of the document, because he feels it makes allegations without evidence.

Councilor Hales expressed her desire to table this resolution and conduct a hearing to inform the public about the study.

Councilor Hardesty felt that the city and community need to make a commitment to come to a consensus on this issue.

Councilor Wheeler stated that this document is not concrete, that it will continue to grow and change as impediments are identified. He continued saying that the city needs to solve housing problems a variety of ways, such as private initiatives, habitat for humanity, public housing, and cooperation by private, public and nonprofit groups.

Councilor Talarico stated the councilors need to use the analysis as a tool, set a policy and use this study to further the policy.

Councilor Keenan stated he felt the study falls short because it doesn't really describe the whole picture of the housing in Duluth and all the positive projects that do go on.

President Prettner stated she felt the study reflects the problems in the area and that it does not contain inflammatory remarks.

Councilor Hogg moved to table the resolution for a committee meeting for public input on July 25, which motion was seconded and unanimously carried.

- - -

Resolution 96-0601, by President Prettner, certifying a use permit to Voyageur Disposal and Processing, Inc., for construction of a demolition debris transfer station to be located in a W-1 waterfront zone at 2701 Courtland Street, was introduced for discussion.

Councilor Hogg moved to amend the resolution, in the third paragraph, after the words "debris transfer station" to insert the words "limited to two 40 cubic yard containers," which motion was seconded and unanimously carried.

Resolution 96-0601, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, Voyageur Disposal and Processing, Inc., has submitted to the city council a request for a use certification for a waterfront location in a W-1 waterfront zone for a construction and demolition debris transfer station (collection, recovery and distribution facility) on property

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

described as Outlot 3, Martins Supplementary Plat of Outlots and located at 2701 Courtland 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 the location is appropriate in a W-1 waterfront zone due to the nature of the activity and that safeguards will exist to protect the comprehensive plan and to conserve and to protect property values if the conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a use certification is hereby granted to Voyageur Disposal and Processing, Inc., to allow for the operation of a construction and demolition debris transfer station limited to two 40 cubic yard containers (collection, recovery and distribution facility) on property described as; Outlot 3, Martins Supplementary Plat of Outlots, with the condition that the facility be approved and maintain perpetual compliance with all state and federal pollution control and environmental protection agency rules and regulations.

Resolution 96-0601, as amended, was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, Mount Royal Town Homes, Inc., has submitted to the city council a request for a special use permit for a five unit townhouse in a single structure on property described as Lots 10, 11 and 12, Block 8, Motorline Division to Duluth, except those parts of said Lots 10, 11 and 12, Block 8 lying easterly of extended west line of Lot 19, Block 8, Motorline Division to Duluth, and Lots 20-24, Block 8, Motorline Division to Duluth and located at 50 East Elizabeth 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 Mount Royal Town Homes, Inc., to allow for a five unit townhouse in a single structure on the above described property at 50 East Elizabeth Street on the condition that project be limited to, constructed and maintained in accordance with plans submitted and as identified as Public Document No. 96-0708-16.

Resolution 96-0602 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner -- 8

Nays: None -- 0

Abstention: Councilor Talarico -- 1

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for Goodfellowship Community Center play field improvements in accordance with specifications on its low specification bid of \$103,560 terms net 30, FOB job site, payable out of Community

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Development Fund 263, Dept./Agency 603, Object 6365. Decrease of \$18,000 from budget line 6385 to an increase of \$18,000 from budget line 6365.

Resolution 96-0607 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Don Holm Construction Company to remodel the Duluth Art Institute's facility located at 2227 West Second Street in an amount not to exceed \$100,000 payable out of Community Development Fund 263, Agency 602, Account 6263.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a lien agreement with the Duluth Art Institute, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 96-0708-17, in which a mortgage lien in favor of the city of Duluth is created on the property.

Resolution 96-0616 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Fifth Avenue East between Superior Street and platted Michigan Street legally described on Public Document No. 96-0708-18; 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 11, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fifth Avenue East between Blocks 4 and 5, Portland Division of Duluth and as more particularly described on Public Document No. 96-0708-18.

BE IT FURTHER RESOLVED, that an easement for utility purposes be retained as described on said Public Document No. 96-0708-18 over a portion of the street being vacated.

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 Fifth Avenue East being vacated and the easement being retained.

Resolution 96-0627 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Resolution 96-0459 to Cushman Motor Company for furnishing two types of mowers be amended to decrease the amount by \$60,291.78 for a new total of \$63,114.03, and award bid to M.T.I. Distributing for one type of mower for a total of \$58,575 payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E625.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0574 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the city of Duluth has received a Mighty Duck ice arena grant award in the amount of \$50,000 from the state of Minnesota through its Minnesota amateur sports commission; and

WHEREAS, the city proposes to utilize the grant award to undertake renovation of Fryberger Arena; and

WHEREAS, the estimated total cost of the renovation to Fryberger Arena is \$121,500, of which \$50,000 of the total cost will be the above Mighty Duck ice arena grant award; and

WHEREAS, the Duluth Amateur Hockey Association (DAHA) has agreed to assume responsibility for the match requirement of \$50,000, plus, the additional costs necessary to complete the renovation project; and

WHEREAS, the city desires that DAHA undertake responsibility for the design and construction of the renovation project;

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth that the proper city officials are 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. 96-0708-19, with the Duluth Amateur Hockey Association for design and construction of the renovation of Fryberger Arena, and the proper city officials are authorized to provide an amount not to exceed \$50,000 to be advanced from Fund 450 and reimbursed from the state of Minnesota, Mighty Duck ice arena grant award.

Resolution 96-0599 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Minnesota National Guard Armory be and hereby is awarded a contract for providing approximately 294 hours of volleyball court space for the parks and recreation department in accordance with specifications on its low specification bid of \$7,644, terms net 30, FOB destination, payable out of Special League Fund 790, Dept./Agency 400, Object 5412.

Resolution 96-0604 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts a donation of \$1,620 from the Park Point Community Club to be used solely to employ an additional staff person for summer recreation programs at Lafayette Square in 1996. Said donation shall be deposited into the parks and recreation department Budget No. 100-400-1812-5103, to be used to pay for the additional staff position at Lafayette Square.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Park Point Community Club as a message of thanks for their donation.

Resolution 96-0623 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HARDESTY:

RESOLVED, that 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. 96-0708-20, with the Minnesota department of economic security to provide services under the Job Training Partnership Act as defined in the program year 1996-97 local plan update from July 1, 1996, through June 30, 1997, up to the amount of funding provided by said department for said program. Program funds will be accepted upon receipt of notices of funds available. Funds received shall be deposited in Fund No. 268, Budget Items 6255 and 6256.

Resolution 96-0594 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the state of Minnesota department of corrections, under which the city will receive \$23,750 from the STOP Violence Against Women Act fund to conduct a study relating to domestic violence, which agreement is on file in the office of the city clerk as Public Document No. 96-0708-21.

Resolution 96-0596 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

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 \$2,000 from the Minnesota department of economic security to operate the Title V senior community service program (S.E.P.) from July 1, 1995, through June 30, 1996, by modifying city Contract No. 17423. Total grant amount is \$96,427. A copy of this modification shall be on file in the city clerk's office as Public Document No. 96-0708-22.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund No. 271, Budget Item 6320.

Resolution 96-0609 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which shall be on file with the city clerk's office as Public Document No. 96-0708-23, with St. Louis County to provide services under the Minnesota STRIDE program case management services and the community work experience program, at costs not to exceed \$541,330, and food stamp employment and training services at costs not to exceed \$400 per participant. Contract dates shall run from July 1, 1996, through June 30, 1997.

FURTHER RESOLVED, that monies received under this agreement shall be deposited in Fund No. 269, Budget Items No. 6274 and No. 6275.

Resolution 96-0620 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify city Contract No. 17692 with Independent School District No. 709 for instructional services for the summer youth employment training program by modifying Budget Title II-B (Budget Item 6253) and replacing it with modified budget bearing "budget modification date 07/02/96 No. 1." Total contract amount is increased by \$4,379 to a total not to exceed \$39,379. A copy of this modification shall be on file in the city clerk's office as Public Document No. 96-0708-24.

Resolution 96-0624 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a three inch P.E.H.P. gas main be constructed in Everett Street from 240 feet west of Middle Street to 200 feet easterly.

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 to those further things prescribed by Section 62 of the Charter.

Resolution 96-0590 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Westburne Supply be and hereby is awarded a contract for furnishing and delivering Weil McLain furnace parts for the water and gas department in accordance with specifications on its low specification bid of \$8,975.07, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 96-0618 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Yankee Plumbing be and hereby is awarded a contract for furnishing and delivering construction of sanitary sewer for the area of Willow Street and Blackman Avenue in accordance with specifications on its low specification bid of \$77,746.30, terms net 30, FOB job site, payable out of SA Fund 810, Dept./Agency 038, Organization 5280, Object 5530.

Resolution 96-0562 was unanimously adopted.

Approved July 8, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of curb and gutter street improvement on 23rd Avenue West from Seventh Street to Ninth Street for the engineering division in accordance with specifications on its low specification bid of \$150,221.12, terms net 30, FOB job site, payable out of Special Assessment Fund 810,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Dept./Agency 038, Organization 5288, Object 5530 and partially reimbursed by the Community Development Fund 263 - 6362.

Resolution 96-0605 was unanimously adopted.
Approved July 8, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Interstate Detroit Diesel, Inc., be and hereby is awarded a contract for furnishing and delivering a generator set for the sewer division in accordance with specifications on its low specification bid of \$38,233.50, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0606 was unanimously adopted.
Approved July 8, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of street improvement on Arrowhead Road for the engineering division in accordance with specifications on its low specification bid of \$1,558,340.62, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5285, Object 5530.

Resolution 96-0613 was unanimously adopted.
Approved July 8, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Duluth Superior Erection be and hereby is awarded a contract for construction of the 1996 street improvement of lower Fairmont for the engineering division in accordance with specifications on its low specification bid of \$662,909.26, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9604, Object 5530.

Resolution 96-0614 was unanimously adopted.
Approved July 8, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Moore Business Forms, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 5,000 pads of parking violation tickets for the police department in accordance with specifications on its low specification bid of \$6,924.75, terms net 30, FOB destination, \$4,154.85 payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5355; \$1,384.95 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5355; and \$1,384.95 payable out of General Fund 100, Dept./Agency 200, Organization 1630, Object 5355.

Resolution 96-0611 was unanimously adopted.
Approved July 8, 1996
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 HOGG

96-030 - AN ORDINANCE AUTHORIZING THE CITY TO GRANT AN EASEMENT FOR UTILITY PURPOSES TO MINNESOTA POWER AND LIGHT COMPANY.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT PRETTNER

96-029 (9309) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES TO T. & S. PROPERTIES OF DULUTH, INC.

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

- - -

The meeting was adjourned at 10:00 p.m.

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

- - -

ORDINANCE NO. 9309

BY PRESIDENT PRETTNER:

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTIES TO T. & S. PROPERTIES OF DULUTH, INC.

The city of Duluth does ordain:

Section 1. That in consideration of the payment of \$10,000 to the city of Duluth, said sum to be deposited in the General Fund, 100-700-1418-4640, the proper city officials are hereby authorized to execute and deliver the limited warranty deed (Public Document No. 96-0708-25) conveying the property described therein to T. & S. Properties of Duluth, Inc.

Section 2. That this ordinance shall take affect and be in force 30 days after its passage and publication. (Effective date: August 18, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

Passed July 8, 1996

ATTEST:
JEFFREY J. COX, City Clerk

Approved July 8, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 22, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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The minutes of council meetings held on December 4, 11 and 18, 1995, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0722-01 I.S.D. 709, by Richard L. Bye, attorney, petitioning for concurrent use permit for diagonal parking at Nettleson School. -- Planning commission

96-0722-02 Scott Keenan, et al. (four signatures), petitioning for vacation of 23 feet westerly of the utility and pedestrian easement located on 44th Avenue East and Oneida Street. -- Assessor

96-0722-04 St. Louis County Heritage and Arts Center submitting application for rental, during which alcoholic beverages will be served, from Renee Hanson/Steve Lindberg on August 24, 1996. -- Received

96-0722-03 The following submitted letters regarding the analysis of impediments and fair housing plan (96-0600R): (a) Michael T. Allen; (b) American Indian Community Housing Organization; (c) Richard W. Ball; (d) Corinne M. Brown; (e) Robert and Jan Collison; (f) Lynn Ford; (g) Phillip Gockowski; (h) Allan Gummert; (i) Ron and Lorraine Johnson; (j) John R. McAllister; (k) Stephen Shepherd. -- Received

96-0722-29 The following submitted letters regarding a request for permit for an earthen material extraction removal and/or processing facility (J&D Enterprises, Inc.) (96-0666R): (a) Melvin and Helen Johnson; (b) Ralph L. Rovinsky; (c) Dane and Lynn Youngblom. -- Received

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REPORTS OF OFFICERS

96-0722-05 Assessor submitting letter of sufficiency regarding petition to vacate 23 feet westerly of the utility and pedestrian easement located on 44th Avenue East and Oneida Street. -- Received

96-0722-06 Building official submitting appeal of board of zoning appeals condition that four off street parking spaces be provided at 18 North 59th Avenue West (Tjader). -- Committee 2 (planning)

96-0722-07 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Duluth Art Fair at the Depot; (b) Temple Israel at same. -- Received

96-0722-08 Engineering division submitting monthly project status report of July 1, 1996. -- Received

96-0722-09 Parks and recreation department director submitting Lake Superior Zoological Society minutes of May 30, 1996, meeting. -- Received

96-0722-10 Purchasing agent submitting emergency purchase orders for: (a) Replacement of sanitary sewer line at Hilton and 91st Avenue West Alley; (b) Repair and replacement of sewer lines and manhole at Sherburn Street and 57th Avenue West Alley. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0722-11 Building appeal board minutes of June 12, 1996, meeting. -- Received

96-0722-12 Duluth housing trust fund board minutes of June 13, 1996 meeting. -- Received

96-0722-16 Duluth SRO housing commission minutes of June 12, 1996, meeting. -- Received

96-0722-13 Duluth transit authority: (a) May 1996: (1) Expense analysis; (2) Financial statement summary; (3) Income statement; (b) Minutes of June 26, 1996, meeting. -- Received

96-0722-14 Tree commission minutes of June 10, 1996, meeting. -- Received

96-0722-15 Special assessment board: (a) Minutes of June 25, 1996, meeting; (b) Minutes of June 25, 1996, special meeting, including: (1) Reports, findings and recommendations for proposed improvement of Fourth Street alley from 44th Avenue West to 460 feet westerly; (2) Reports, findings and recommendations for proposed improvement of 38th Avenue West from Second to Third Streets; (c) Minutes of July 8, 1996, meeting. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 96-0645, by Councilor Wheeler, authorizing the payment of \$2,644 to the League of Minnesota Cities to fund the rights of way task force work plan, was introduced for discussion.

Councilor Wheeler moved to table the resolution for further information, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR WHEELER:

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 amending Sections 8 and 11 of 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 August 12, 1996, 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 August 12, 1996, 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 amending Sections 8 and 11 of the City Charter in the manner hereinafter set forth:

[text of proposed Ordinance No. 96-031-O]

Resolution 96-0657 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to extend an agreement with AMS, American Management Systems, Inc., to provide programming support services related to completing the installation of the city's payroll and human resources software, not to exceed \$27,500 plus travel and related costs, payable out of Fund 100, Agency 030, Org. 1324, Object 5319.

Resolution 96-0675 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that Jeff Hoist Service, Inc., be and hereby is awarded a contract for furnishing and installing a hoist and related items for the fleet services division in accordance with specifications on its low specification bid of \$58,185, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5580.

Resolution 96-0636 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering a 4WD tractor with mower deck for the fleet service/park maintenance division in accordance with specifications on its low specification bid of \$12,620.25, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E609.

Resolution 96-0658 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 3 and 4, 1996, with Ronald Herung, manager.

Resolution 96-0661 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following off sale intoxicating liquor license, for the period ending August 31, 1996, subject to departmental approvals:

Mount Royal Bottle Shop, Inc. (Mount Royal Bottle Shoppe), 1600 Woodland Avenue, transferred from Richard DeSmedt, president/treasurer and 300 shares, and Linda DeSmedt, vice president, transferred to Marshall R. Pearlman, president and 100 percent stockholder, and Clara Roth, secretary/treasurer.

Resolution 96-0662 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, for the period ending August 31, 1996, subject to departmental approvals:

Grandma's Miller Hill, Inc. (Grandma's Saloon & Deli), 2202 Maple Grove Road.

Resolution 96-0663 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 licenses, subject to departmental approvals, with any specific restrictions:

Holiday Inn of Tucumcari (Park Inn), 250 Canal Park Drive, for August 9-11, 1996;

Lyric Block Development Corporation (Porter's Restaurant), 207 West Superior Street, for August 9-10, 1996;

Grandma's Sports Bar & Grill, Inc. (Grandma's Sports Garden), 425 South Lake Avenue, for August 9-10, 1996.

Resolution 96-0664 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0630, by Councilor Bohlmann, approving proposed amendments to the specifications for the civil service classification of recreation specialist, was introduced for discussion.

Councilor Bohlmann said she will not support the resolution because she does not agree with change from three years to two years in the minimum education and experience required.

Resolution 96-0630 was adopted as follows:

BY COUNCILOR BOHLMANN:

WHEREAS, the proposed amendments to the specifications for the civil service classification of recreation specialist, which were approved by the civil service board on July 2, 1996, and which are filed with the city clerk as Public Document No. 96-0722-17, are approved.

Resolution 96-0630 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

PARKING COMMISSION

Roger Johnson (District 3) and Judith Maki (at large) for terms expiring July 1, 1999.

Resolution 96-0651 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0652, by Councilor Bohlmann, confirming appointment of Howie Hanson to sanitary sewer board of WLSSD, was introduced for discussion.

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

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, there have been major changes in the appearance of the city's West End

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

neighborhood in the last 15 years including new streets and sidewalks, housing revitalization, a new Lincoln Park K-8 School, new homeowners and a re-energized business district; and

WHEREAS, in July of 1995, West End residents and business owners considered an equally major identity change, designed to reflect the new spirit of pride and positive excitement in the area focusing on the neighborhood's most dominant natural feature, Lincoln Park; and

WHEREAS, there was overwhelming support among residents and business owners for the name change which was viewed as an appropriate expression of the lineage of the residential neighborhood with the business district; and

WHEREAS, the Duluth News-Tribune, the Duluth Budgeteer, Twin Ports People, and Business North newspapers and the Duluth Area Realtors Association have all adopted the name Lincoln Park when referring to the old West End neighborhood; and

WHEREAS, on Monday, October 2, 1995, Mayor Gary Doty made it official with a proclamation renaming the West End Business District the Lincoln Park District and affirming city support for the West End to be known as the Lincoln Park Neighborhood on all official city documents associated with the federal community development block grant (CDBG) program, Duluth city maps, and inter-office memoranda.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council requests the Minnesota department of transportation to replace two existing I-35 exit signs (Exit 254 on I-35 North and Exit 255A on I-35 South) changing the wording from West End to Lincoln Park.

Resolution 96-0654 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT 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 parcels now withheld from sale in conservation:

File No.	Applicant	Legal Description	Location
96016	Ted Perala (tabled March 1996)	Harrison's Brookdale, Block 66, Lot 6 (10-2110-8610)	north side of Tenth Street b/w Voss and 22nd Avenue West (Lincoln Park/West End).
96037	Tim W. Olson	Upper Duluth, St. Louis Avenue, Lots 65 and 67 (10-4400-340)	east side of St. Louis Avenue b/w 15th and 16th Streets (Park Point).
96038	Tracy Grandi	Ironton Fourth Division, Block 8, Lot 26 (10-2550-2080)	west side of 91st Avenue West b/w Clyde and Huelett Streets (Lower Smithville).
96079	Anthony Rico	Duluth Proper Second Division, Block 67, westerly 30 feet of Easterly 95 feet of Lot 181 (10-1120-7840)	north side of West First Street b/w 11th and 12th Avenues West (Central Hillside).

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96080	St. Louis County	Gary First Division, Block 12, Lots 10-12 (10-1800-1990, 2000, 2010, 2020)	east side of 98th Avenue West b/w Reis and Dickson Streets (Gary-New Duluth).
96081	St. Louis County	West Duluth Fifth Division, Block 145, Lot 8 (10-4510-4370)	east side of 59th Avenue West b/w Cody and Wadena Streets (West Duluth).
96083	Merlin Carlson	Lands in the city of Duluth, T50, R14, Sec. 9, W½ of E½ of NE¼ of NE¼ of SW¼ (10-2710-2702)	west side of Blackman Avenue, south of McFarlane Ext. (Kenwood).
96084	Anthony Miketin	West Park Division, Block 20, Lots 8-10 (10-4570-2330, 2340, 2350)	lower side of West Third Street b/w Michigan and Winnipeg Avenues (Lincoln Park/West End).
96086	Ken Hashey	Duluth Proper Second Division, Meyers Rearrangement of Block 105-106, Block 105, W½ Lot 15 and Lot 16 (10-1170-150)	upper side of Third Street b/w 17-½ and 18th Avenues West (Lincoln Park/West End).

BE IT FURTHER RESOLVED, that the following parcel be released for sale to the city of Duluth only:

96093	Elizabeth George	Upper Duluth, Lake Ave. easterly 75 feet of Lot 224 (10-4380-2360 partial)	west side of Lake Avenue b/w Eighth Street and Canal (Park Point).
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Resolution 96-0617 was unanimously adopted.
 Approved July 22, 1996
 GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Salvation Army Family Transitional Housing Project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0722-18, with the Salvation Army to implement the above project. Payment for said services shall not exceed \$35,000, payable out of the 1996 Federal Program Fund 262 - community development - Salvation Army Family Transitional Housing Project - Account 6925.

Resolution 96-0638 was unanimously adopted.
 Approved July 22, 1996
 GARY L. DOTY, Mayor

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Resolution 96-0639, by President Prettner, authorizing Amendment No. 1 to the CAP weatherization program contract with Duluth community action program (CAP) in order to increase the project contract by \$300,000, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

George Parker felt there should be an internal audit of the CAP program. He stated that CAP failed its last audit, and that he feels the council should take a closer look at funding for CAP.

In response to President Prettner, Mr. Parker said he had not requested the CAP board to authorize an audit.

Councilor Hardesty noted that nonprofit organizations conduct audits on a regular basis.

Councilor Keenan commented that charitable organizations do not fail audits, but reportable conditions are noted by the auditor. He requested that the council be supplied with any reportable conditions of the organization over the past few years.

Councilor Talarico felt it is appropriate for the council to withhold action until these questions are answered. He moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich and Talarico -- 6

Nays: Councilors Hardesty, Wheeler and President Prettner -- 3

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Resolution 96-0640, by President Prettner, authorizing Amendment No. 1 to the women's transitional housing program contract with Women's Transitional Housing in order to increase the project contract by \$25,000, was introduced for discussion.

Councilor Hogg questioned why these additional funds are going to the women's transitional housing program when their 990 internal revenue reporting form shows they have cash and investments totalling 1.5 million dollars. He noted that other organizations that have good programs received less funding than they needed or no funding at all.

President Prettner questioned why this issue wasn't raised earlier when there were representatives from community development and housing and women's transitional housing present.

Councilor Wheeler noted that this project has been through a lot of citizen involvement and has been recommended by the CCAC. He noted that the funding for the project has been approved by the council and this resolution is just to disburse the funds.

Councilor Hardesty noted that this completes the request for funding for this organization and others that was recommended by the CCAC. She noted that all of the 990s for the organizations were reviewed in the CCAC process. She said that a citizen process is in place, and that she feels such questions should have been raised at a time when they could have been answered rather than casting doubt on this organization.

Councilor Hales disagreed that the citizen review process had 990s available. She noted that the council amended the CCAC recommendation to add other nonprofits that would be funded if additional funds were received. She said the CCAC then chose to approve the council recommendation when the additional funding was received. She said she opposes these resolutions authorizing amendments because she doesn't feel it was a recommendation of the CCAC.

Councilor Hales moved to call the question on Resolution 96-0640 and Resolutions 96-0641, 96-0642 and 96-0643 authorizing increases in community development funds for Life House, YWCA and Neighborhood Youth Service, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Rapaich, Talarico and Wheeler -- 6

Nays: Councilors Hardesty, Hogg and President Prettner -- 3

Resolutions 96-0640, 96-0641, 96-0642 and 96-0643 were adopted as follows:

BY PRESIDENT PRETTNER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city of Duluth (the city), pursuant to Resolution No. 96-0394, adopted on May 6, 1996, entered into an agreement with the Women's Transitional Housing Coalition, Inc., of Duluth, Minnesota, in which the agency agreed to operate the Women's Transitional Housing Program Project payable from the 1996 Federal Program Fund 262 - community development - Women's Transitional Housing Project - Account No. 6924; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-0722-19, to the agreement with the agency which increases the agreement amount from \$16,000 to \$41,000.

Resolution 96-0640 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth (the city), pursuant to Resolution No. 96-0399, adopted on May 6, 1996, entered into an agreement with the Life House, Inc., of Duluth, Minnesota, in which the agency agreed to operate the Life House Youth Center Project payable from the 1996 Federal Program Fund 262 - community development - Life House Project - Account No. 6923; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-0722-20, to the agreement with the agency which increases the agreement amount from \$25,000 to \$33,000.

Resolution 96-0641 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth (the city), pursuant to Resolution No. 96-0358, adopted on May 6, 1996, entered into an agreement with the Young Women's Christian Association (YWCA) Inc., of Duluth, Minnesota, in which the agency agreed to operate the Kid's Corner Central Hillside Project payable from the 1996 Federal Program Fund 262 - community development - YWCA Central Hillside Kid's Corner Project - Account No. 6921; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-0722-21, to the agreement with the agency which increases the agreement amount from \$20,000 to \$53,000.

Resolution 96-0642 was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr -- 6

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved July 22, 1996

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth (the city), pursuant to Resolution No. 96-0359, adopted on May 6, 1996, entered into an agreement with the Woodland Hills, Inc., of Duluth, Minnesota, in which the agency agreed to operate the Neighborhood Youth Service Project payable from the 1996 Federal Program Fund 262 - community development - Neighborhood Youth Service Project - Account No. 6918; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-0722-22, to the agreement with the agency which increases the agreement amount from \$47,000 to \$63,000.

Resolution 96-0643 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the YWCA East Hillside/ Endion Kid's Corner Project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0722-23 with the Young Women's Christian Association (YWCA), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$56,000, payable out of the 1996 Federal Program Fund 262 - community development - YWCA East Hillside/Endion Kid's Corner Project - Account No. 6919.

Resolution 96-0644 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a ten foot utility easement along the west property line of property located at 325 East Chisholm Street legally described as: Lot 3, Block 1, Woodland Avenue Gardens 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 9, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the easterly eight feet of the utility easement described as the westerly ten feet of Lot 3, described above, and as more particularly described on Public Document No. 96-0722-24.

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 and the portion being retained.

Resolution 96-0647 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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Resolution 96-0648, by President Prettner, vacating the alley in Block 5, Lyman Park Division, located between Lyman and Todd Street west of Anson Avenue (Swanstrom), was introduced for discussion.

President Prettner moved to table the resolution for further information, which motion was seconded and unanimously carried.

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BY PRESIDENT PRETTNER:

WHEREAS, J & D Enterprises, Inc. (Judie & Dale Cich), have appealed to the city council the decision of the board of zoning appeals to deny a request to grant a permit to allow the applicant to operate a 40 acre earthen material extraction, removal and/or processing facility on an 80 acre (total) parcel located at 4640 Rice Lake Road; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a permit to allow the applicant to operate a 40 acre earthen material extraction removal and/or processing facility (Chapter 50-47(9)) 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 May 29, 1996, is hereby affirmed by the city council, and the appeal is denied.

Resolution 96-0666 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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Resolution 96-0679, affirming, and Resolution 96-0680, reversing, the decision of the building appeal board to deny a request to relax the 60 percent rule for a nonconforming building; to the extent of more than 60 percent of its reproduction value at the time of damage shall not be restored, except in conformity with the regulations of the district in which it is located, to a dwelling at 209 Pittsburgh Avenue (Tony Cozzi), by President Prettner, were introduced for discussion.

President Prettner recommended Resolution 96-0680, reversing the decision of the building appeal board, and moved to amend the last two paragraphs to read as follows:

"WHEREAS, the Duluth City Council finds that the above described structure is significantly deteriorated but is willing to withhold final judgment on the matter for a limited period of time to allow the owner of the structure to make a good faith effort to rehabilitate it;

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that the structure described above is significantly deteriorated but is willing to withhold final judgment on the structure for a period of 120 days subject to the following conditions being met:

(a) That within 60 days the owner of the structure shall have made substantial progress toward completing repairs to the foundation and structural members of the building in a manner acceptable to the Duluth building official;

(b) That within 120 days the owner of the above structure shall complete repairs to the foundation and structural members of the structure, shall bring the exterior of the structure into compliance with previous orders issued by the Duluth building official and shall commence rehabilitation of the entire structure;

(c) At all times secure the property against vandalism.”

The amendment was seconded.

Councilor Talarico said he will support the resolution because of the special circumstances of the individual. He suggested that the council hold a committee meeting regarding the process involved and to established rules for demolitions. He felt that neighborhoods suffer when this type of situation is allowed.

Councilor Keenan said he does not support the amendment and that he feels the building should be demolished.

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

Bill Burns, attorney, felt the amendment allowing 60 days will give Mr. Cozzi an opportunity to save his asset, and that he feels it is a fair way to deal with this property.

In response to Councilor Talarico, Al Haugsand, building inspection, agreed that the building appeal board has allowed extensions of other demolitions.

Councilor Hales felt the policies in place do not enhance the city’s fair housing policy.

In response to Councilor Bohlmann, City Attorney Dinan responded that the city would not be liable for damages that could occur during this extension period.

Councilor Bohlmann noted that she is reluctant to allow this extension, noting that the city has been criticized for allowing other housing violations recently.

Councilor Hogg moved to call the question on the amendment, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hardesty, Hogg, Talarico, Wheeler and President Prettnner -- 6

Nays: Councilors Hales, Keenan and Rapaich -- 3

The amendment passed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Talarico, Wheeler and President Prettnner -- 7

Nays: Councilors Keenan and Rapaich -- 2

Councilor Hales suggested an amendment that would require that the property be insured as a condition of the 60 day stay.

Mr. Burns responded that these types of properties are difficult to insure, and pointed out that insurance has not been required of other properties of this type.

Councilor Hales requested that the issue of requiring insurance be considered in the policy discussion regarding this issue.

Resolution 96-0680, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcel of property, grounds of condemnation being the building is structurally unsound and deteriorated to more than 60 percent of a similar new building; and

WHEREAS, notice of condemnation was served as follows: 209 Pittsburgh Avenue, also known as E 25 feet of S 79 feet of Lot 3, Block 1, Flesicher-Cremers Rearrangement of Block 56, Third Division of Duluth; and

WHEREAS, Section 10-3 of the Duluth City Code provides that if a structure is deteriorated from any cause to the extent of 60 percent of a similar new building it must be torn down and cannot be repaired or altered; and

WHEREAS, it was appealed to the building appeals board and denied; to proceed with the condemnation order of September 20, 1995; and

WHEREAS, the Duluth City Council finds that the above described structure is significantly

deteriorated but is willing to withhold final judgment on the matter for a limited period of time to allow the owner of the structure to make a good faith effort to rehabilitate it;

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that the structure described above is significantly deteriorated but is willing to withhold final judgment on the structure for a period of 120 days subject to the following conditions being met:

(a) That within 60 days the owner of the structure shall have made substantial progress toward completing repairs to the foundation and structural members of the building in a manner acceptable to the Duluth building official;

(b) That within 120 days the owner of the above structure shall complete repairs to the foundation and structural members of the structure, shall bring the exterior of the structure into compliance with previous orders issued by the Duluth building official and shall commence rehabilitation of the entire structure;

(c) At all times secure the property against vandalism.

Resolution 96-0680, as amended, was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Talarico, Wheeler and President Prettnner -- 6

Nays: Councilors Bohlmann, Keenan and Rapaich -- 3

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the contract with B.J. Cleaners be and hereby is renewed for furnishing and delivering janitorial services for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$8,800, terms net 30, FOB job site, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5310.

Resolution 96-0634 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts the following donations given by the flower city of the north committee and by individuals who attended a recent tour of private and public gardens:

Garden tour donations \$1,850

Flower city of the north committee \$ 42

Said donations shall be used for the preservation and betterment of Duluth's public gardens, and shall be deposited in the Special Projects Fund 210 030-2105-4690.

Resolution 96-0649 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Amendola Construction Company be and hereby is awarded a contract for furnishing and delivering labor and material to prepare and repair existing stone walls of Congdon Park Bridge in accordance with specifications on its low specification bid of \$28,640, terms net 30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C437.

Resolution 96-0670 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved July 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Amendola Construction Company be and hereby is awarded a contract for furnishing and delivering all labor and material for the restoration of Historic Bridge No. 2, on Seven Bridges Road, Lester River, in accordance with specifications on its low specification bid of \$112,500, terms net 30, FOB job site, payable out of Capital Fund 450, Dept./Agency 015, Organization 1994, Object C437.

Resolution 96-0671 was unanimously adopted.

Approved July 22, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0625, by Councilor Hardesty, authorizing the city to enter into a sponsor agreement with the Arrowhead Regional Commission for Options North 1996, at a cost to the city of \$5,000, was introduced for discussion.

Councilor Hogg opposed the resolution, stating he does not feel there is a public purpose. He noted that the senior coalition is no longer part of this event.

Councilor Rapaich said that this is an educational opportunity for seniors.

Councilor Wheeler felt this is a wise investment for the city and an opportunity to be partners with other businesses.

Councilor Bohlmann moved to call the question, which motion was seconded and unanimously carried.

Resolution 96-0625 was adopted as follows:

BY COUNCILOR HARDESTY:

WHEREAS, the city is hereby authorized to enter into a sponsor agreement with the Arrowhead Regional Commission for Options North 1996, at a cost to the city of \$5,000, which shall be paid from the General Fund 015-1514-2070.

Resolution 96-0625 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 7

Nays: Councilors Bohlmann and Hogg -- 2

Approved July 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Duluth Area Y.M.C.A. to operate the Friendship Between the Ages Program through community resource program funds at a cost not to exceed \$10,000. Contract will run from October 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0722-25.

FURTHER RESOLVED, that costs incurred under this agreement shall be payable out of Fund No. 275, Budget Item No. 6004, Obj. C050.

Resolution 96-0628 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and President Prettner -- 8

Nays: None -- 0

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Abstention: Councilor Wheeler -- 1
Approved July 22, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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 \$50,380 payable from the following: \$ 5,000 - Fund 268, Org. 6255; \$27,228 - Fund 269, Org. 6274; \$18,152 - Fund 269, Org. 6275. Contract dates will run from July 1, 1996, to June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0722-26.

Resolution 96-0656 was unanimously adopted.
Approved July 22, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0665, by Councilor Hardesty, authorizing joint powers agreement with St. Louis County and the townships of Lakewood and Duluth establishing the McQuade public access board, was introduced for discussion.

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

Clyde Ritchie opposed this proposal, stating the city would only have one vote on this committee. He said that there has been no public hearings on the issue of a safe harbor/boat launch facility, and said he feels it is in direct violation of the Congdon trust on ownership and control. He felt a yes vote on this resolution is a vote of total commitment to the project at the McQuade site.

Steven Running said the committee has operated in a totally public manner.

Councilor Wheeler requested that the council be provided the long range plan and project timelines, and agreed that each resolution approved by the council brings the city closer to commitment to this project.

Councilor Bohlmann noted that the proposed McQuade Road site is outside of the city limits, and said she does not support this agreement and does not support expending tax dollars for this project. She feels the project is not a safe harbor, but is public access, and said she is opposed to breaking the Congdon trust.

Councilor Keenan felt McQuade Road is the most favorable site, and that there has been tremendous public input.

In response to Councilor Wheeler, Cheryl Erickson said there are four active projects similar to this at this time on the North Shore.

In response to Councilor Hogg, Mr. Dinan said the city is an affected public entity because it affects the Congdon trust land. He said the proposed project is right on the boundary and further that the city can own and operate property outside of the city.

Councilor Hardesty clarified that the city is maintaining ownership of the Congdon trust but is allowing it to be used for this project.

Councilor Wheeler reviewed specific language in the Congdon trust, and stated that he feels the project is not within the spirit of the trust.

Councilor Hogg stated that he does not necessarily oppose the project, but that he does not feel it is in the city's best interest to be part of this joint powers agreement.

President Prettnner said this project has been scrutinized for many years and that she feels it

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

is a good project that has had much input. She felt this agreement spreads accountability and liability.

Councilor Rapaich moved to call the question, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and President Prettner --

7

Nays: Councilors Bohlmann and Wheeler -- 2

Resolution 96-0665 was adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement, a copy of which is on file in the office of the city clerk as Public Document No. 96-0722-27, with St. Louis County and the townships of Lakewood and Duluth establishing the McQuade public access board.

Resolution 96-0665 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, and President Prettner -- 6

Nays: Councilors Bohlmann, Hogg and Wheeler -- 3

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Pameco Corporation be and hereby is awarded a contract for furnishing and delivering Johnson Controls furnace parts for the water and gas department in accordance with specifications on its low specification bid of \$6,081.19, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 96-0619 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of a 200 millimeter ductile iron water main at Rice Lake Road from 221 meters to 157 meters southerly of Allen Street for the water and gas department in accordance with specifications on its low specification bid of \$15,791, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5532.

Resolution 96-0672 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that various vendors (Johnston - \$14,695.14; Pameco Corporation - \$11,369.98; Sid Harvey Midwest - \$16,521.82; Westburne Supply Company - \$12,233.91) be and hereby are awarded contracts for furnishing and delivering 1996/1997 furnace repair parts for the gas service division in accordance with specifications on its low specification bid of \$54,820.85, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 96-0677 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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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. 118-080-14, Federal Project IX DULT (022); 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 \$60,857.87.

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 96-0626 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that ESS Brothers and Sons, Inc., be and hereby is awarded a contract for furnishing and delivering manhole lids and frames for the sewer department in accordance with specifications on its low specification bid of \$6,190.63, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 581, Object 5227.

Resolution 96-0631 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Hovland Masonry, Inc., be and hereby is awarded a contract for construction of the 1996 city wide sidewalk repair for the engineering department in accordance with specifications on its low specification bid of \$336,397, terms net 30, FOB job site, payable out of SA Fund 810, Dept./Agency 038, Organization 5289, Object 5530.

Resolution 96-0637 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, by Resolution of Intent numbered 96-0483 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 44th Avenue West to 460 feet westerly (City Job No. 8957RS96); 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 \$35,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5283, Object 5530, and reimbursed as follows: \$7,400 P.I. storm sewer share and \$27,600 assessable and that \$27,600 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. 96-0722-15(b)(1), and which description is hereby incorporated herein by reference to said Public Document No. 96-0722-15(b)(1); 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 96-0660 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that it is hereby deemed necessary for public convenience and safety and it is hereby ordered that Bristolwood, Phase I, including Chinook Drive and Sockeye Drive (City Job No. 8954RS96), be improved.

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$654,000, payable from the special assessment fund, by special assessment to the abutting property owners.

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 96-0678 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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: 217 North 35th Avenue West and 2820 Wicklow Street.

Resolution 96-0653 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse partial salary costs for a police officer assigned to a neighborhood liaison position as part of the community-oriented policing new hires program.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100-200-1640-4230.

Resolution 96-0668 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse the police department's overtime expenditures related to the community-oriented policing overtime grant program.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100-200-1620-4230.

Resolution 96-0669 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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 Fourth Street from Hawthorne Road to Ridgewood Road.

Resolution 96-0676 was unanimously adopted.

Approved July 22, 1996

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
TABLED ORDINANCE**

BY COUNCILOR WHEELER

96-028 - AN ORDINANCE AMENDING SECTION 2-100 OF THE CITY CODE RELATING TO THE MEMBERSHIP OF THE DULUTH SRO HOUSING COMMISSION.

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

Councilor Wheeler moved to return the ordinance to the administration, which motion was seconded and unanimously carried.

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR WHEELER

96-031 - AN ORDINANCE AMENDING SECTIONS 8 AND 11 OF THE DULUTH CITY CHARTER RELATING TO PROCEDURAL REQUIREMENTS FOR ADOPTION OF RESOLUTIONS AWARDING THE SALE OF BONDS AND OTHER FINANCIAL OBLIGATIONS.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HOGG

96-030 (9310) - AN ORDINANCE AUTHORIZING THE CITY TO GRANT AN EASEMENT FOR UTILITY PURPOSES TO MINNESOTA POWER AND LIGHT COMPANY.

Councilor Hogg 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. 9310

BY COUNCILOR HOGG:

ORDINANCE AUTHORIZING THE CITY TO GRANT AN EASEMENT FOR UTILITY PURPOSES TO MINNESOTA POWER AND LIGHT COMPANY.

The city of Duluth does ordain:

Section 1 That the city of Duluth hereby conveys an easement for utility purposes to Minnesota Power and Light Company, in the form of Public Document No. 96-0722-28.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 1, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

Passed July 22, 1996

Approved July 22, 1996

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 25, 1996, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0725-02 Evensen Dodge, Inc., submitting letter regarding sale of \$5,650,000 G.O. improvement bonds, Series 1996A (96-0673R) and \$2,720,000 G.O. bonds, Series 1996B (96-0674R). -- Received

96-0725-03 Lincoln Park Business Group submitting letter regarding intent to proceed with the realignment of a portion of West Michigan Street and to issue G.O. bonds to finance a portion of the costs (96-0579R). -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 96-0673, providing for the issuance, sale and delivery of \$5,650,000 general obligation improvement bonds, Series 1996A, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, and Resolution 96-0674, providing for the issuance, sale and delivery of \$2,720,000 general obligation bonds, Series 1996B; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Wheeler, were introduced for discussion.

Kathy Kardell, Evensen Dodge, reviewed details of the bond sale, saying it was a competitive bid resulting in a very favorable interest rate for the city. She said Moody's affirmed the city's A

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

credit rating on outstanding bonds. She noted that bond insurance was purchased by the bidder and she recommended the bid be accepted.

Councilor Bohlmann spoke against Resolution 96-0674, because she felt that \$2,495,000 is too much to spend for design and engineering costs.

Resolutions 96-0673 and 96-0674 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 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.

1.02 The City Council has, by resolutions adopted on the following dates, ordered street improvements to certain streets, avenues and parkways set forth below (the "1996 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 or less of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
95-0565	8/28/95	295221	Upper Woodland West 1: Wabasha St.--Woodland Ave. to Alden Ave. Rendle Ave.--Anoka St. to Mankato St. Ewing Ave.--Anoka St. to Wabasha St.
		160170	Parkville: Claymore St.--Heather Ave. to Jean Duluth Rd. Balaire Ave.--S'ly dead end to Claymore St. Heather Ave.--Claymore to 1000' N'ly
		142765	Lower Lester Park 1: Dodge St.--52nd Ave. E. to 54th Ave. E. 52nd Ave. E.--London Rd. to Dodge St. 54th Ave. E.--London Rd. to Superior St. 56th Ave. E.--London Rd. to RR alleyway 56th Ave. E.--Superior St. to 156' S'ly 57th Ave. E.--London Rd. to RR alleyway

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
		334554	Lower Hunters Park 1: Greenwood Lane--Vermillion Rd. to Lakeview Lakeview Drive--Arrowhead Rd. to Snively Blvd. Waverly Place--Vermillion Rd. to Lakeview Drive Laurie St.--Lakeview Drive W'ly 655' to dead end Vermillion Rd.--Arrowhead Rd. to Greenwood Lane Arrowhead Rd.--Wallace Ave. to 206' E. Lakeview Victoria St.--Arrowhead to 312' N'ly Wallace Ave.--Arrowhead to 250' N'ly
		292583	Lower Fairmont: Redruth St.--Grand Ave. to 70th Ave. W. 69th Ave. W.--Grand Ave. to Raleigh St. 71st Ave. W.--Fremont St. to Raleigh St. 70th Ave. W.--Waseca St. to Sherburne St. 72nd Ave. W.--Fremont St. to Waseca St.
		220793	Endion West: 16th Ave. E.--Superior St. to 4th St. 17th Ave. E.--Superior St. to 2nd St. 17th Ave. E.--3rd Alley to 4th St. 18th Ave. E.--Superior St. to 4th St.
96-0416	5/06/96	33158	7th St.--37th to 39½ Ave. W.
96-0416	5/06/96	14713	Vernon St.--Pacific to Grand Ave.
		100000	Jefferson St.--13th to 15th Ave. E. 13th Ave.--Superior St. to London Rd.

1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$5,650,000 General Obligation Improvement Bonds, Series 1996A, to be dated July 15, 1996, as the date of original issue (the "Bonds") for financing a portion of the costs of the 1996 Street Improvement Program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$5,650,000 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 Bonds at a cash price of \$5,579,375.00, plus accrued interest on the total principal amount from July 15, 1996, 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 July 15, 1996, 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	Year	Amount	Interest Rate
1998	\$245,000	See Exhibit A	2006	\$385,000	See Exhibit A
1999	270,000		2007	405,000	
2000	285,000		2008	430,000	
2001	295,000		2009	455,000	
2002	310,000		2010	480,000	
2003	330,000		2011	510,000	
2004	345,000		2012	540,000	
2005	365,000				

2.02 The Bonds maturing in the years 1998 through 2007 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2008 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2007, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City 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, 1997. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 1996A

R-1			\$ _____
<u>Interest</u>		<u>Date of Original</u>	
<u>Rate</u>	<u>Maturity Date</u>	<u>Issue</u>	<u>CUSIP</u>
	February 1, ____	July 15, 1996	

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 July 15, 1996, 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, 1997. 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 \$5,650,000, 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 July 25, 1996 (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 1998 through 2007 are not subject to redemption before maturity, but those maturing in the year 2008 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2007, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, 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>
___/___/96	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 and with its taxpayers that it will assess against benefitted property the cost of the improvements to the City for the 1996 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. 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 into the 1996 Street Improvement Account (the "1996 Street Account") within the Street Improvement Fund in the Capital Projects Funds. The proper City officers are authorized and directed to pay out of such construction account 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 1996 Street Account.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1996 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 1996 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 Section 1.02 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 the appropriated funds from the General Fund to the 1996 Improvement Bond Account for payment of the February 1, 1997, interest payment.

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 (i) to the extent of funds expected to be received from special assessments from the projects described in Section 1.02 upon benefitted properties, and (ii) to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special assessments), 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 1996 Improvement Bond Account within the Special Assessment Debt Service Fund. If the balances in the 1996 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 1996 Improvement Bond Account when the balances therein are sufficient.

3.05 Proceeds of the Bonds on deposit in the 1996 Street Improvement Account and in the 1996 Improvement Bond Account may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; 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 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 for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (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 such 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

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.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. 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 the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Resolution 96-0673 was unanimously adopted.

Approved July 25, 1996

GARY L. DOTY, Mayor

- - -

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 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. 9305 adopted on May 20, 1996, authorized the issuance and sale of general obligation bonds of the City to finance design and engineering costs and a portion of the construction costs of a fresh water education facility, including a fresh water aquarium ("Lake Superior Center Project"), in an amount not to exceed \$3,000,000 (plus such additional amount of bonds, if any, not exceeding two percent of the amount otherwise authorized, representing part of the interest cost of such bond issue as authorized by Minnesota Statutes, Section 475.56).

1.03 The City Council has, by Ordinance No. 9216 adopted on October 11, 1994, authorized the issuance, sale and delivery of general obligation recreation facilities bonds of the City in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

amount of \$725,000 for various recreation facilities within the City, including city-wide soccer field additions and alterations. Pursuant to such authority, the City issued its \$505,000 General Obligation Recreation Facilities Bonds, Series 1995A-1, comprising \$500,000 of bonds for the projects to be financed and an additional \$5,000 representing part of the interest cost of the issue.

1.04 The City Council has ordered the issuance, sale and delivery of General Obligation Bonds of the City in the amount of \$2,720,000, for the purpose of financing (i) project design and engineering costs of Lake Superior Center and costs of issuance for such financing in the amount of \$2,495,000, as the initial bond sale pursuant to Ordinance No. 9305 adopted May 20, 1996; and (ii) the remaining project costs for the city-wide soccer field additions and alterations and costs of issuance therefor in the amount of \$221,000, as previously approved by Ordinance No. 9216, adopted October 11, 1994, and an additional amount of \$4,000 representing part of the interest costs of such bond issue, as authorized by Minnesota Statutes, Section 475.56 (the "Soccer Fields Project") (the Lake Superior Center Project and the Soccer Fields Project are collectively the "Projects").

1.05 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$2,720,000 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 Bonds at a cash price of \$2,678,656.00, plus accrued interest on the total principal amount from July 15, 1996, 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 July 15, 1996, 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	Year	Amount	Interest Rate
1998	\$105,000	See Exhibit A	2008	\$120,000	See Exhibit A
1999	120,000		2009	130,000	
2000	125,000		2010	135,000	
2001	130,000		2011	145,000	
2002	140,000		2012	150,000	
2003	90,000		2013	160,000	
2004	95,000		2014	170,000	
2005	100,000		2015	180,000	
2006	110,000		2016	195,000	
2007	115,000		2017	205,000	

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2.02 The Bonds maturing in the years 1998 through 2007 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2008 shall each be subject to redemption and prepayment at the option of the City on February 1, 2007, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, 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, 1997. 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
CITY OF DULUTH
GENERAL OBLIGATION BOND, SERIES 1996B

R-1 \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, ____	July 15, 1996	

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 July 15, 1996, 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, 1997. 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 \$2,720,000, 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 an authorizing resolution adopted by the governing body of the City on July 25, 1996 (the "Resolu-

tion"), and is issued for the purpose of financing project design and engineering costs of Lake Superior Center and 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 1998 through 2007 are not subject to redemption before maturity, but those maturing in the year 2008 are each subject to redemption and prepayment at the option of the City on February 1, 2007, and on any date thereafter upon 30 days' notice, in whole or in part, and if in part, in such order of maturities as selected by the City, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

Registered Owner

Signature of
Bond Registrar

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

___/___/96 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 assign-
ment 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 enlarge-
ment or any change whatsoever.

Signature Guaranteed:

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

Section 3. Covenants, Accounts and Representations.

3.01 \$2,495,000 of the Bonds is allocated for use for the Lake Superior Center Project. The portion of the principal maturities of the Bonds, debt service and tax levy allocable to the Lake Superior Center Project is set forth on Exhibit B hereto. The City has created a separate construction account, the Lake Superior Center Account, within Capital Improvement Fund No. 450 to which there shall be credited the proceeds of the Bonds allocable to the Lake Superior Center Project, together with any additional funds, including grant funds, which may be available and are appropriated for the Lake Superior Center Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Lake Superior Center Project and to pay the costs of issuance for the allocable portion of the Bonds issued for the Lake Superior Center Project.

3.02 \$225,000 of the Bonds is allocated for use for the Soccer Fields Project. The portion of the principal maturities of the Bonds, debt service and tax levy allocable to the Soccer Fields Project is set forth on Exhibit C hereto. The City has created a separate construction account, the Soccer Fields Account, within Capital Improvement Fund No. 450 to which there shall be credited \$221,000 from the proceeds of the Bonds, together with any additional funds, including the grant funds, which may be available and are appropriated for the Soccer Fields Project. This account shall be used only to pay, or reimburse, expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of the Soccer Fields Project and to pay the costs of issuance for the allocable portion of the Bonds issued for the Soccer Fields Project.

3.03 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. Bonds, Series 1996B 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 unused discount, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.04 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.

3.05 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.

3.06 Proceeds of the Bonds on deposit in such accounts in Capital Improvement Fund 450 and in the Debt Service Fund may, in the discretion of the City Treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; 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 for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in the debt service fund for the Bonds (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 for the Bonds 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.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. 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 the Rule, which will enhance the marketability of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

Resolution 96-0674 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved July 25, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to place a three inch bituminous overlay on 38th Avenue West from Second Street to Grand Avenue (City Job No. 8960RS96).

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 96-0578 was unanimously adopted.

Approved July 25, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0683, by Councilor Talarico, ordering improvement of 38th Avenue West from Second Street to Grand Avenue, was introduced for discussion.

Councilor Bohlmann noted that the highest estimate for this project is \$4,500, and the city estimated the cost at \$8,000. She felt it is poor policy to publish estimated costs before bids are taken.

Administrative Assistant Nollenberger noted that the actual assessment will be the bid amount, not the estimated amount.

Councilor Hales requested a breakdown of the estimated costs. She stated concern about the impact of heavy trucks from a business that was formerly located in the area, and questioned how the city assists residential taxpayers in such a situation. She suggested that businesses could be charged street maintenance costs.

Mr. Nollenberger replied that the neighborhood has requested that this project go forward, and said he is not aware of any procedures in place through the existing special assessment laws that would require businesses to pay for street improvement costs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Ken Larson, city engineer, briefly reviewed the process for estimating project costs and agreed that he knows of no method of assessing businesses for street improvement costs.

Resolution 96-0683 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, by resolution of Intent numbered 96-0578 the council did request the administration to prepare plans and specifications for the resurfacing of 38th Avenue West from Second Street to Grand Avenue (City Job. No. 8960RS96); 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 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 \$8,000 payable from the special assessment Fund 810, Agency 038, Organization 5290, Object 5530, and reimbursed as follows: \$400 P.I. intersection share and \$7,600 assessable and that \$7,600 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. 96-0722-15(b)(2), and which description is hereby incorporated herein by reference to said Public Document No. 96-0722-15(b)(2); that those assessed be permitted to pay said assessment in installments over a five 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 96-0683 was unanimously adopted.

Approved July 25, 1996

GARY L. DOTY, Mayor

- - -

At this time, 5:35 p.m., the council meeting was suspended to conduct a committee of the whole meeting regarding the proposed realignment of a portion of West Michigan Street and to issue general obligation bonds in an approximate amount of \$1,400,000 to finance a portion of the costs thereof.

- - -

At this time, 6:35 p.m, the regular order of business was resumed.

- - -

RESOLUTIONS TABLED

President Prettner moved to remove from the table Resolution 96-0579, declaring intent to proceed with realignment of a portion of West Michigan Street and to issue general obligation bonds in an approximate amount of \$1,400,000 to finance a portion of the costs thereof, which motion was seconded and unanimously carried.

Resolution 96-0579 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the Minnesota department of transportation (MNDOT) has de-designated Trunk Highway 23 within the city with the new route following Interstate 35 and MNDOT has turned back the maintenance responsibility to the city for streets along the old route, including portions of Michigan Street in the Lincoln Park neighborhood; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, streets along the old route are eligible to receive funds from MNDOT's turn back account for one time construction improvement projects to upgrade streets to state aid standards; and

WHEREAS, representatives of the city of Duluth, Minnesota (the city) and the Lincoln Park neighborhood have been reviewing the feasibility and desirability of the realignment of Michigan Street between 22nd Avenue West and the junction of Michigan Street and Superior Street; and

WHEREAS, the council has received and reviewed a memorandum regarding Phase I of the Lincoln Park improvement project; and

WHEREAS, the estimated costs for the realignment of Michigan Street between 22nd Avenue West and the junction of Michigan Street and Superior Street are approximately \$2,675,000; and

WHEREAS, it appears, on a preliminary basis, that MNDOT will grant the city approximately \$923,500 from MNDOT turn back funds for such project; and

WHEREAS, the city is authorized to issue general obligation bonds pursuant to Laws of Minnesota 1974, Chapter 130 (the act), to match state, federal or private grants for projects within the city; and

WHEREAS, such realignment of Michigan Street will permit and aid in the redevelopment and renewal of the Lincoln Park neighborhood.

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

Section 1. The city council hereby declares its intent to proceed with the realignment of Michigan Street between 22nd Avenue West and the junction of Michigan Street and Superior Street, including the acquisition of right-of-way, demolition of structures located thereon and constructing a new realigned Michigan Street with connector streets to old Michigan Street (the project), subject to final design approval, funding and other necessary legal approvals. Such Project shall be conditioned upon the city receiving a grant from the MNDOT turn back account.

Section 2. The city council hereby determines that it is necessary and expedient to issue general obligation bonds pursuant to the act in the amount of approximately \$1,400,000 to provide the city's share of the costs of the project and 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 further determines to utilize other legally permissible and available funds, such as municipal state aid funds, for any costs not covered by such grant from the state of Minnesota and the proceeds of such bonds.

Section 4. The city council hereby authorizes the city staff to proceed with the project and to work with the city's financial adviser and bond counsel to arrange the sale of such bonds. Final terms of the development of the project and the issuance of the bonds shall be set forth in a subsequent ordinance and resolutions of the city council.

Resolution 96-0579 was unanimously adopted.

Approved July 25, 1996

GARY L. DOTY, Mayor

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At this time, 6:45 p.m., the council meeting was suspended to conduct a committee of the whole meeting regarding the proposed approval of analysis of impediments and fair housing plan.

- - -

At this time, 10:00 p.m., the regular order of business was resumed.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

President Prettner moved to remove from the table Resolution 96-0600, approving the city of Duluth analysis of impediments and fair housing plan, which motion was seconded and unanimously carried.

President Prettner moved to amend the plan as follows:

(a) In Impediment 1, paragraph 2, line 2, delete the words "some of" before the words "this burden," and in paragraph 3, line 7, delete the words "feel they are forced to" before the words "pass the tax liability";

(b) In Impediment 6, line 3, delete the words "One was the lack of local" and insert the words "There is a need for increased";

(c) In Impediment 12, change the phrase "Perceptions from persons attending the Fair Housing Analysis meeting are that" to "Persons attending the Fair Housing Analysis meeting believe that," which motion was seconded.

Councilor Hales moved to amend Impediment 2, Action Step, to change the phrase "Duluth's economic development policy" to "Duluth's community development and economic development policy," which was accepted by President Prettner as a friendly amendment.

Councilor Hales moved to "remove Impediment 5 from the plan," which was not accepted by President Prettner as a friendly amendment.

Councilor Hogg said he feels the plan is an unwarranted and undocumented indictment of the community. He said he feel it is negative, but that he will support the resolution because he feels there is a spirit of cooperation and that his understanding is that the plan is a working document that can be changed when the council looks at housing policy.

Councilor Hardesty supported the resolution, saying that she feels the plan responds to the need to implement a fair housing policy in the community.

Councilor Wheeler supported the resolution, stating that adopting the plan requires the city to be accountable.

President Prettner's amendment passed unanimously.

Councilor Talarico moved to amend the plan in Impediment 10, Action Step, to add the following final sentence: "Further, governmental agencies should be scrutinized as to their efforts to aid the community in becoming a good neighborhood," which motion was seconded and unanimously carried.

Councilor Hales moved to amend the plan to "delete Impediment 5," which motion was seconded.

Councilor Hogg felt that Impediment 5 implies there is racial discrimination, and said that the action statement should require closer examination.

Councilor Bohlmann said she does not support the plan because she feels there isn't adequate documentation of the impediments.

Councilor Hales' amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Resolution 96-0600, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

RESOLVED, that the city of Duluth hereby approves the analysis of impediments and fair housing plan dated July 8, 1996, a copy of which is on file with the city clerk as Public Document No. 96-0725-01.

Resolution 96-0600, as amended, was approved upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Nays: Councilor Bohlmann -- 1
Approved July 25, 1996
GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 10:35 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 12, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 8

Absent: Councilor Rapaich -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0812-01 John M. Boynton, by Jerome P. Agnew, attorney, et al. (three signatures), petitioning to vacate a portion of the former Becks Road and a portion of the Short Line Park Road. -- Assessor

96-0812-03 David R. Lax petitioning for permanent design residential streets with curb and gutter and bituminous surface, storm sewer, sanitary sewer, water main and gas mains for Bristolwood, Phase I - Chinook Drive from Rice Lake Road to Lot 14, Block 1, and Sockeye Drive. -- Assessor

96-0812-04 Edward Leis, et al. (six signatures), petitioning for construction of a permanent street improvement on 37th Avenue East from Third Street to Fourth Street. -- Assessor

96-0812-05 Leonard T. Marczak petitioning to vacate that portion of Seventh Street described as the westerly 30 feet of Seventh Street adjacent to Lots 142, 144, 146 and 148 running from the northerly line of 128th Avenue West to the northerly line of Lot 148, 160 feet. -- Assessor

96-0812-06 Cindy A. Newville petitioning to construct a six inch D.I. water main in 87th Avenue West from 1,525 feet north of Vinland Street to approximately 150 feet northerly. -- Assessor

96-0812-02 Riverside Development Company, et al. (three signatures), petitioning to vacate that part of Commonwealth Avenue between Mathews Street and Traders Court in Blocks 42 and 48, Ironton Second Division. -- Assessor

96-0812-07 St. Luke's Hospital petitioning for concurrent use permit for a portion of the right-of-way of First Street between Ninth Avenue East and Tenth Avenue East on the north side of East First Street. -- Planning commission

96-0812-08 Jim Topie, et al. (four signatures), petitioning to vacate the unused ten foot sewer easement located on Lots 10 and 14, Block 1, Second Rearrangement, Congdon Park Division. -- Assessor

96-0812-09 Minnesota state auditor submitting management and compliance report of the Western Lake Superior Sanitary District for the year ended December 31, 1995. -- Received

96-0812-26 Tom and Mary Boman submitting copy of letter sent to the assessor regarding proposed assessment for street repair (96-0421R). -- Received

96-0812-10 Duluth Community Action Program, Inc., submitting communication regarding auditing procedures. -- Received

96-0812-13 Joan Morrison submitting communication regarding pesticide use on the Lakewalk (supported by 660 signatures). -- Received

96-0812-41 Kent G. Worley submitting copy of letter sent to street and park maintenance manager regarding use of pesticides (96-0723R). -- Received

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REPORTS OF OFFICERS

96-0812-11 Assessor submitting:

(a) Letters of sufficiency regarding petitions as follows:

(1) Vacation of a portion of the former Becks Road and for a portion of Short Line Park Road;

(2) Construct a sanitary sewer in 87th Avenue West from 1,200 feet north of the center line of Lawn Street to 150 feet northerly;

(3) Permanent design residential streets with curb and gutter and bituminous surface, storm sewer and sanitary sewer for Bristolwood, Phase I - Chinook Drive from Rice Lake Road to Lot 14, Block 1, and Sockeye Drive;

(4) Construction of a permanent street improvement on 37th Avenue East from Third Street to Fourth Street;

(5) Vacation of that portion of Seventh Street described as the westerly 30 feet of Seventh Street adjacent to Lots 142, 144, 146 and 148, Fond du Lac Seventh Street, running from the northerly line of 128th Avenue West to the northerly line of Lot 148, 160 feet;

(6) Vacation of the unused ten foot sewer easement located on Lots 10 and 14, Block 1, Congdon Park Division, Second Rearrangement. -- Received

(b) Notices of confirmation of assessment rolls levied to defray the assessable portions of:

(1) 1995 sidewalk program (assessable portion - \$102,387.20), Contract No. 5279;

(2) Demolition assessments (assessable portion - \$35,220), Contract No. 5293. --

Clerk

(c) Amended assessment roll regarding 1996 delinquent garbage assessments. -- Received

96-0812-12 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for May 1996. -- Received

96-0812-14 Purchasing agent submitting emergency purchase order awarded to Levine and Son, Inc., for replacement and repair of catch basin at 11th Avenue East and First Street Alley. -- Received

96-0812-15 Water and gas department engineer submitting letter of sufficiency regarding petition for construction of a six inch D.I. water main in 87th Avenue West from 1,525 feet north of Vinland Street to approximately 150 feet northerly. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0812-16 Board of directors of trust for Miller-Dwan Hospital and Medical Center minutes of June 20, 1996, meeting. -- Received

96-0812-17 Board of zoning appeals minutes of June 25, 1996, meeting. -- Received

96-0812-18 Charter commission minutes of October 11, 1995, meeting. -- Received

96-0812-19 Citywide citizens advisory committee minutes of July 23, 1996, meeting. -- Received

96-0812-20 Civil service board minutes of June 4, 1996, meeting. -- Received

96-0812-21 Duluth airport authority: (a) April 30, 1966, balance sheet; (b) Minutes of: (1) June 18; (2) June 20, 1996, meetings. -- Received

96-0812-23 Seaway Port authority of Duluth: (a) Minutes of April 10, 1996, meeting; (b) Minutes of May 10, 1996, meeting; (c) Minutes of May 20, 1996, meeting; (d) March 1996 balance sheet. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

96-0812-27 Spirit Mountain recreation area authority board submitting minutes of: (a) October 25, 1994; (b) November 28, 1994; (c) January 3, 1995; (d) January 31, 1995; (e) February 27, 1995; (f) March 27, 1995; (g) April 24, 1995; (h) May 22, 1995; (i) June 26, 1995; (j) August 14, 1995; (k) September 25, 1995; (l) October 25, 1995; (m) December 4, 1995; (n) January 8; (o) January 29; (p) March 4; (q) March 27; (r) April 29; (s) May 7; (t) May 28; (u) June 24, 1996, meetings. -- Received

96-0812-24 Technical design advisory committee for the downtown waterfront mixed use design review district minutes of: (a) April 16; (b) May 21; (c) June 18, 1996, meetings. -- Received

96-0812-22 Tree commission minutes of July 8, 1996, meeting. -- Received

96-0812-25 Western Lake Superior Sanitary District submitting comprehensive annual financial report for the year ended December 31, 1995. -- Received

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At this time, 8:00 p.m., President Prettner called to order the public hearing regarding an ordinance amending Sections 8 and 11 of the Duluth City Charter relating to procedural requirements for adoption of resolutions awarding the sale of bonds and other financial obligations (Public Document No. 96-0812-42).

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At this time, 8:05 p.m., President Prettner declared the hearing closed and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

James Balogh, certified soil scientist, representing Gracelynn Hansen, gave a presentation regarding the property damage resulting from what they feel was inadequate erosion and sediment control at the soccer field construction project on Arlington Avenue.

Richard Larson, director of public works, stated that they are aware of the problem and that they are working with the contractor to make the necessary changes.

Councilor Hogg expressed his concern that there might be responsibility for completing some of the work in a more timely fashion and thus hold the contractor responsible for their share of the problem.

Councilor Keenan felt there is a need for more safeguards to be put in place so these types of situations don't arise in the future.

To councilor questions, Mr. Larson stated that the contractor did put in the controls that were required but they weren't enough. He noted that as the city works more with erosion, more controls will be put in initially.

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Greg Price requested that the city declare the week of the Bayfront Blues Festival as Blues Appreciation Week, noting that the city is becoming well known for its festival and it would be a small way of showing appreciation for what the festival has done for this community.

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Gary Nelson expressed his concern regarding computers for the councilors saying that he doesn't feel that it is an appropriate expense.

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RESOLUTIONS TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler moved to remove from the table Resolution 96-0645, authorizing the payment of \$2,644 to the League of Minnesota Cities to fund the right of way task force work plan, which motion was seconded and unanimously carried.

Resolution 96-0645 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city is hereby authorized to pay \$2,644 to the League of Minnesota Cities to assist with funding of the work plan of the League's rights of way task force, which payment shall be made from the General Fund 100-015, Org. 2020, Obj. 5441.

Resolution 96-0645 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Councilor Bohlmann moved to remove from the table Resolution 96-0652, confirming appointment of Howie Hanson to the sanitary sewer board of WLSSD, which motion was seconded and unanimously carried.

Resolution 96-0652 was adopted as follows:

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

Guy Howie Hanson for a term expiring July 1, 1999, replacing Steven Jackson who resigned.

Resolution 96-0652 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

President Prettner moved to remove from the table Resolution 96-0639, authorizing Amendment No. 1 to the CAP weatherization program contract with Duluth community action program (CAP) in order to increase the project contract by \$300,000 payable with community development funds, which motion was seconded and unanimously carried.

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

George Parker, Sr., reviewed documents of Women's Transitional Housing Coalition, Inc., board of directors and suggested a conflict of interest in that some CAP board members are also board members of this agency. He also commented on expense account information for the CAP board, in particular one individual, and an audit report that raised questions that are included in a management report.

Catherine Peterson, director of CAP, reviewed her letter (Public Document No. 96-0812-10), that was recently submitted to the council regarding responses to accusations made at a prior meeting. She urged support for the resolution so that more families can be served. Ms. Peterson explained her relationship to Women's Transitional Housing and said that has been reviewed by the CAP board. She said that most board members are low income and are also eligible for various CAP programs and board expenses.

Jim Glazer, fiscal manager, answered councilor questions regarding financial issues relative to reimbursable expenses of board members.

Ron Morkved, chair of the CAP board, said that prior comments from Mr. Parker were not correct and noted that Mr. Parker has only attended one CAP board meeting. Mr. Morkved reviewed the make-up of the CAP board and said that they are accountable to every unit of government from which they receive funds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0639 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, the city of Duluth (the city), pursuant to Resolution No. 96-0360, adopted on May 6, 1996, entered into an agreement with the Duluth Community Action Program (CAP), Inc., of Duluth, Minnesota, in which the agency agreed to operate the CAP weatherization program - regular project payable from the 1996 Federal Program Fund 262 - community development - CAP weatherization regular project - Account No. 6903; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-0812-28, to the agreement with the agency which increases the agreement amount from \$200,000 to \$500,000.

Resolution 96-0639 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

President Prettner moved to remove from the table Resolution 96-0648, vacating the alley in Block 5, Lyman Park Division, located between Lyman and Todd street west of Anson Avenue (Swanstrom), which motion was seconded and unanimously carried.

Resolution 96-0648 was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alley in Block 5, Lyman Park Division, located between Lyman and Todd Street west of Anson Avenue, legally described as: the alley in Block 5, Lyman Park 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 July 9, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alley in Block 5, Lyman Park Division, located between Lyman and Todd Street described above, and as more particularly described on Public Document No. 96-0812-29.

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 and the easement being retained.

Resolution 96-0648 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Resolution 96-0682, by Councilor Wheeler, confirming the assessment roll levied to defray in full the expense of solid waste collection during the period of March 1, 1995 to June 1, 1996, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hales expressed her concern that this situation is a big problem for a lot of private landlords and questioned if it is the fairest way to do business for individuals who are trying to supply affordable housing.

Councilor Bohlmann felt that this should be changed because of her concern for the legality of doing this by assessment.

City Attorney Dinan reviewed the background of requiring everyone to have a licensed collector because there were a lot of people who just dumped their garbage anywhere and then the city had to require the collectors to contract with individuals who might be poor credit risks and as a trade-off for that the city imposed an assessment process where those uncollected accounts could be recovered.

Todd Torvinen, finance director, reported that the initial 1,580 accounts that were turned in from the collectors, and through the hearing process that number has been reduced to about 1,134 accounts amounting to \$286,000.

Resolution 96-0682 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 96-0812-11(c), which is levied to defray in full the expense of solid waste collection during the period of March 1, 1995 - June 1, 1996, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 96-0682 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettnner -- 6

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Rapaich -- 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0715, by Councilor Wheeler, authorizing second amendment to first amendment to pledge agreement between the city of Duluth and the Duluth economic development authority, was introduced for discussion.

Councilor Hogg moved to amend the resolution: (a) To add at the end of the resolution the following: "and which amounts are necessary to provide principal and interest on the Canal Park improvement bonds in the amount of \$4,250,000 (general obligation tax increment bonds, Series 1991-A)"; and (b) To add to the agreement, paragraph 2, the following: "Any amount of hotel/motel tax funds not required for debt service on bonds to be issued for Lake Superior Center shall be paid by the city to DEDA, which shall use such funds for purposes identified in Ordinance No. 8963," which motion was seconded and unanimously carried.

Resolution 96-0715, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to amend City Contract No. 16718, a pledge agreement by and between the city of Duluth and the Duluth economic development authority as amended by a first amendment to the tax increment pledge agreement, requiring the city to pay to DEDA any amounts produced by the one percent hotel-motel tax authorized by Ordinance 8963, which amounts are not required for debt service on Lake Superior Center bonds, and which amounts are necessary to provide principal and interest payments on the Canal Park improvement bonds issued in the amount of \$4,250,000 (general obligation tax increment bonds, Series 1991-A).

Resolution 96-0715, as amended, was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Rapaich - 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, the city council, in Resolution 95-1046, adopted December 11, 1995, has distributed the 1996 estimated special city excise and sales taxes known as tourism taxes; and

WHEREAS, there have been two amendments to the above resolution: Resolution 96-0462, adopted May 20, 1996, which amended the agreement with the Duluth Convention and Visitors Bureau, increasing the amount distributed from tourism taxes from \$710,000 to \$730,000, and Resolution 96-0440, approved May 20, 1996, which appropriates from the tourism tax fund balance the increase to the Duluth Convention and Visitors Bureau and further redistributed 1996 tourism tax allocations to provide an increase of \$2,500 in funding to the Sister Cities and a reduction of \$2,500 in funding to the Heritage and Arts Center and allocating \$35,000 in additional funds to Spirit Mountain to be funded from the tourism tax fund balance; and

WHEREAS, based on debt service payments which the city will be required to make on the recent bond sale for Lake Superior Center, there may be additional funds required over and above the proceeds of the two percent hotel-motel tax adopted pursuant to Ordinance No. 8963; and

WHEREAS, there is an available fund balance in the tourism tax general fund identified as the fund balance.

NOW, THEREFORE, BE IT RESOLVED, that an amount necessary to make debt service payments on the Lake Superior Center bond authorized by Ordinance No. 9305 for the year 1996, if required, be taken from the tourism tax fund balance.

Resolution 96-0721 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Rapaich -- 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0723, by Councilor Wheeler, requesting establishment of a policy relating to use of chemical fertilizers, pesticides, insecticides and herbicides on city property, was introduced for discussion.

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

Joan Morrison presented a petition (Public Document No. 96-0812-13) reflecting signatures of 660 individuals that requests no pesticides or herbicides be used on the Lakewalk.

The following individuals spoke in opposition to the use of pesticides or herbicides on the Lakewalk: Thomas Bersell, George Steinman, Janet Steinman, Kate Zlonis, Katy Anderson and Ms. Sandbeck. Some reasons stated were: the chemicals are lethal and not necessary; the lakewalk area should be kept in a natural setting; the chemicals cause adverse physical reactions to some individuals; the area is used by many for exercising and the chemicals are unhealthy and there has been no signage to alert people after spraying.

Richard Larson said that he feels it is necessary to use chemicals but that a different form of the chemicals or a smaller amount might be more acceptable.

Councilor Hogg felt it is undefensible to put chemicals right by the lake particularly without signage. He said he would be supportive of a resolution banning the spraying but that he would encourage the administration to cease the use as administrative decision.

Councilor Wheeler moved to amend the resolution to add the following final phrase: "and requests that a ban on spraying begin immediately for the lakewalk area," which motion was seconded.

Councilor Hardesty requested that the following phrase be added to Councilor Wheeler's amendment: "and further requests that, effective immediately, there be absolutely no use of chemicals, pesticides or herbicides anywhere in the city that is not specifically posted for public awareness," which was accepted by Councilor Wheeler as a friendly amendment.

Administrative Assistant Nollenberger stated that the administration would take the resolution under advisement.

Councilor Wheeler's amendment passed unanimously.

Resolution 96-0723, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

WHEREAS, the use of non-natural fertilizers, pesticides, insecticides and herbicides on vegetation in the city of Duluth has a deleterious effect on the health of humans, animals and birds, and on the purity of Lake Superior and the city's various ponds and streams; and

WHEREAS, the city council believes that the city should take a leadership role in finding alternatives to the use of non-natural fertilizers, pesticides, insecticides and herbicides;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city to develop and implement a policy which would ban the use of non-natural pesticides, insecticides and herbicides on city property and would limit the use of non-natural fertilizers on city property.

RESOLVED FURTHER, that the council requests that this policy be implemented by the spring of 1997, and requests that a ban on spraying begin immediately for the Lakewalk area, and further requests that, effective immediately, there be absolutely no use of chemicals, pesticides or herbicides anywhere in the city that is not specifically posted for public awareness.

Resolution 96-0723, as amended, was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

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 state primary election on September 10, 1996, as listed in Public Document No. 96-0812-30;

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judge chairmen shall be compensated at the rate of \$6 per hour and nonchairmen 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 \$.31 per mile; payable from General Fund 015-1512-5441.

Resolution 96-0705 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 10, 1996, state primary election and November 5, 1996, for the state general election:

POLLING PLACE LIST

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. St. 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 and Colorado Street
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 and Eighth Street
13. U.M.D. - (ballroom)	10 University Drive
14. Kenwood School (gym)	Kenwood Avenue and Maryland Avenue
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. Washington Center (gym)	310 North First Avenue West
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. St. 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. St. 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
39. Riverside Community Club	Cato Avenue and Manitou Street
40. Goodfellowship Community Center (warming area)	1242 - 88th Avenue West

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

41. Stowe School (gym) 715 - 101st Avenue West
42. Fond du Lac Recreation Center 131st Avenue West and Highway
23

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized, as allowed for under Minnesota Statutes, for the September 10, 1996, and November 5, 1996, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 10, 1996, and November 5, 1996, elections.

BE IT FURTHER RESOLVED, that the city agrees to indemnify and hold harmless any organization allowing the city to use its building for a polling place from any claims or damages for bodily injury or property damage arising out of the use of such building as a polling place, but subject to municipal liability limits contained in state law.

Resolution 96-0706 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

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 committee (Waltman Tessier's softball tournament), Wheeler Field, for August 23, 24 and 25, 1996, with John McAdamis, manager.

Resolution 96-0707 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

David Duane Haglin (Morgan Park) for a term expiring March 1, 1999, replacing Teresa Whitebird who resigned.

Resolution 96-0659 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the DWMX-D

Dan R. McClelland (at large) and Rolland G. Nelson (area) for terms expiring May 31, 1999.

Resolution 96-0684 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

TREE COMMISSION

Janet V. Corica, James Hakala and Paul H. Monson for terms expiring August 31, 1999.

Resolution 96-0693 was unanimously adopted.

Approved August 12, 1996

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

Robert D. Leff for a term expiring September 30, 1999, replacing Arna Rennan who resigned.

Resolution 96-0694 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Denice Lois Johnson (West End/Lincoln Park) for a term expiring June 1, 1997, replacing Jill Harstad, who resigned.

Resolution 96-0704 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0646, by President Prettner, granting a special use permit to Donald Proulx for a temporary commercial use for property located at 1833 Norton Road, was introduced for discussion.

Councilor Keenan moved to amend the resolution, in the last paragraph, after the words "Norton Road" to add "for one year," which motion was seconded and unanimously carried.

Resolution 96-0646, as amended, was adopted as follows:

BY PRESIDENT PRETTNER:

WHEREAS, Donald Proulx has submitted to the city council a request for a special use permit for a temporary commercial use (used automobiles) on property described as the westerly 300 feet lying south of the northerly 1,130 feet of NW¼ of SW¼ Section 3, Township 50 North, Range 14, and located at 1833 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 Donald Proulx to allow for the operation of used automobile sales at 1833 Norton Road, for one year, on the condition that the special use permit be limited as identified in Public Document No. 96-0812-31.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0646, as amended, was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Service Printers of Duluth, Inc.; and

WHEREAS, it 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 Service Printers of Duluth, Inc.

Resolution 96-0685 was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Depot Arts Program pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0812-32, with the St. Louis County Heritage and Arts Center, of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$5,000, payable out of the 1996 Federal Program Fund 262 - community development - Depot arts program - Account No. 6931.

Resolution 96-0697 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettnner -- 6

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Rapaich -- 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the YMCA mentoring program project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0812-33, with the Young Men's Christian Association (YMCA), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$15,000, payable out of the 1996 Federal Program Fund 262 - community development - Account No. 6932.

Resolution 96-0698 was adopted upon the following vote:

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

Nays: Councilors Bohlmann and Hales -- 2

Abstention: Councilor Wheeler -- 1

Absent: Councilor Rapaich -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the North Star Community Development Corporation project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0812-34, with the North Star Community Development Corporation (NSCDC) of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$112,000, payable out of the 1996 Federal Program Fund 262 - community development - North Star CDC Account No. 6915.

Resolution 96-0699 was unanimously adopted.

Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that Donald Holm Construction Company, Inc., be and hereby is awarded a contract for installing a new elevator at Port Rehabilitation Center in accordance with specifications on its low specification bid of \$165,000, terms net 30, FOB job site, \$99,000 payable out of Community Development Fund 263, Dept./Agency 602, Object 6264 and \$15,000 payable out of Fund 262, Object 6912. The Port Rehabilitation Center will be responsible for the additional \$51,000 match.

FURTHER RESOLVED, that proper city officials are hereby authorized to enter into a lien agreement with the Duluth Bethel Society, 23 Mesaba Avenue, Duluth, Minnesota 55802, substantially in the form of that on file in the office of the city clerk as Public Document No. 96-0812-40, in which a mortgage lien in favor of the city of Duluth is created on the property.

Resolution 96-0712 was unanimously adopted.

Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that Klaers, Powers & Associates be awarded a contract for \$1,935 to prepare an annual update for 1997 of the fiscal year 1996-2000 consolidated plan for housing and community development for the city of Duluth payable out of Community Development Fund 262, Dept./Agency 619, Organization, Object 6934.

Resolution 96-0716 was unanimously adopted.

Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to enter into amendments, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-0812-35, to the contracts listed below, extending the term of each agreement for an additional six month period at no change in project cost.

City Contract No. 17476 - Grant School Parent-Teacher Association (PTA)
City Contract No. 17473 - Morley Heights Neighborhood Association

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0722 was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with The Stanius Johnson Architects, Inc., for the sum of not to exceed \$6,000, from Capital Fund 450, Obj. C427, for providing certain architectural services to the city of Duluth in connection with the police firing range 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. 96-0812-36.

Resolution 96-0696 was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the city of Duluth desires to provide medical services for the Lake Superior Zoo animals; and

WHEREAS, the city desires to hire an animal hospital to provide the services required by 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.

BE IT FURTHER RESOLVED, that the cost of said medical services, estimated at \$7,500, will be payable from the Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5219.

Resolution 96-0708 was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

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, 1997, and increasing the total amount payable by \$35,880; \$9,000 (25 percent) payable out of Fund No. 269, Budget Item 6275; \$10,880 (30 percent) from Fund No. 269, Budget Item 6274, \$7,000 (19 percent) from Fund No. 268, Budget Item 6255; \$4,000 (12 percent) from Fund No. 268, Budget Item 6256; and \$5,000 (14 percent) from Fund No. 268, Budget Item 6246. A copy of this modification shall be on file in the city clerk's office as Public Document No. 96-0812-37.

Resolution 96-0629 was unanimously adopted.
Approved August 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the contract with B. J. Cleaners be and hereby is renewed for furnishing and delivering janitorial services for the water and gas department at 600 Garfield Avenue in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

accordance with specifications on its low specification bid of \$13,200, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0500, Object 5319 and Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5319.

Resolution 96-0633 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the contract with Choremasters, division of Goodwill Industries, be and hereby is renewed for furnishing and delivering janitorial services for the water and gas department at West First Street in accordance with specifications on its low specification bid of \$12,216, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0500, Object 5319 and Gas Fund 520, Dept./Agency 900, Organization 0500, Object 5319.

Resolution 96-0635 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0650, by Councilor Hogg, authorizing execution of an agreement with Derrick Investment No. 91, Inc., relating to development of a community unit plan for Lot 1, Block 3, Miller Creek Division, was introduced for discussion.

Councilor Hogg moved to table the resolution in order to see the results of the neighborhood meeting, which motioned was second and failed upon the following vote:

Yeas: Councilors Bohlmann, Hardesty and Hogg -- 3

Nays: Councilors Hales, Keenan, Talarico, Wheeler and President Prettner -- 5

Absent: Councilor Rapaich -- 1

Mr. Nollenberger stated that city has been talking to these residents for a long time to have the gas and water lines available, but that means that they would pay the normal assessment for the improvement.

Councilor Hogg felt that the neighborhood has not been treated fairly considering the changes resulting from the Kohl's development and this new one.

Councilors Bohlmann and Hardesty stated that they would like to see what can be worked out with the developers and the neighborhood.

Resolution 96-0650 was adopted as follows:

BY COUNCILOR HOGG:

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. 96-0812-38 on file in the office of the city clerk;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

the estimated \$3,180 payable thereunder to be paid from the Public Utility Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0650 was adopted upon the following vote:

Yeas: Councilors Hales, Keenan, Talarico, Wheeler and President Prettner -- 5

Nays: Councilors Bohlmann, Hardesty and Hogg -- 3

Absent: Councilor Rapaich -- 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to pay to Abalan's, Inc., the sum of \$16,909 in full settlement of all claims to the corporation's property and business at 22 East Superior Street arising out of a water main break on February 3, 1996, payment from self insurance fund.

Resolution 96-0681 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, by Resolution of Intent Numbered 96-0590 approved on July 8, 1996, the council did request the administration to prepare plans and specifications for the extension of a three inch P.E.H.P. gas main in Everett Street, from 240 feet west of Middle Street to 200 feet easterly; 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 said extension be constructed; that the estimated total cost of said improvements as estimated by the department of water and gas engineers is \$2,200 payable from the public utility fund, that the cost of said project be paid by special assessment against the land and premises specially 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 96-0686 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Lakehead Constructors, Inc., be and hereby is awarded a contract for the skywalk extension - Duluth News-Tribune building and water and gas building in accordance with specifications on its low specification bid of \$49,181.62, terms net 30, FOB job sites, \$24,590.81 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$24,590.81 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0692 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for a ten day rental of a Mueller Line stopper drilling machine for the water and gas department in accordance with specifications on its low specification bid of \$12,460.50, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5415.

Resolution 96-0717 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Waterpro Supplies Corporation be and hereby is awarded a contract for furnishing and delivering five Mueller Line stopper fittings for the water and gas department in accordance with specifications on its low specification bid of \$20,219.03, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0718 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Kerotest Manufacturing Corporation be and hereby is awarded a contract for furnishing and delivering three gas gate valves for the water and gas department in accordance with specifications on its low specification bid of \$12,236, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0719 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete the construction of the 1994 street improvement program; and

WHEREAS, the city desires to hire a consulting engineer to provide the construction engineering staking services required to complete the project; and

WHEREAS, Salo Engineering, Inc., has submitted a proposal for construction engineering staking 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 \$44,824.28, will be payable from the street improvement program Fund 440, Dept./Agency 038, Organization 9301, Object 5530.

Resolution 96-0687 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0289 to ASDCO, Inc., for furnishing sewer repair materials, be amended to increase the amount by \$4,000 for a new total of \$11,374.83, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0688 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hardesty, Hogg, Keenan, Talarico, Wheeler and President Prettner -- 7

Nays: None -- 0

Abstention: Councilor Hales -- 1

Absent: Councilor Rapaich -- 1

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0952 to Northland Constructors, Inc., for the repair of the storm sewer line at 34th Avenue East, be amended to increase the amount by \$11,393.25 for a new total of \$29,053.25, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5530.

Resolution 96-0689 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Leprechan Lawn Service (\$6,182.33) and Northern Pines Landscaping (\$5,565.69) be and hereby are awarded contracts for furnishing grass cutting services for the various departments/divisions in accordance with specifications on their low specification bids of a total of \$11,748.02, terms net 30, FOB job sites, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0691 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0702, by Councilor Talarico establishing a task force to advise the city regarding the creation of a storm water management utility, was introduced for discussion.

Councilor Hogg reviewed the make up of the task force and felt that there was an imbalance between the public and private sector. He moved to amend the resolution as follows: change "15" members to "17"; change "one" representative from small businesses to "two"; change "one" representative from apartment owners to "two," which motion was seconded.

Mr. Nollenberger noted that this recommendation in the resolution is based on the fact that the consultant has studied this aspect of representation and has tested this in other cities.

Councilors discussed the relationship and make up of the various representations.

Councilor Hogg moved to amend his amendment by adding, in the fourth paragraph after the words "members who shall be" the words "Duluth citizens and have city wide representation," which motion was seconded. The amended amendment passed unanimously.

Resolution 96-0702, as amended, was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city has begun the process of establishing a storm water management utility, and has employed the firm of Camp Dresser & McKee as a consultant to the city in carrying out this objective; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, Camp Dresser & McKee has recommended that the city create a task force comprised of a broad range of interests and backgrounds to advise the city and the consultant on the implementation of this project.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby creates an ad hoc storm water management utility task force to advise the city administration, the city council and the city's consultant on issues relating to the establishment and implementation of a storm water management utility for the city.

RESOLVED FURTHER, that such task force shall be comprised of 17 members, who shall be Duluth citizens and have city wide representation appointed by the mayor and confirmed by the city council, and who shall represent the following categories:

- One elected city official
- One representative from IDS No. 709
- One representative from private school systems
- Two representatives from church group(s)
- Two representatives from business community/chamber of commerce
- Two representatives from small businesses
- Two representatives from apartment owners
- One representative from car/truck dealer
- One representative from shipping/port industry
- One representative from airport/national guard
- One representative from St. Louis County government
- Two representatives from environmental groups.

Resolution 96-0702, as amended, was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth, St. Louis County and the city of Hermantown for the installation of traffic control signals with street lights and signing at Maple Grove Road and Mall Drive, Haines Road and Mall Drive, and Maple Grove and Haines Road; said agreement filed as Public Document No. 96-0812-39. The city's costs in this project, which are estimated to be \$98,750, are payable out of P.I. Fund 411, Org. 2228, with \$37,500 being reimbursable from the M.S.A. fund.

Resolution 96-0703 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that city of Superior public works be and hereby is awarded a contract for disposal of sewage waste sludge from the sanitary sewers in Duluth for the sewer division in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB job site, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5384.

Resolution 96-0711 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay \$8,059 to Donald and Margaret Wright in settlement of all claims arising out of a sewer failure on March 17, 1996, payment to be made from self insurance fund.

Resolution 96-0714 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of streets and utilities in Bristolwood-Phase I for the engineering division in accordance with specifications on its low specification bid of \$472,551.40, terms, FOB job site, payable out of SA Fund 810, Dept./Agency 038, Organization 5292, Object 5530.

Resolution 96-0720 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of public safety to reimburse the salary, equipment and supply expenses as detailed in the program budget as related to the Central Hillside weed and seed grant program.

BE IT FURTHER RESOLVED, that this grant supports a program coordinator position, independently contracted. The city of Duluth will serve as fiscal agent in administering the grant monies and reimbursements to participating agencies and groups. Chief of Police, Scott Lyons, will serve as the authorized official for administration of this grant.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept./Agency 200, Organization 1640, Revenue Source 4230.

Resolution 96-0713 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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 Skyline Parkway from 100 feet west of the Chester Park Bridge to Kent Road.

Resolution 96-0727 was unanimously adopted.

Approved August 12, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR WHEELER

96-031 - AN ORDINANCE AMENDING SECTIONS 8 AND 11 OF THE DULUTH CITY CHARTER RELATING TO PROCEDURAL REQUIREMENTS FOR ADOPTION OF RESOLUTIONS AWARDING THE SALE OF BONDS AND OTHER FINANCIAL OBLIGATIONS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

- - -

The meeting was adjourned at 10:59 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 26, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0826-01 Peter D. Bagley, et al. (14 signatures), submitting petition to construct a permanent alley in Second Street Alley from 30th Avenue East to Hawthorne Road. -- Assessor

96-0826-02 Leroy L. Jaeger, et al. (seven signatures), submitting petition to reclassify Lots 6-13, Block 24, Lots 3-5 and Lots 14-16, Block 24, Duluth Heights, Sixth Division, from R-1 to R-2. -- Assessor

96-0826-03 Loren Johnston submitting petitions to: (a) Construct sanitary sewer in Voss Avenue from Tenth Street to 11th Street; (b) Construct a six inch ductile iron water main in Voss Avenue from West Tenth Street to West 11th Street. -- Assessor

96-0826-04 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served on September 12, 1996, from Northland Foundation. -- Received

96-0826-31 Superior Computer Products, Inc., submitting letter regarding proposed computer purchase for council (96-0700R). -- Received

96-0826-32 The following submitted letters regarding appeal of the board of zoning appeals' requirement of on-site parking at 18 North 59th Avenue West (96-0745R): (a) James E. Aird; (b) Bill Kron; (c) Linda J. Mudek; (d) Ed and Leona Nelson; (e) Harvey Tjader; (f) Alyce West. -- Received

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REPORTS OF OFFICERS

96-0826-05 Assessor submitting letters of sufficiency for petitions to:

(a) Construct permanent alley in Second Street Alley from 30th Avenue to Hawthorne Road;

(b) Construct sanitary sewer in Voss Avenue from Tenth Street to 11th Street;

(c) Reclassify Lots 6-13, Block 24, Duluth Heights, Sixth Division, Lots 3-5 and Lots 14-16 adjacent to the property;

(d) Vacate that part of Commonwealth Avenue between Mathews Street and Traders Court in Blocks 42 and 48, Ironton Second Division. -- Received

96-0826-06 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Duluth Chapter Minnesota Deer Hunters Association; (b) St. Mary's Medical Center. -- Received

96-0826-07 Engineering division submitting monthly project status report of August 1, 1996. -- Received

96-0826-08 Water and gas department engineer submitting letter of sufficiency regarding petition to construct a six inch D.I. water main in Voss Avenue from West Tenth Street to West 11th Street. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0826-09 Duluth housing trust fund board minutes of June 11, 1996, meeting. -- Received

96-0826-10 Duluth transit authority minutes of August 1, 1996, meeting. -- Received

96-0826-11 Housing and redevelopment authority of Duluth minutes of: (a) March 27; (b) April 24; (c) May 29; (d) June 26, 1996, meetings. -- Received

96-0826-12 Planning commission minutes of: (a) April 9; (b) June 26; (c) July 9, 1996, meetings. -- Received

96-0826-13 Seaway Port authority of Duluth: (a) May 31, 1996, financial statements; (b) Minutes of June 28, 1996, meeting. -- Received

96-0826-14 Special assessment board minutes of July 15, 1996, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price reviewed that at a previous meeting he had requested the city council to sponsor a resolution showing support of the Bayfront Blues Festival. He continued saying that the resolution needed to recognize the economic impact it has on the city along with the name recognition that Duluth gets from it, but as of yet there has been no resolution coming forth from the council. He continued saying that he had received a letter from Mayor Doty, which included a copy of a letter he had written to Chris Maki, promoter of the Blues Festival, congratulating him on job well done on this year's Blues Festival and stated that he was looking forward to working with Chris as the festival gets bigger and better. Mr. Price suggested several ideas that might help the Bayfront be a place to accommodate much more than it already does.

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Joan Morrison voiced her appreciation that the city has agreed to post the Lakewalk when they spray with a pesticide and that she was happy about the city policy working to be pesticide free in five years.

Louise Kurnow requested that the city adopt an ordinance banning the use of pesticides on all city property because studies show that exposure to pesticides can increase cancer and cause other problems in both humans and wildlife.

Ellen Sandbeck spoke in favor of pesticide free gardening for the city and said she doesn't feel that the city is using all the resources available.

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MOTIONS AND RESOLUTIONS

Resolution 96-0700, by Councilor Wheeler, approving the purchase of microcomputer hardware, was introduced for discussion.

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

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BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the demolition assessments (Contract No. 5293) be and the same is hereby confirmed.

Resolution 96-0724 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the 1995 sidewalk program (Contract No. 5279) be and the same is hereby confirmed.

Resolution 96-0725 was unanimously adopted.

Approved August 26, 1996

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

WHEREAS, by adoption of Laws of Minnesota 1995, Chapter 262, Article 3, Section 4, which became effective on July 1, 1996, the Minnesota Legislature amended the public employees retirement association police and fire benefit plan to reduce the early retirement penalty for police officers and firefighters who retire prior to reaching 55 years of age; and

WHEREAS, this change in the PERA police and fire benefit plan is applicable to municipalities such as the city of Duluth which have consolidation accounts in the PERA police and fire benefit plan only if the local governing body approves application of the change to its consolidation account; and

WHEREAS, if the city approves application of this benefit change it will receive an allocation of police and fire amortization aid from the state to its police and fire consolidation account; and

WHEREAS, the Duluth City Council has reviewed the actuarial cost of applying this benefit change to its police and fire retirees and has considered the police and fire amortization aid that will be allocated to its police and fire consolidation account if it approves application of this benefit change to its consolidation account and believes it would be in the city's best interest to approve this benefit change.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the extension of the post June 30, 1996, public employees police and fire fund plan to the city of Duluth police and fire consolidation account, effective July 1, 1996.

Resolution 96-0735 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

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Resolution 96-0740, by Councilor Rapaich, authorizing the city to employ Roger Krantz to provide services to the city's health insurance committee at a cost of \$1,200, was introduced for discussion.

Councilor Rapaich moved to amend the resolution in the title and body to replace "Roger Kranz" with "Risk Control Resources," which motion was seconded and unanimously carried.

Resolution 96-0740, as amended, was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to employ Risk Control Resources, Inc., to provide services to the city's labor management health insurance committee for a period of one year at a cost of \$1,200, which shall be payable from the group health fund.

Resolution 96-0740, as amended, was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Safety-Kleen Corporation be and hereby is awarded a contract for pick up, clean up and disposal of solvents, paint thinners, waste oil, lubricant grease and oil filters for the various city divisions pick up sites in accordance with specifications on its low specification bid of \$11,800, terms net 30, FOB job site, payable out of various fund, dept./agency various, organization various, object various.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0753 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering grader blades for the fleet services division in accordance with specifications on its low specification bid of \$7,521.56, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0755 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering grader blades for the fleet services division in accordance with specifications on its low specification bid of \$9,489.15, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0756 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 \$10,650, terms net 30, FOB job sites, \$600 payable out of Water Fund 510, Dept./Agency 900, Organization 0550, Object 5404; \$550 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5404; \$4,000 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0550, Object 5404 and \$5,500 payable out of Steam Fund 540, Dept./Agency 920, Organization 1450, Object 5310.

Resolution 96-0757 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Gopher State One Call, Inc., be and hereby is awarded a contract for furnishing and delivering one call system services for the water and gas department and sewer division in accordance with specifications on its low specification bid of \$8,250, terms net 30, FOB job site, payable out of various fund, dept./agency various, organization various, object various.

BE IT FURTHER RESOLVED, that proper city officials be hereby authorized to renew this contract for two additional one year periods.

Resolution 96-0767 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 21, 1996, to determine whether or not there is good cause to grant the Silver Hammer, Inc., an on sale intoxicating liquor license, notwithstanding delinquent real estate taxes on the premises; and

WHEREAS, the alcoholic beverage board found that good cause to issue such license does exist.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale intoxicating liquor license shall be granted to Silver Hammer, Inc. (R.T. Quinlan's Saloon), 220 West Superior Street, provided that all delinquent real estate taxes on the premises be paid by September 18, 1996, or that an agreement to pay them as provided in Section 8-65 be filed by September 18, 1996.

Resolution 96-0768 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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, 1996, and ending August 31, 1997, 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. 96-0826-15.

Resolution 96-0769 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 68 on sale intoxicating liquor renewal licenses, 66 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, 1996, and ending August 31, 1997, 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. 96-0826-16.

Resolution 96-0770 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1996, and ending August 31, 1997, 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. 96-0826-17.

Resolution 96-0771 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BE IT RESOLVED, that the city council of the city of Duluth hereby approves three on sale club liquor licenses and two on sale Sunday licenses for the period beginning September 1, 1996, and ending August 31, 1997, 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. 96-0826-18.

Resolution 96-0772 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1997, subject to departmental approvals and the payment of sales and property taxes: Lakehead Oil Company, Inc. (Lakehead Amoco), 3931 West First Street.

Resolution 96-0773 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 21, 1996, to determine whether or not there is good cause to grant Kenneth and Ramona Knutson an on sale wine license, notwithstanding delinquent real estate taxes; and

WHEREAS, the alcoholic beverage board found that good cause to issue such license does exist.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 8-65 of the Duluth City Code, an on sale wine license shall be granted to Kenneth and Ramona Knutson (Manor on the Creek Inn), 2215 East Second Street, provided that all delinquent real estate taxes be paid by September 18, 1996.

Resolution 96-0781 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 21, 1996, to determine whether or not there is good cause to grant Mr. D's Spirit Valley 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.

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 and dancing license shall be granted to D&D Enterprises and Cloquet, Inc. (Mr. D's Spirit Valley), 5622 Grand Avenue, provided that all delinquent real estate taxes be paid by September 18, 1996.

Resolution 96-0782 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettnner -- 8

Nays: None -- 0

Abstention: Councilor Talarico -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0739, by Councilor Bohlmann, confirming appointment of Phyllis Pohl to human rights commission, was introduced for discussion.

Councilor Bohlmann explained she is voting no because she is voting against the appointment, not the person, and she has voted against all other appointees and the establishment of the human rights commission.

Resolution 96-0739 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HUMAN RIGHTS COMMISSION

Phyllis Pohl for a term expiring March 1, 1997.

Resolution 96-0739 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 8

Nays: Councilor Bohlmann -- 1

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMAN:

RESOLVED, that the proposed specifications for the new civil service classification of senior water and gas pipeline welder, which were approved by the civil service board on August 6, 1996, and which are filed with the city clerk as Public Document No. 96-0826-19, 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 30, pay rate \$2,629 to \$3,142.

Resolution 96-0759 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMAN:

RESOLVED, that the specifications for the new civil service classification of senior ramp worker which were approved by the civil service board on August 6, 1996, and which are filed with the city clerk as Public Document No. 96-0826-20, are approved. This classification will be represented by the basic unit and compensated at Range 17, \$1,505 to \$1,819 per month.

Resolution 96-0760 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, on October 23, 1995, the city established the Project SOAR economic self sufficiency project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0826-21, with Project SOAR of northeast Minnesota of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$35,000, payable out of the 1996

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Federal Program Fund 262 - community development - Project SOAR Account No. 6916.
Resolution 96-0731 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0738, by President Prettner, authorizing 1996 HOME Program grant to Northern Communities Land Trust for \$6,000, was introduced for discussion.
President Prettner moved to table the resolution for further information, which motion was seconded and unanimously carried.

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BY PRESIDENT PRETTNER:

WHEREAS, Harry and Frances Tjader have appealed to the city council the decision of the board of zoning appeals to approve a request to permit an R-3 use (four family dwelling) in an R-2, two family residential district to allow continued use of an existing four family dwelling with the condition that the owners work with the city staff to develop four off street parking spaces prior to the reissuance of the multiple dwelling license for this property located at 18 North 59th Avenue West; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow a four family dwelling in an R-2 (two family) zoning district without the condition that four off street parking spaces are provided 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 June 25, 1996, is hereby modified by the city council, and the appeal is granted.

Resolution 96-0745 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of utility and pedestrian easements over a portion of vacated 44th Avenue East below Oneida Street legally described as: the westerly 23 feet of the west one-half of vacated 44th Avenue East adjacent to Lot 9, Block 12, Loeb's Addition to Lakeside; 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 13, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of utility and pedestrian easements over the westerly 23 feet of the west one-half of vacated 44th Avenue East adjacent to Lot 9, Block 12, Loeb's Addition to Lakeside, described above, and as more particularly described on Public Document No. 96-0826-23.

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 easements to be vacated.

Resolution 96-0746 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

President Prettner -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a ten foot wide sewer easement on Lots 10 and 14, Block 1, Second Rearrangement, Congdon Park Division, legally described as: ten foot wide sewer easement on Lots 10 and 14, Block 1, Second Rearrangement, Congdon Park 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 August 13, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the ten foot wide sewer easement described above, and as more particularly described on Public Document No. 96-0826-24.

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 sewer utility to be vacated.

Resolution 96-0747 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Seventh Street, easterly from 128th Avenue West, in Fond du Lac, legally described as: northerly 30 feet of Seventh Street adjacent to Lots 142, 144, 146, and 148, running from the easterly line of 128th Avenue West to the easterly line of Lot 148; 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 providing for retention of a utility easement ten feet north of the center line, at its August 13, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of a portion of Seventh Street, easterly from 128th Avenue West, in Fond du Lac, as described above, providing for retention of a utility easement ten feet north of the center line, as more particularly described on Public Document No 96-0826-25.

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 portion of Seventh Street, easterly from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

128th Avenue West, in Fond du Lac, to be vacated and the portion being retained as utility easement.
Resolution 96-0748 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of remnants of Becks Road right-of-way left over from the realignment of Becks Road, as legally described on Public Document No. 96-0826-26(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 13, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the remnants left over from the realignment of Becks Road and Shortline Park Road as more particularly described on Public Document No. 96-0826-26(b).

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 Becks Road and Shortline Park Road being vacated.

Resolution 96-0749 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0750, by President Prettner, granting a special use permit to V.B. Digs for a privately operated community building for property located at 3625 West Arrowhead Road (Modean), was introduced for discussion.

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

- - -

BY PRESIDENT 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 parcels now withheld from sale in conservation:

<u>File No.</u>	<u>Applicant</u>	<u>Legal Description</u>	<u>Location</u>
96015	St. Louis County	Lot 9, Block 6, Lyman Park Division (West End/Lincoln Park)	south side of Lyman Street between Anson and Ceylon Avenues
96020	David Leonzal	Lots 23, 24, 25, 26, Block 18, Duluth Heights, Fifth Division	north side of Lemon Street between Robin and Teak Avenues (Duluth Heights)

Resolution 96-0751 was unanimously adopted.
Approved August 26, 1996
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER:

RESOLVED, that the proper city officials are hereby authorized to acquire by free conveyance the tax forfeited property described below in St. Louis County, Minnesota, for the public purpose of developing a ten space public parking facility for neighborhood use: the northern half of Lot 16 and all of Lot 17, Block 106, Myer's Rearrangement of Blocks 105, 106, 127, 128, and 142, Duluth Proper, Second Division.

Resolution 96-0766 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0734, by Councilor Keenan, authorizing the proper city officials to execute an agreement with the Spirit Mountain recreation area authority for the use of their Grand Avenue parking lot as a skateboard facility, was introduced for discussion.

Councilor Keenan moved to table the resolution, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the city of Duluth authorizes and ratifies an agreement with city of Superior, Wisconsin for law enforcement cooperation substantially under the terms set out in the agreement on file with the clerk as Public Document No. 96-0826-27.

Resolution 96-0730 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with the Y.W.C.A. of Duluth to operate the Y.W.C.A. Kids' Corner tutoring program through community resource program funds at a cost not to exceed \$10,000. Contract dates will run from September 1, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0826-22.

BE IT FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund No. 275, Budget Item No. 6004, Object C051.

Resolution 96-0732 was unanimously adopted.

Approved August 26, 1996

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, and the University of Minnesota-Duluth providing for the participation by the city of Duluth and other above named governmental agencies in the Lake Superior Drug Task Force in the year of 1997; said agreement to be in the form of Public Document No. 96-0826-28, on file in the office of the city clerk.

Resolution 96-0733 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a six inch ductile iron water main be constructed in 87th Avenue West, from 1,525 feet north of Vinland Street to 150 feet northerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said improvement, 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 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 96-0726 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Salo Trucking Company be and hereby is awarded a contract for construction of a water main and gas main in Keene Avenue for the water and gas department in accordance with specifications on its low specification bid of \$11,816, terms net 30, FOB job site, \$9,452.80 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533 and \$2,363.20 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0752 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to have a preliminary survey done to collect data necessary to design a bypass system at the Lakewood Pumping Station; and

WHEREAS, the city desires to hire a consulting engineer to provide the services required to do the survey, design of the bypass system and supervise construction; and

WHEREAS, Barr Engineering Company has submitted a proposal for consulting 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 Barr Engineering Company to provide the city with such consulting engineering services.

BE IT FURTHER RESOLVED, that the cost of said consulting engineering services, estimated at \$8,300, will be payable from the Water Construction Bond Fund 511, Dept./Agency 900, Object 5532.

Resolution 96-0754 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that P.B. Distributing, Inc., be and hereby is awarded a contract for overhead door maintenance for the building maintenance division in accordance with specifications on its low specification bid of \$10,000, terms net 30, FOB job site, \$7,000 payable out of General Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

100, Dept./Agency 500, Organization 1950, Object 5401 and \$3,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 96-0608 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Stafford Bandlow Engineering, Inc., for the sum of not to exceed \$8,700 from 100 - 500 - 1925 - 5303 for providing certain technical services to the city of Duluth in connection with the Duluth Aerial Lift Bridge project, 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. 96-0826-29.

Resolution 96-0728 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0758, by Councilor Talarico, authorizing the condemnation of certain properties necessary for the completion of city job involving Joshua Avenue north of Highway 194, was introduced for discussion.

Councilor Hogg moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilor Bohlmann, Hales and Hogg -- 3

Nays: Councilors Hardesty, Keenan, Rapaich, Talarico, Wheeler and President

Prettner -- 6

Resolution 96-0758 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth has contracted with the housing and redevelopment authority for the acquisition of property necessary to complete City Job No. 8746RS92 involving Joshua Avenue immediately north of Highway 194; and

WHEREAS, the city's agreement with the housing and redevelopment authority, as set forth in city council resolutions 95-0737 and 96-0334, provide that the housing and redevelopment authority will not use the power of eminent domain to acquire said properties without the expressed prior approval of the Duluth City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council finds that the acquisition of the below described property is necessary for the completion of City Job No. 8746RS92 and that the acquisition of said property is for a public purpose that is in the best interests of the city of Duluth as a whole and of its citizens.

RESOLVED FURTHER, that the housing and redevelopment authority of Duluth, Minnesota, on behalf of the city is hereby authorized to do all things necessary to exercise the power of eminent domain to acquire the following described property in St. Louis County, Minnesota:

Commencing at the northeast corner of the southeast quarter of the northeast quarter of the northeast quarter (SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$) of Section 19 Township 50 north, Range 14 west, thence south 0 degrees ten minutes 00 seconds east (assumed bearing) along the east line of said SE $\frac{1}{4}$ 445.00 feet to the point of beginning; thence north 65 degrees 04 minutes 44 seconds west 64.17 feet; thence north 30 degrees 50 minutes 00 seconds east 115 feet more or less to the east line of said SE $\frac{1}{4}$; thence south 0 degrees 10 minutes 00 seconds east along the east line of said SE $\frac{1}{4}$ to the point of beginning and there terminating.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED FURTHER, in order for the project to proceed in an expeditious and timely manner and to meet time frames necessary for the success of the project, said housing authority is hereby authorized to exercise the quick-take provisions of Minnesota Statutes Section 117.042 to acquire possession of said property as quickly as is authorized by law.

Resolution 96-0758 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Minnesota Power Company, Inc., be and hereby is awarded a contract for relocating approximately 40 street lights for the 1996 street improvement program in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9600, Object 5319.

Resolution 96-0761 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that North Country Equipment Company be and hereby is awarded a contract for furnishing and delivering one hydraulic track excavator with hydraulic blade and 24 inch grouser pads for the sewer division in accordance with specifications on its low specification bid of \$83,664, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0762 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0763, by Councilor Talarico, authorizing the proper city officials to enter into an agreement with Seaway Engineering Company to provide professional engineering services for preliminary engineering redesign of Skyline Parkway and construction engineering, was introduced for discussion.

Councilor Talarico moved to table the resolution for further information, which motion was seconded and unanimously carried.

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BY COUNCILOR TALARICO:

RESOLVED, that Neenah Foundry Company be and hereby is awarded a contract for furnishing and delivering 110 solid sanitary sewer covers (lids) for the sewer division in accordance with specifications on its low specification bid of \$9,570, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0580, Object 5227.

Resolution 96-0764 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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: east side of Eighth Avenue East from First Street to Second Street.

Resolution 96-0729 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following two hour parking, 9 a.m. - 5 p.m., Monday - Friday zone is hereby established: both sides of Superior Street from 60th Avenue East to the Lester River Bridge.

Resolution 96-0736 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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 Skyline Parkway from the intersection of Hank Jensen Drive and Skyline Parkway to 300 feet east, including the Twin Ponds Bridge.

Resolution 96-0741 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-88 of the Duluth City Code, 1959, as amended, the following bus stop is hereby established: 50 feet midblock, on the east side of 40th Avenue West in front of the Merritt School, 510 North 40th Avenue West.

Resolution 96-0742 was unanimously adopted.

Approved August 26, 1996

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR WHEELER

96-031 (9311) - AN ORDINANCE AMENDING SECTIONS 8 AND 11 OF THE DULUTH CITY CHARTER RELATING TO PROCEDURAL REQUIREMENTS FOR ADOPTION OF RESOLUTIONS AWARDDING THE SALE OF BONDS AND OTHER FINANCIAL OBLIGATIONS.

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

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

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The following entitled ordinances were read for the first time:

BY PRESIDENT PRETTNER

96-032 - AN ORDINANCE GRANTING TO INDEPENDENT SCHOOL DISTRICT #709, PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN RESTRICTED ON-STREET PARKING WITHIN THE NORTHERLY 15 FEET OF NORTH FIRST AVENUE EAST, AT NETTLETON ELEMENTARY SCHOOL, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

President Prettner moved to table the ordinance until September 19, 1996, which motion was seconded and unanimously carried.

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BY PRESIDENT PRETTNER

96-033 - 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 AT THE SOUTHEAST CORNER OF TRINITY ROAD AND CENTRAL ENTRANCE FROM R-1-A SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DAUGHERT Y).

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

Monica Roth Day spoke against the rezoning of Trinity Road and Central Entrance as it would be the start to the commercial development which Duluth citizens voted against in April, noting that the same issues exist that caused the citizens to turn down the Opus development. She said that traffic problems and environmental impact are not being addressed in this ordinance, and requested that the council vote against the ordinance.

Myrna Matheson stated her disappointment at the fact that this ordinance was before the council after the voters expressed their view in the referendum, and this ordinance opens the door for future commercial development.

Barbara Bowling spoke against the ordinance and stated that although the planning commission passed this ordinance unanimously, there are several residents of the neighborhood that are opposed to the change.

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The meeting was adjourned at 9:30 p.m.

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

- - -

ORDINANCE NO. 9311

BY COUNCILOR WHEELER:

AN ORDINANCE AMENDING SECTIONS 8 AND 11 OF THE DULUTH CITY CHARTER RELATING TO PROCEDURAL REQUIREMENTS FOR ADOPTION OF RESOLUTIONS AWARDING THE SALE OF BONDS AND OTHER FINANCIAL OBLIGATIONS.

The city of Duluth does ordain:

Section 1. That Section 8 of the Duluth City Charter, as amended, be amended to read as follows:

Section 8. Except as in this Charter otherwise provided, all legislation and appropriations of money shall be by ordinance, save that where obligations have been incurred by ordinance, payment thereof may be ordered by resolution, and save also that licenses may be granted, flow of traffic regulated, and the powers conferred by Chapter IX hereof exercised, by resolution. The council may by ordinance authorize executive and administrative officers of the city to issue licenses and permits, except when statutes require licenses to be granted by the council, and to make contracts involving less than

\$5,000, pursuant to appropriations made by ordinance. Every ordinance and resolution shall be in writing, and read in full at a council meeting before a vote is taken, except (i) every ordinance or resolution, copies of which, together with a brief description of the purpose of said ordinance or resolution, are presented to each member of the council at least twelve hours prior to the time of the introduction of such ordinance or resolution, and (ii) every resolution awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements shall not be required to be read in full at each reading before the council, but may be read by title and such description. Ordinances and resolutions may be passed upon a voice vote of the council, but if such voice vote is not unanimous, the ayes and nays shall then be called and recorded.

Except for emergency ordinances or emergency resolutions or resolutions awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements, every ordinance and resolution shall be filed with the city clerk at least 24 hours prior to the introduction of the same, and not less than three copies shall be furnished the clerk at the time of such filing for distribution to interested members of the public. No ordinance or resolution shall be effective unless this requirement is met.

Section 2. That Section 11 of the Duluth City Charter, as amended, be amended to read as follows:

Section 11. Every ordinance, other than an emergency ordinance, shall have two public readings either in full or by title and description as provided in Section 8 hereof, which readings shall not both be given on the same day. At least three days shall elapse between the introduction and the final passage of any ordinance, except as otherwise provided in this Charter. Every ordinance appropriating money in excess of \$5,000 and every ordinance and resolution authorizing the making of any contract involving a liability on the part of the city in excess of \$5,000 shall remain on file at least one week before its passage, except an emergency ordinance or resolution or a resolution awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements.

An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health or safety, in which the emergency is defined and declared in a preamble thereto separately voted on, and receiving the affirmative vote of all members of the council in attendance at the meeting considering such emergency legislation; provided that no grant of any franchise shall be construed to be an emergency ordinance or resolution. An emergency ordinance or resolution may be enacted without previous filing.

If by reason of simultaneous death, civil or military disaster, absence or disappearance, it shall not be possible to assemble a regular quorum, then for the purpose of filling vacancies on the council pursuant to Section 4 hereof, the member or members of the council present at a meeting constitute a quorum. If, subsequent to appointment of a successor to a member of the Council by this procedure, such member shall appear and claim the office during the term thereof, then and thereafter the successor's appointment shall cease, without affecting the validity of acts taken by the successor prior to such time.

Section 3. That this ordinance shall take effect and be in force 90 days from and after its passage and publication. (Effective date: December 5, 1996)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 26, 1996

Approved August 26, 1996

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 9, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 8

Absent: President Prettner -- 1

- - -

The minutes of council meetings held on January 8, 11, 16, 22 and 29, 1996, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0909-01 William J. Anderson petitioning to reclassify from R-2 to R-4 property between Decker Road to Burning Tree Road. -- Assessor

96-0909-02 Mount Royal Pines Limited Partnership, by William M. Burns, attorney, et al. (two signatures), petitioning to reclassify from C-3 to R-4 property adjacent to Mount Royal Shopping Center. -- Assessor

96-0909-24 Arrowhead Builders Association submitting letter regarding the proposed 1997 tax levy (96-0790R). -- Received

96-0909-16 (a) Barbara Bowling; (b) Friends of Miller Hill submitting letters regarding the proposed rezoning at Trinity Road and Central Entrance (96-033-O). -- Received

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REPORTS OF OFFICERS

96-0909-15 Mayor Doty submitting: (a) 1997 budget; (b) 1997 budget address. -- Received

96-0909-03 Assessor submitting:

(a) Affidavits of mailing of notice of public hearings by the special assessment board on September 11, 1996, at:

(1) 4:30 p.m. regarding proposed improvement of 37th Avenue East from Third Street to Fourth Street;

(2) 5:00 p.m. regarding proposed sanitary sewer in 35th Street from Minnesota Avenue to 150 feet easterly;

(3) 5:15 p.m. regarding demolition assessments (Contract Nos. 5084 and 4900). -- Clerk

(b) Letter of sufficiency regarding petition to reclassify from C-3 to R-4 property adjacent to Mount Royal Shopping Center. -- Received

96-0909-04 Community development and housing division submitting: (a) Community development status report for April through June, 1996; (b) HRA report for the HUD CD-funded housing rehabilitation program for June and July, 1996. -- Received

96-0909-05 Purchasing agent submitting emergency purchase orders for: (a and b) Demolition and debris removal awarded to Salo Trucking; (c) Land appraisal service awarded to Ramsland and Vigen, Inc. -- Received

- - - REPORTS OF BOARDS AND COMMISSIONS

96-0909-06 Alcoholic beverage board minutes of: (a) May 15; (b) June 19; (c) July 17; (d) August 2, 1996, meetings. -- Received

96-0909-07 Board of zoning appeals minutes of July 23, 1996, meeting. -- Received

96-0909-08 Citywide citizens advisory committee minutes of: (a) August 26; (b) August 27, 1996, meetings. -- Received

96-0909-09 Civil service board minutes of: (a) May 23; (b) July 2; (c) July 22; (d) September 3, 1996, meetings. -- Received

96-0909-10 Duluth airport authority submitting: (a) Balance sheets of: (1) May 31, 1996; (2) June 30, 1996; (b) Minutes of July 16, 1996, meeting; (c) Balance sheet of July 31, 1996; (d) Minutes of August 5, 1996, meeting. -- Received

96-0909-11 Lawful gambling commission minutes of: (a) March 12; (b) April 9; (c) April 15; (d) May 14; (e) June 7; (f) June 11; (g) July 9, 1996, meetings. -- Received

96-0909-13 Special assessment board minutes of August 20, 1996, meeting. -- Received

96-0909-12 Spirit Mountain recreation area authority minutes of July 29, 1996, meeting. -- Received

96-0909-14 Technical design advisory committee for the DWMX-D minutes of July 23, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Allan Kehr said that he does not feel that hiring additional police will solve the crime problem in Duluth. He felt more dollars should be put into prevention programs.

Davy Jones, Peter Buchanan, Tom Haney, Brandy Meadows and Elaine Clark spoke in support of the organization Teamwork for Justice's request for community development block grant funds. They said the funds would be used for seed money to develop standards for mediation that will work for parents and children in custody negotiations and will provide a more amicable environment for children.

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RESOLUTIONS TABLED

Councilor Keenan moved to remove from the table Resolution 96-0738, authorizing 1996 HOME program grant to Northern Communities Land Trust for \$6,000, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 7

Nays: Councilor Hogg -- 1

Absent: President Prettner -- 1

Councilor Hogg stated opposition to the portion of the grant allocated to salaries.

Councilor Hales felt the agency should have the expertise already that is being offered in this training session. She also did not support the salary portion of the grant, and said she will not support this type of proposal until the city defines its housing policy regarding its involvement in nonprofit organizations.

Councilor Talarico clarified that the staff salary portion of this grant is not related to the training session, but is a request for general operating expenses that the organization is entitled to.

Resolution 96-0738 was adopted as follows:

BY COUNCILOR KEENAN (introduced by President Prettner):

RESOLVED, that the proper city officials are hereby authorized to enter into a 1996 HOME program CHDO operating fund grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 96-0909-17, for \$6,000, payable from Fund 260, Agency 020, Organization 2652, Object H009.

Resolution 96-0738 was adopted upon the following vote:

Yeas: Councilors Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 5

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Absent: President Prettner -- 1
Approved September 9, 1996
GARY L. DOTY, Mayor

- - -

Councilor Keenan moved to remove from the table Resolution 96-0734, authorizing the proper city officials to execute an agreement with the Spirit Mountain recreation area authority for the use of their Grand Avenue parking lot as a skateboard facility, which motion was seconded and unanimously carried.

Resolution 96-0734 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, filed as Public Document No. 96-0909-18 with the city clerk, with the Spirit Mountain recreation area authority for a license to use Spirit Mountain's Grand Avenue parking lot as a skateboard facility.

Resolution 96-0734 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

Councilor Talarico moved to remove from the table Resolution 96-0763, authorizing the proper city officials to enter into an agreement with Seaway Engineering Company to provide professional engineering services for preliminary engineering redesign of Skyline Parkway and construction engineering, which motion was seconded and unanimously carried.

Resolution 96-0763 was adopted as follows:

BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a preliminary engineering redesign of Skyline Parkway and for construction engineering of same; and

WHEREAS, the city desires to hire a consulting engineer to provide the project services required to accomplish this project; and

WHEREAS, Seaway Engineering Company has submitted a proposal for design and construction 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 \$39,495, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9322, Object 5303.

Resolution 96-0763 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Councilor Wheeler moved to consider at this time Resolution 96-0811, requesting the administration to add ten officers to the police force during 1997 and 1998, which motion was seconded and unanimously carried.

Councilor Wheeler noted the importance of the prevention of crime and the progress of community policing. He said the cost of this proposal would be about \$4 per household per year, and said that he feels citizens cannot afford not to invest in the community in this way. He requested support for the resolution so that it can be further considered in budget discussions.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilors Hales and Hogg did not support the proposal, saying the administration is reviewing police staffing needs, and noted that the police chief has stated that additional police could not be trained at this time.

Councilor Bohlmann felt the money needed for additional officers could be found in the budget by reprioritizing without raising the tax levy.

Councilor Keenan pointed out that the administration does not support an increased tax levy for this purpose. He stated belief that community policing is a high priority, but agreed that it is matter of budget prioritization.

Vice President Hardesty said she is willing to support this option so that this issue continues to be discussed. She felt there may be other options to address crime prevention and public safety needs.

Councilor Wheeler pointed out that the resolution does not specify that the funds for the additional police officers should come from an increased tax levy.

Councilor Hogg moved to call the question, which motion was seconded and carried upon a unanimous vote.

Resolution 96-0811 failed upon the following vote (Public Document No. 96-0909-23):

Yeas: Councilors Rapaich, Wheeler and Vice President Hardesty -- 3

Nays: Councilors Bohlmann, Hales, Hogg, Keenan and Talarico -- 5

Absent: President Prettner -- 1

- - -

Resolution 96-0790, by Councilor Wheeler, proposing the sum to be raised by taxation for general purposes for the year 1997, was introduced for discussion.

Lynn Duncan, city assessor, briefly outlined the truth in taxation process.

Councilor Wheeler moved to amend the resolution to increase the police budget by \$200,000 as follows: in Section 1 change the amount from "\$6,983,491" to "\$7,183,491" and in Section 2 change the amount from "\$5,097,391" to "\$5,297,391," which motion was not seconded.

Resolution 96-0790 was adopted as follows:

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 1997 for general operations is hereby determined to be the sum of \$6,983,491, 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. There will be levied for the support of the general fund the sum of
----- \$5,097,391

Section 3. For the payment of interest on debt, there will be levied for the interest fund the sum of ----- \$353,000

Section 4. For the payment of principal on debt, there will be levied for the sinking fund the sum of ----- \$1,298,700

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 ----- \$234,400

Resolution 96-0790 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Vice President Hardesty -- 7

Nays: Councilor Wheeler -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Absent: President Prettner -- 1
 Approved September 9, 1996
 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 1997 for Duluth Transit Authority operations is hereby determined to be the sum of \$999,200, 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 sum of ----- \$14,600

Section 3. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of ----- \$984,600

Resolution 96-0791 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Vice President Hardesty -- 7

Nays: Councilor Wheeler -- 1

Absent: President Prettner -- 1

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0793, by Councilor Wheeler, setting a proposed budget for the fiscal year 1997, was introduced for discussion.

Councilor Wheeler moved to amend the resolution to increase the police budget from "\$10,690,700" to "\$10,890,700," which motion was not seconded.

Resolution 96-0793 was adopted as follows:

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, 1997:

010	Total legislative and executive	-----	\$ 1,430,800
015	Total administrative services	-----	\$ 3,591,000
020	Total planning and development	-----	\$ 892,600
030	Total finance	-----	\$ 2,640,300
100	Total fire	-----	\$12,126,100
200	Total police	-----	\$10,690,700
300	Total library	-----	\$ 3,181,400
400	Total parks and recreation	-----	\$ 1,240,500
500	Total public works	-----	\$11,909,300
700	Total transfers	-----	\$ 6,404,078
		<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	-----	\$ 1,633,000
504	Zoo fund - total	-----	\$ 1,638,700
		<u>PUBLIC UTILITIES</u>	
510	Water fund - total	-----	\$ 9,248,300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

520	Gas fund - total -----	\$26,384,300
530	Sewer fund - total -----	\$14,378,500
540	Steam fund - total -----	\$ 3,458,960

Resolution 96-0793 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Vice President Hardesty -- 7

Nays: Councilor Wheeler -- 1

Absent: President Prettner -- 1

Approved September 9, 1996

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 date and time for the public hearing to adopt the city's final budget of 1997 and final city property tax levy for taxes payable in 1997:

Initial hearing

December 2 at 7:00 p.m. in the Duluth City Council Chambers.

Resolution 96-0794 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, and Vice President Hardesty -- 7

Nays: Councilor Wheeler -- 1

Absent: President Prettner -- 1

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that McQueen Equipment Company be and hereby is awarded a contract for furnishing and delivering one Freightliner cab/chassis with rotary snow blower for the fleet services division in accordance with specifications on its low specification bid of \$216,749.87, terms net 30, FOB Duluth, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1563, Object E626.

Resolution 96-0632 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering a motor grader for the street maintenance division in accordance with specifications on its low specification bid of \$189,559.35, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E514.

Resolution 96-0690 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale club license and on sale Sunday license, for the period beginning

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

September 1, 1996, and ending August 31, 1997, for issuance by the liquor control commissioner, and subject to departmental approvals, and the payment of sales and property taxes:

Loyal Order of Moose Lodge #1478, 411 North 57th Avenue West.

Resolution 96-0774 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 issues an on sale Sunday license for the period beginning September 1, 1996, and ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

Blackwoods On The Lake, Inc. (Blackwoods On The Lake), 2525 London Road, transferred from Loyal Order of the Moose Lodge #1478, 411 North 57th Avenue West, with Bryan Flaherty, president and 50 percent stockholder, and Sean Flaherty, vice president and 50 percent stockholder.

Resolution 96-0775 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 issues an on sale Sunday liquor license for the period ending August 31, 1997, subject to departmental approvals and the payment of sales and property taxes:

LRB Restaurant Company (Grizzly's Grill 'N' Saloon), 1714 Miller Trunk Highway, with Steven Letnes, CEO and 75 percent stockholder, and Barry Rindahl, secretary and 25 percent stockholder, transferred from Riland, Inc. (Main Restaurant), 20 North Third Avenue West.

Resolution 96-0809 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH TRANSIT AUTHORITY

Mary Jacobson (Superior, Wisconsin) for a term expiring June 30, 1997, replacing Joy Jorgensen.

Resolution 96-0779 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

ANIMAL HUMANE BOARD

Alberta R. Dille for a term expiring October 31, 1998, replacing Kate Jackson who resigned.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Mary Stromdahl for a term expiring October 31, 2001.
Resolution 96-0783 was unanimously adopted.
Approved September 9, 1996
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

Donald W. Harris for a term expiring July 1, 1998, replacing Lloyd Ethier.
Resolution 96-0784 was unanimously adopted.
Approved September 9, 1996
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

Keith Gross for a term expiring November 1, 1999, replacing Paul Riordan who resigned.
Resolution 96-0785 was unanimously adopted.
Approved September 9, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the DWMX-D

Kenneth Johnson (architect) for a term expiring May 31, 1999, replacing Steven McNeill.
Resolution 96-0786 was unanimously adopted.
Approved September 9, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0788, by Councilor Bohlmann, confirming reappointment of Dean Casperson and appointments of Kristine Gentilini and Gary Olson replacing Jeffrey Urbaniak and James Harvie to Duluth housing trust fund board, was introduced for discussion.

Councilor Bohlmann moved to divide the question to consider the appointments and the reappointment separately, which motion was seconded and unanimously carried.

Councilor Bohlmann moved to table Resolution 96-0788(b) confirming appointments of Kristine Gentilini and Gary Olson replacing Jeffrey Urbaniak and James Harvie to Duluth housing trust fund board for a committee meeting, which motion was seconded and unanimously carried.

Resolution 96-0788(a), confirming reappointment of Dean Casperson, was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH HOUSING TRUST FUND BOARD

Dean Casperson (real estate) for a term expiring September 30, 1999.
Resolution 96-0788(a) was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved September 9, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH TRANSIT AUTHORITY

Leslie J. Evans (District 4) for a term expiring June 30, 1999.

Resolution 96-0789 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0737, by Councilor Keenan, reserving \$117,000 in fiscal year 1996 HOME program funds for Life House, Inc., was introduced for discussion.

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

Rachel Kincade and Deb Wagner, Life House, Inc., reviewed the Life House homeless youth program and the proposed development.

Bob Kunze expressed concern about the supervision of the youth and increased traffic.

Beth Hall and Judy Bromme said many questions from the neighborhood have not been answered and that some of the neighborhood were not told about the informational meeting conducted by Life House. They requested that the council table this resolution for further neighborhood review.

Paul Paczynski stated concern about visitors to the home and about supervision of the residents. He felt the project cost is too high for the number of youth to be served.

Councilor Hales pointed out that this project will not generate any tax dollars, and stated concern that many neighbors were not aware of the project.

Councilor Keenan felt the amount invested in this property will not be recovered because of the high renovation cost. He compared the cost of this project to a similar project in a nearby community, saying that he feels there is a need for this program but that the cost is too high.

Councilor Bohlmann felt the cost is too high for the project and that it would not be a wise investment.

Councilor Wheeler noted Life House's commitment to address neighborhood concerns and said he feels the program makes a positive impact on the community.

Vice President Hardesty stated belief this program serves a need in the community, and said she feels it is important for residential neighborhoods to support this type of program. She also felt the tax burden could be greater if this service is not provided.

Councilor Hogg supported the intent of the Life House and felt they have made a good effort to communicate with the neighborhood. He moved to table the resolution to allow neighbors and Life House another opportunity to discuss the proposal, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico -- 6

Nays: Councilor Wheeler and Vice President Hardesty -- 2

Absent: President Prettner -- 1

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BY COUNCILOR KEENAN:

WHEREAS, on October 23, 1995, the city established the American Indian women/ children's transitional housing project pursuant to Resolution 95-0916.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0909-19, with the American Indian Community Housing Organization (AICHO), Inc., of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$15,000, payable out of the 1996 Federal Program Fund 262 - community development - American Indian women/children's transitional housing - Account No. 6929.

Resolution 96-0780 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico and Vice President Hardesty -- 7

Nays: Councilor Wheeler -- 1

Absent: President Prettner -- 1

Approved September 9, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Commonwealth Avenue between Matthews Street and Traders Court, legally described as that portion of Commonwealth Avenue located between and adjacent to Blocks 41 and 48, Ironton 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 August 28, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Commonwealth Avenue between Matthews Street and Traders Court described above, and as more particularly described on Public Document No. 96-0909-20.

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 Commonwealth Avenue to be vacated.

Resolution 96-0799 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

BY COUNCILOR KEENAN:

RESOLVED, that Neighborhood Housing Services of Duluth, Inc. (NHS), is hereby authorized to apply for Minnesota Housing Finance Agency (MHFA) funds on behalf of the city in the amount of \$300,000 from MHFA's community rehab fund program to be used by owners and new home purchasers for removal of blighted outbuildings and single family and duplex renovations.

Resolution 96-0807 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

Resolution 96-0802, by Councilor Keenan, authorizing the Duluth transit authority to renew its management agreement with A.T.E. Management and Service Company for a period of two years

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

commencing October 1, 1996, with an option to extend the agreement for three additional years, was introduced for discussion.

Councilor Hogg questioned the performance requirements of this contract, the penalties for nonperformance and the consequences of not renewing. He stated concern that there was only one proposal submitted, and questioned if the city could perform this service cheaper and better.

Administrative Assistant Nollenberger responded that if the agreement is not accepted, the contract with A.T.E. is null and void after September 30 and the DTA will be without a general manager. He responded that the administration has not made any fiscal analysis of the DTA and does not have a position on its fiscal management.

Councilor Keenan said that A.T.E. management has been very successful, they have been a strong advocate of improving performances on the bus ridership, and have worked closely with the city regarding capital improvements needed. He responded to Councilor Hogg that a consequence of nonperformance is that the city can choose to not renew the contract.

Councilor Rapaich said other companies were asked why they did not respond to this request for proposals and some responses were: A.T.E.'s longevity in the market; it would be difficult to provide a manager with equal experience, and A.T.E.'s profit margin is very low.

City Attorney Dinan responded that since all employees are A.T.E. employees, a consequence of not renewing the contract is that the DTA board would have to operate the DTA.

Councilor Bohlmann preferred a one year agreement with an option for renewal, saying she would like to review this again next year. She stated concern about the employees' ability to maintain their employment status and benefits.

Resolution 96-0802 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Laws of Minnesota, 1969, Chapter 720, the Duluth transit authority is hereby authorized to execute an agreement with A.T.E. Management and Service Company, providing for the management of the transit system for a two year period commencing October 1, 1996, with an option for the authority to extend such agreement for an additional three years, which agreement is on file in the office of the city clerk as Public Document No. 96-0909-21.

Resolution 96-0802 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Keenan, Rapaich, Talarico, Wheeler and Vice President Hardesty -- 7

Nays: Councilor Hogg -- 2

Absent: President Prettner -- 1

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, 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 \$16,843.32. 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, 1996, through June 30, 1997. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 96-0909-22.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

FURTHER RESOLVED, that costs incurred shall be payable from Fund No. 269, Budget Item No. 6274 (\$8,421.66) and Budget Item No. 6275 (\$8,421.66).

Resolution 96-0776 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary that a six inch ductile iron water main be constructed in Voss Avenue from West Tenth Street to West 11th Street, and in West Tenth Street from Voss Avenue to 120 feet westerly;

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of this council to cause construction of said improvement, 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 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 96-0797 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Venture Fuels be and hereby is awarded a contract for furnishing and delivering three heating season requirements for the Duluth steam cooperative district I (downtown) in accordance with specifications on its low specification bid of \$24.95 per ton, estimated annual total of \$1,200,000, terms net, FOB destination, and further authorizes proper city officials the option to extend the contract for two additional heating seasons as per bid specifications, payable out of Steam Fund 540, Dept./Agency 920, Organization 1440, Object 5387.

BE IT FURTHER RESOLVED, that proper city officials be hereby authorized to negotiate price changes on an annual basis depending on changes in market.

Resolution 96-0798 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent alley in Second Street Alley from 30th Avenue East to Hawthorne Road (City Job No. 8971RS96).

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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 96-0777 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a permanent street improvement in 37th Avenue East from East Third Street to East Fourth Street (City Job No. 8972RS96).

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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 96-0778 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to acquire a storm drainage easement hereinafter described from Lee A. Youngblom and Leslie A. Youngblom for a consideration of \$1,500, payable from Fund No. 440-038-9601: A permanent easement for drainage purposes over, under and across that part of Lot 8, Block 5, Coleman's Second Acre Tract Addition to Duluth lying 10.00 feet either side of the following described line: Beginning at the northeast corner of said Lot 8 thence west along the north line of said Lot 8 a distance of 5.00 feet to the point of beginning thence deflecting to the left 70 degrees for a distance of 45.00 feet and there terminating.

Resolution 96-0787 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 95-0955 to Reuben Johnson & Son, Inc., for furnishing erosion control at Kingsbury Creek be amended to increase the amount by \$29,708.88 for a new total of \$102,008.13, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2158, Object 5530.

Resolution 96-0795 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in 87th Avenue West from 1,200 feet north of the center line of Lawn Street to 150 feet northerly (City Job No. 8973SA96).

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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 96-0800 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Voss Avenue from Tenth Street to 11th Street (City Job No. 8974SA96).

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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 96-0801 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering a van with a cutaway body for the sewer division in accordance with specifications on its low specification bid of \$24,078.38, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0805 was unanimously adopted.

Approved September 9, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY VICE PRESIDENT HARDESTY

96-034 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. LUKE'S HOSPITAL AND REGIONAL TRAUMA CENTER FOR AN AMBULANCE GARAGE, RETAINING WALL, CANOPIES AND SIDEWALK ENCROACHMENT INTO THE NORTHERLY 20 FEET OF EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

- - -

BY VICE PRESIDENT HARDESTY

96-035 - AN ORDINANCE PERTAINING TO THE SALE AND REGULATION OF TOBACCO AND TOBACCO RELATED DEVICES; AMENDING SECTIONS 11-1, 11-2, 11-3, 11-4, 11-5, 11-7, 11-8, AND 11-9, AND ADDING A NEW SECTION 11-10 TO CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR KEENAN (introduced by President Prettner)

96-033 (9312) - 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 AT THE SOUTHEAST CORNER OF TRINITY ROAD AND CENTRAL ENTRANCE FROM R-1-A SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DAUGHERTY).

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

Brian Daugherty urged support for the ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilors Bohlmann and Talarico stated opposition to the ordinance because of the recent referendum vote to not rezone the property from residential to commercial.

Councilor Hogg noted the referendum covered a larger piece of property, and stated that he feels this project is very different than the one that the community voted on.

Councilor Bohlmann responded that the referendum was whether the entire piece of property should be rezoned from residential to commercial.

Councilor Keenan did not feel that the referendum vote means that another project cannot be considered at that site. He also noted that the proposal was approved unanimously by the planning commission.

In response to Vice President Hardesty, Mr. Nollenberger said this would not be considered spot zoning because there is commercial zoning across the street from this property. He further responded that, from a practical planning perspective, if this corner of the property is zoned C-5, there would be a stronger case for expanding the C-5 zone to other property bordering Trinity Road and Central Entrance.

In response to councilors, Mr. Dinan said that from a legal standpoint, the council would be able to deny rezoning the rest of the parcel.

Vice President Hardesty stated she does not feel she can use her personal judgement in this case because it was countered by the public referendum.

Councilor Wheeler moved to call the question, which motion was seconded and unanimously carried.

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

Yeas: Councilors Hales, Hogg, Keenan, Rapaich and Wheeler -- 5
Nays: Councilors Bohlmann, Talarico and Vice President Hardesty -- 3
Absent: President Prettner -- 1

- - -

The meeting was adjourned at 10:35 p.m.

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

- - -

ORDINANCE NO. 9312

BY COUNCILOR KEENAN (introduced by President 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 AT THE SOUTHEAST CORNER OF TRINITY ROAD AND CENTRAL ENTRANCE FROM R-1-A SINGLE FAMILY RESIDENTIAL TO C-5 PLANNED COMMERCIAL (DAUGHERTY).

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 432]

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 23, 1996)

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

Yeas: Councilors Hales, Hogg, Keenan, Rapaich and Wheeler -- 5

Nays: Councilors Bohlmann, Talarico and Vice President Hardesty -- 3

Absent: President Prettner -- 1

Passed September 9, 1996

Approved September 9, 1996

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 23, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-0923-17 Edward Aamodt, et al. (three signatures), submitting petition for reclassification from M-2 to C-2 property located in Blocks C, D and E, and Lots 1 and 3, Block H, Manufacturer's Division of New Duluth. -- Assessor

96-0923-16 Walter F. Dawson, et al. (five signatures), submitting petition for construction of a permanent street in 49th Avenue East from Oneida Street to Glenwood Street. -- Assessor

96-0923-01 David E. Gangeness, et al. (13 signatures) submitting petition for construction of a bituminous overlay in Branch Street Alley from 29th Avenue East to 30th Avenue East. -- Assessor

96-0923-02 Daniel C. Waterhouse, et al. (16 signatures), submitting petition for construction of a residential street including grading, aggregate base, curb and gutter, bituminous surface and drainage on Niagara Street from Kenwood Avenue to 950 feet westerly. -- Assessor

96-0923-20 (a) Life House; (b) Ann Vucinovich Biron submitting letters regarding the Life House project (96-0737R). -- Received

96-0923-23 Patricia R. Hanson submitting letter regarding reclassification from R-1-C to R-2 properties located on the northwest corner of Myrtle Street and Basswood Avenue (96-037-O). -- Received

96-0923-19 Bob Schadel submitting letter regarding Bayfront Park (96-0858R). -- Received

96-0923-18 Independent School District 709, facilities and risk management, submitting letter supporting the proposed concurrent use permit for Nettleton School (96-032-O). -- Received

96-0923-24 Zenith Research submitting letter regarding survey of citizen opinion on city services (96-0841R). -- Received

96-0923-22 The following submitting communications regarding 21st Avenue East striping (96-0846R): (a) Janet M. Draper; (b) Carla Stetson. -- Received

96-0923-21 The following submitting communications regarding special use permit for construction of a V.B. Digs facility (96-0750R): (a) Eastridge Community Church, by Dr. Fred Lund, pastor; (b) Tina Langhough. -- Received

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REPORTS OF OFFICERS

96-0923-03 Assessor submitting letters of:

(a) Insufficiency regarding petition to reclassify property between Decker to Burning Tree Road from R-2 to R-4;

(b) Sufficiency regarding petitions for construction of:

(1) Bituminous overlay in Branch Street Alley from 29th to 30th Avenues East;

(2) Residential street including grading, aggregate base, curb and gutter, bituminous surface, and drainage on Niagara Street from Kenwood Avenue to 950 feet westerly. -- Received

96-0923-04 Building official submitting appeals of board of zoning appeals' decisions to:

(a) Deny a request to relax the side yard corner lot setback for construction of a five foot x 32 foot addition to dwelling located at 2939 Lake Avenue South (Anderson);

(b) Deny a request to relax the front yard setback for the construction of an eight foot x 20 foot addition to a detached garage located at 5419 Avondale Street (Calantoc);

(c) Grant a request of A.G. O'Brien Plumbing and Heating to relax the rule that does not allow enlargement or alteration of a building devoted to a nonconforming use to allow construction of a 50 foot x 64 foot second story addition and construction of a 30 foot x 75 foot storage building on property devoted to C-2/C-4 uses in an R-2 zoning district and relax the front and side yard setbacks for buildings in this zoning on property located at 722 East Ninth Street (appealed by 13 neighbors);

(d) Deny a request to relax the side yard setback for the construction of a 22 foot x 24 foot detached garage located at 2430 East Third Street (Scalzo). -- Committee 2 (planning)

96-0923-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from the Duluth Jaycees at Ridgeview Country Club. -- Received

96-0923-06 Community development and housing division submitting 1997 community development block grant funding requests and recommendations. -- Received

96-0923-07 Engineering division submitting monthly project status report of September 1, 1996. -- Received

96-0923-08 Purchasing agent submitting emergency purchase order for Lake Superior Zoological Gardens fence awarded to Dinehery Fence Company. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-0923-09 Board of zoning appeals minutes of August 27, 1996, meeting. -- Received

96-0923-11 Citywide citizens advisory committee minutes of September 3, 1996, meeting. -- Received

96-0923-12 Duluth transit authority: (a) Financial statement for June 1996; (b) Financial statement for July 1996; (c) Minutes of August 28, 1996, meeting. -- Received

96-0923-10 Planning commission minutes of: (a) August 13; (b) August 28, 1996, meetings. -- Received

96-0923-13 Special assessment board minutes of September 3, 1996, meeting. -- Received

96-0923-14 Tree commission minutes of August 12, 1996, meeting. -- Received

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At this time, 8:00 p.m., President Prettnner Solon called to order the public hearing regarding the intent to issue Bayfront Festival Park improvement bonds (Public Document No. 96-0923-39).

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At this time, 8:20 p.m., President Prettnner Solon declared the hearing closed and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kristine Loisel complained about the poor conditions of the HRA housing that she lives in, specifically noting poor weatherization, plumbing, electrical, heating, etc., and said that the HRA has failed to make needed corrections.

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RESOLUTIONS TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlmann moved to remove from the table Resolution 96-0788(b), confirming appointments of Kristine Gentilini and Gary Olson replacing Jeffrey Urbaniak and James Harvie to Duluth housing trust fund board, which motion was seconded and unanimously carried.

Resolution 96-0788(b) was adopted as follows:

BY COUNCILOR BOHLMANN:

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

DULUTH HOUSING TRUST FUND BOARD

Kristine D. Gentilini (at large) for a term expiring September 30, 1997, replacing Jeffrey Urbaniak, who resigned.

Gary A. Olson (energy) for a term expiring September 30, 1999, replacing James Harvie, who resigned.

Resolution 96-0788(b) was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

President Prettner Solon moved to remove from the table Resolution 96-0737, reserving \$117,000 in fiscal year 1996 HOME program funds for Life House, Inc., which motion was seconded and unanimously carried.

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

Dean Casperson, representing Duluth housing trust fund board, stated support for the resolution. He said this organization assists youth with a safe place to live and requires that they attend school and become employed.

Rachel Kincade, Life House, outlined the Life House policies (Public Document No. 96-0923-20(a)) on curfews, criminal background checks, maximum number of residents and their neighborhood advisory council.

Councilors discussed that the meetings with the neighbors are important and necessary for this project. Ms. Kincade affirmed that working with them and to hear their concerns is important.

Jim Tracy, Rob Merritt and Tori Harris stated support for the project, saying that there is a need for this type of program in Duluth.

Larry Bromme, David Yankus, Paul Paczynski and Bill Hall stated supported for this type of program, but had concerns about how it will impact their neighborhood, specifically regarding the type of visitors that the Life House would bring to the neighborhood, the cost of the project and the possible reduction in property values and safety for the neighborhood. They said that there should have been discussion with the neighborhood and noted that many of their concerns have not been addressed.

Councilor Hales stated that she will not support this specific program, because there are social service programs already that serve this area. She said there should be discussion about the effect of programs like this on the neighborhood.

Councilor Hogg felt that while the concerns of the neighbors are legitimate, there is a need for this program and with the responsiveness and accountability of the guidelines/policy as presented by Ms. Kincade, that it should proceed.

Councilor Bohlmann reviewed her concerns regarding the age range of residents, the amount of dollars to be spent, and the background and location from where the girls are coming from.

Ms. Kincade stated that other than an occasional referral, the residents would be Duluth girls only.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hardesty moved to call the question, which motion was seconded and failed as follows:

Yeas: Councilors Rapaich and Talarico -- 2

Nays: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Wheeler and President Prettnr Solon -- 7

Councilor Keenan voiced his support for the program, but questioned the amount of dollars that would be spent for this particular house.

Councilor Wheeler moved to call the question, which motion was second and carried upon a unanimous vote.

Resolution 96-0737 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to 42 U.S.C. 3539(d) and 42 U.S.C. 12701-12839, the United States 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 part of the city's consolidated plan which was approved by the city council on October 23, 1995, \$251,940 was set aside for CHDO programs and operating expenses.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby reserve \$117,000 of the city's fiscal year 1996 allocation of HOME program funds for the use of Life House, Inc., in the rehabilitation of its Harbor House development.

Resolution 96-0737 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 6

Nays: Councilors Bohlmann, Hales and Keenan -- 3

Approved September 23, 1996

GARY L. DOTY, Mayor

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President Prettnr Solon moved to remove from the table Resolution 96-0750, granting a special use permit to V.B. Digs for a privately operated community building for property located at 3625 West Arrowhead Road, which motion was second and carried upon a unanimous vote.

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

Joel Ness stated that he has been involved in volleyball for 20 years and supported this resolution. He noted that the developers are willing to work with the neighbors to see that the design works in with the land. Mr. Ness felt that the high visibility is important to any business and also a church, and that this location will be developed by someone else if this isn't approved.

Larry Modean, the developer, stated that he is looking at lowering the design profile about ten feet to address the concern of opponents and that he wishes to stay in Duluth and work with the parks and recreation department versus that of an adjoining community.

The following voiced opposition to the project: James Denny, member of St. John's Free Lutheran Church, Jay Ott, member of Eastridge Community Church, Fred Lund, representing Eastridge Community Church, Sharon Lund, Albert Burnham and John McAllister, member of St. John's Church. Concerns expressed included: the conditions required in the City Code for issuance of a special use permit with regard to the size and appearance of the building and setback requirements have not been met; the proposed facility cannot be defined as a community

building; the development will adversely affect church growth; the integrity of the zoning code is at risk if this facility is allowed as a precedent will be set with regard to commercial membership; it will adversely affect traffic and parking in the area; wetlands may be involved if zoning variances are approved; fire protection will be inadequate; and the facility should be constructed on property zoned commercial

Councilors Talarico, Wheeler and Bohlmann voiced support for volleyball but stated that they don't support this because of the uncertainty of the criteria being met for issuing a special use permit and that another location would be better.

Councilor Keenan expressed his concern that he supported this but noted that if wetlands are discovered, no permits should be issued.

Resolution 96-0750 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, Larry Modean, V.B. Digs, has submitted to the city council a request for a special use permit for a privately operated community building on property described as: the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the west 740.00 feet of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the east 250.00 feet of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian; except the north 33.00 feet of the E $\frac{1}{2}$ of the N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 8, Township 50 North, Range 14 West of the Fourth Principal Meridian and located at 3625 West 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 city planning commission was unable to make findings, due to a 4-4 tie vote on both approval or denial of the request; and

WHEREAS, the city council finds 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 Larry Modean, d.b.a. as V.B. Digs, to allow for the operation of a privately operated community building at 3625 West Arrowhead Road, on the following conditions: That the proposal be approved based on the application and drawings submitted and dated July 22, 1996, as identified as Public Document No. 96-0923-25, subject to the following conditions being completed and approved in writing by the planning department prior to the issuance of any permits:

- (a) That a certified wetlands delineation be completed;
- (b) That the building setback from Arrowhead Road be increased from 60 feet to a range of 100 feet to as close to 250 feet as possible, subject to restrictions of wetlands and St. Louis County health department requirements;
- (c) That wall signage not exceed 40 square feet and other on site signage be limited to not more than 32 square feet and nonilluminated;
- (d) That a landscape plan be prepared which screens parking areas from Arrowhead Road and the adjoining properties to the east and west;
- (e) That a storm drainage plan be developed;
- (f) That no alcohol be sold on the premises;
- (g) That the term of the permit shall be 30 years.

Resolution 96-0750 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich and President Prettnner Solon -- 6

Nays: Councilors Bohlmann, Talarico and Wheeler -- 3

Approved September 23, 1996
GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTUIONS

Resolution 96-0846, by Councilor Wheeler, requesting the city to complete the 21st Avenue East lane striping project by October 25, 1996, was introduced for discussion.

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

Carla Stenson reviewed this project was a combined effort of the city of Duluth, Minnesota department of transportation and the neighbors to try to calm traffic and make it safer.

Jim Halquist stated his support for this project.

Don Poe said that he doesn't support this project because he felt it would divert traffic to other streets, such as 19th, 24th and 26th Avenues East and that any modest improvement would come at a significant expense to other areas.

Councilor Wheeler noted that this project was the result of meetings with the traffic consultant, the city, state and neighbors, and the only issue tonight is the time frame for implementing the project. He further noted that he was supportive of not widening 26th Avenue East when that was improved recently and that this is intended to channel the traffic, to slow it down, not relocate it.

Councilor Keenan, member of the metropolitan interstate committee, stated 21st Avenue East has been clearly identified as the road on which to move the traffic and not to move it to another area. He felt that this resolution is not needed in that the administration is moving on this and that the council should concentrate on policy.

Administrative Assistant Nollenberger explained how the bids will be reviewed shortly and then a decision will be made regarding going through with it now or next spring, based on weather conditions for the surface to be prepared and time for drivers to become familiar with it before the snow and ice.

Ken Larson, city engineer, stated that the intent is to improve the corridor with enhanced signal switching.

Councilor Hardesty felt there is a need to try this as soon as possible and then to have feedback from the neighbors and traffic engineers.

Councilor Bohlmann stated that she didn't support changing from the four lanes. She felt that the public is familiar with the four lanes and that they would then travel more through the neighborhoods.

Councilor Hales was concerned over the lateness of the year for doing this project and wouldn't support this resolution.

Resolution 96-0846 (Public Document No. 96-0923-38) failed upon the following vote :

Yeas: Councilors Hardesty, Rapaich, Talarico and Wheeler -- 4

Nays: Councilors Bohlmann, Hales, Hogg, Keenan and President Prettner Solon -- 5

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BY COUNCILOR RAPAICH:

RESOLVED, that Eggebrecht Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering cab and chassis with utility body for the property management division in accordance with specifications on its low specification bid of \$25,773.38, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E527.

Resolution 96-0710 was unanimously adopted.

Approved September 23, 1996
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

RESOLVED, that Larson Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering two one-ton pickups with dump bodies, plows and sweepers for the street maintenance division in accordance with specifications on its low specification bid of \$78,712.26, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Objects E615 and E616.

Resolution 96-0806 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Kapus-Erickson, Inc., be and hereby is awarded a contract for furnishing and delivering a used vehicle to be evaluated as a squad car for the fleet service division in accordance with specifications on its low specification bid of \$14,999, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E605.

Resolution 96-0821 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the city of Duluth values the opinions of its citizens and strives to be accurately apprised of their views concerning city services and programs; and

WHEREAS, an effective way to get precise information is through the use of scientifically proven research methods; and

WHEREAS, data gathered from such research will provide valuable guidance to the city of Duluth for future decisions regarding how to allocate resources; and

WHEREAS, UMD's bureau of business and economic research is recognized as an expert in the research field;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to contract with the UMD bureau of business and economic research, center for economic development for an amount not to exceed \$13,000, to be funded from General Fund 100, Dept. 015, Division 1510, Object 5319.

Resolution 96-0841 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

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Resolution 96-0849, by Councilor Rapaich, designating polling places for the November 5, 1996, state general election, was introduced for consideration.

Councilor Rapaich moved to amended the resolution by changing the polling place number 29 to read "Temple Baptist Church, 2302 West Third Street," which motion was seconded and unanimously carried.

Resolution 96-0849, as amended, was adopted as follows:

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the November 5, 1996, state general election, and amends Resolution No. 96-0706 as it relates to this election.

POLLING PLACE LIST

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>POLLING PLACE</u>	<u>ADDRESS</u>
1. St. Michael's Catholic Church	4901 East Superior Street
2. Portman Square	4601 McCulloch Street
3. Lakeside Presbyterian Church	4430 McCulloch Street
4. Lutheran Church of the Good Shepherd	45th Avenue East and Colorado Street
5. Lakeview Covenant Church	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Woodland Community Club	3211 Allendale Avenue
8. Glen Avon Presbyterian Church	2105 Woodland Avenue
9. Duluth Congregational Church	3833 East Superior Street
10. Mt. Olive Lutheran Church	2010 East Superior Street
11. Pilgrim Congregational Church	2310 East Fourth Street
12. Woodland Junior High School	Clover and Eighth Street
13. U.M.D. - ballroom	10 University Drive
14. Kenwood School	Kenwood Avenue and Maryland Avenue
15. Chester Park United Methodist Church	819 North 18th Avenue East
16. Prince of Peace Fellowship Church	1824 East First Street
17. United Baptist Church	830 East First Street
18. Trinity Lutheran Church	1108 East. Eighth Street
19. Trinity Lutheran Church	1108 East Eighth Street
20. Peace Church	1015 East 11th Street
21. First United Methodist Church	230 East Skyline Parkway
22. Washington Center	310 North First Avenue West
23. Senior Citizen Community Center	211 North Third Avenue East
24. Duluth Public Library	520 West Superior Street
25. Lafayette Square	3026 Minnesota Avenue
26. St. Peter's Catholic Church	818 West Third Street
27. Duluth Heights Community Club	33 West Mulberry Street
28. West End Senior Center	2014 West Third Street
29. Temple Baptist Church	2202 West Third Street
30. Piedmont Elementary School	2827 Chambersburg Avenue
31. St. Lawrence Church	2410 Morris Thomas Road
32. Harrison Community Club	3002 West Third Street
33. Lutheran Church of Christ the King	4219 Grand Avenue
34. Faith Haven	4901 Grand Avenue
35. Elim Lutheran Church	6101 Cody Street
36. Irving Recreation Center	20 South 57th Avenue West
37. Bethany Baptist Church	6700 Grand Avenue
38. Bayview Heights School	8702 Vinland Street
39. Riverside Community Club	Cato Avenue and Manitou Street
40. Goodfellowship Community Center	1242-88th Avenue West
41. Stowe School	715 - 101st Avenue West
42. Fond du Lac Recreation Center	131st Avenue West and Highway 23

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized, as allowed for under Minnesota Statutes, for the November 5, 1996, election.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the November 5, 1996, election.

BE IT FURTHER RESOLVED, that the city agrees to indemnify and hold harmless any organization allowing the city to use its building for a polling place from any claims or damages for bodily injury or property damage arising out of the use of such building as a polling place, but subject to municipal liability limits contained in state law.

Resolution 96-0849, as amended, was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, with any specific restrictions:

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for September 27 and 28, 1996.

Resolution 96-0857 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON AGING

Lawrence Whalen for a term expiring July 1, 1998.

Resolution 96-0829 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

At this time, Councilor Keenan moved to amend the standing rules to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Resolution 96-0830 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

Bradley Beckman (District Five) for a term expiring June 30, 1999, replacing Isobel Rapaich.

Resolution 96-0830 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0831, by Councilor Bohlmann, confirming appointments of Aliea Booker to the human rights commission replacing Jacquelyn Byers, was introduced for discussion.

Councilor Bohlmann reviewed how this individual was interviewed this evening and while it was a very good interview, it was noted by the applicant that she works in Duluth, but lives in Superior.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlmann felt she couldn't support her because she wasn't a resident of Duluth, and that it would be a bad precedent to not choose a Duluth resident.

City Attorney Dinan responded to councilor inquiries regarding any legalities on appointments, that some boards and commissions state a residency requirement, but that this board doesn't mention any.

Councilor Talarico felt that until a rule for this commission states a residency requirement, that he supports this individual.

Councilor Bohlmann moved to refer this to administration in order that a Duluth resident could be recommended, which motion was seconded and failed as follows:

Yeas: Councilors Bohlmann, Hales, Hardesty and President Prettner Solon -- 4

Nays: Councilors Hogg, Keenan, Rapaich, Talarico and Wheeler -- 5

To Councilor Hales' questions, Mr. Dinan noted that under the existing ordinance regarding the human rights commission, the council can appoint a nonresident, and that the ordinance needs to be changed if the council only wishes Duluth residents to be considered.

Resolution 96-0831 was adopted as follows:

BY COUNCILOR BOHLMANN:

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

HUMAN RIGHTS COMMISSION

Aliea Marie Booker for a term expiring March 1, 1999, replacing Jacquelyn Byers who resigned.

Resolution 96-0831 was adopted upon the following vote:

Yeas: Councilors Hogg, Keenan, Rapaich, Talarico and Wheeler -- 5

Nays: Councilors Bohlmann, Hales, Hardesty and President Prettner Solon -- 4

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the city council hereby reappoints Janet Nelson to the Seaway Port authority of Duluth for a term expiring October 10, 2002.

Resolution 96-0832 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, on October 23, 1995, the city established the CAP sliding fee weatherization program project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0923-26, with the Duluth Community Action Program (CAP), Inc., Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$75,000, payable out of the 1996 Federal Program Fund 262 - community development - CAP Weatherization Sliding Fee Project Account No. 6904.

Resolution 96-0810 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER SOLON:

WHEREAS, on October 23, 1995, the city established the NHS home buyer assistance program project pursuant to Resolution 95-0916.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-0923-27, with Neighborhood Housing Services, Inc. (NHS), of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$22,000, payable out of the 1996 Federal Program Fund 262 - community development - NHS home buyer assistance - Account No. 6926.

Resolution 96-0813 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

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>
96120	Joel A. Perrin	Lots 193 and 195 lying north of First Street, Block. 68, Duluth Proper Second Division (10-1120-8100)	upper side of First Street west 12th Avenue West (Central Hillside)
96122	Keith T. Erickson	Lot 2, Block. 29, New Duluth First Division (10-3430-9340)	west side of 97th Avenue West b/w Bowser and Goodhue Street (Gary-New Duluth)
96127	Gayle Hollis	Duluth Proper Second Division, Block 110, Lot 346 (10-1180-00810)	lower side of Fourth Street b/w 21st and 22nd Avenue West (Lincoln Park District)
96133	St. Louis County	Greysolon Farms, First Division, Block 3, Lot 9 (10-2010-660)	southeast corner of Martin and Vermillion Roads

Resolution 96-0820 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city of Duluth (city) is the owner of certain property in the Canal Park area which is used for providing public parking, specifically, the Northwest Iron lot, legally described as: Lots 299, 297, 295, 293, 291 and the northerly one-half of Lot 289, Lake Avenue, Upper Duluth and Lots 300, 298 and 296, Lake Shore, Upper Duluth and the Marine Museum lot, legally described as described in Public Document No. 96-0923-37; and

WHEREAS, the Duluth economic development authority (DEDA) and ETOR Properties Limited Partnership (ETOR) have entered into an agreement which will allow DEDA to manage and control that part of the Northwest Iron lot which is owned by ETOR and which is legally described as: Lots 281, 283, 285, 287 and the southerly one-half of Lot 289, Lake Avenue, Upper Duluth, and Lots 282, 284, 286, 288, 290, 292 and 294, Lake Shore, Upper Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city agrees that it is in the public interest in providing public parking in the Canal Park area to have the Marine Museum lot and the city and ETOR portions of the Northwest Iron lot managed and controlled by DEDA, which management and control will include responsibility for maintenance, utilities and capital improvements; management, including establishment of hours of operation and parking regulations for the use of the lots, and monitoring and enforcement of the parking regulations, including collection of fees from users of the lots and receipt of parking ticket revenues during the term of the agreement between DEDA and ETOR.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to transfer management and control to the Duluth economic development authority of the city owned parking lots known as the Northwest Iron lot and the Marine Museum lot, with DEDA to provide maintenance and enforcement of parking regulations for these lots, including collection of revenues from users of the parking lots and collection of parking ticket revenues from violation of parking regulations, during the term of that agreement between DEDA and ETOR (DEDA Contract No. 96 865 174).

Resolution 96-0842 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

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 locally designating the historically significant portions of Skyline Parkway as a Duluth heritage preservation district, said sum to be deposited into fund 100-015-2020-4230-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. 96-0923-28. The city's match for this grant shall be payable from fund 100-020-1202-5319.

Resolution 96-0843 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER:

BE IT RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Patrick Nunnally 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. 96-0923-29) and shall not exceed a total cost to the city of \$5,800, payable from fund 100-015-2020-MS18 (\$3,800) and fund 100-020-1202-5319 (\$2,000). Fund 100-015-2020-MS18 shall be funded with a grant provided by the Minnesota Historical Society.

Resolution 96-0844 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0847, by President Prettner Solon, authorizing an agreement with L.H.B. Engineers and Architects to provide professional landscape architectural services for Grant Recreation Center, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hogg moved to table the resolution for further information, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hogg and Keenan -- 3

Nays: Councilors Hales, Hardesty, Rapaich, Talarico, Wheeler, and President Prettner Solon -- 6

Councilor Hales said that this project is in conjunction with the school district and that it is one that all parties wanted to see done.

Resolution 96-0847 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city of Duluth desires to complete a landscape plan; and

WHEREAS, the city desires to hire a consulting architect to provide the landscape architectural services required to landscape the Grant recreational area; and

WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for the landscape architectural 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 landscape architectural services.

BE IT FURTHER RESOLVED, that the cost of said landscape architectural services, estimated at \$10,242, will be payable from the Community Development Fund 262, Dept./Agency 619, Object 6908.

Resolution 96-0847 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Hogg -- 1

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of that portion of Chester Way across Lots 20 and 22 Block 5, Superior View Addition just west of Missouri Avenue, legally described as: that portion of Chester Way running westerly from the east line of Lots 20 and 22 Block 5 to the north line of Lot 20, Block 5, Superior View 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 conditionally approved the vacation petition and subject to the replacement of this right-of-way dedication at its September 10, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of Chester Way across Lots 20 and 22 Block 5, Superior View Addition and as more particularly described on Public Document No. 96-0923-30.

BE IT FURTHER RESOLVED, that this vacation shall not become effective until a replacement right-of-way has been dedicated and accepted and until petitioner has completed construction of the realigned roadway to city of Duluth gravel surface roadway, standards and said roadway has been accepted by the city engineer.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

resolution together with a plat showing the portion of Chester Way to be vacated upon certification of the city engineer that the aforesaid conditions have been met.

Resolution 96-0852 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the Duluth City Council hereby accepts the dedication of public roadway easements over the south 26 feet of Lot 16 and all of Lot 18, Block 5, Superior View Addition as described on Public Document No. 96-0923-31, on file in the office of the city clerk.

Resolution 96-0853 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

RESOLVED, by the city council of the city of Duluth, Minnesota (the city), as follows:

Section 1. The city council hereby determines that there is a need to construct certain improvements to the Bayfront Festival Park area including the culverting and filling of the southerly portion of Slip No. 1, the relocation of the festival tent/stage facility and other related improvements at an estimated cost of approximately \$1,100,000.

Section 2. Said city council hereby determines that it is necessary and expedient to issue general obligation bonds in the amount of up to \$980,000 to provide funds to pay for said improvements to Bayfront Festival Park, 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 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 96-0858 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0859, by President Prettnner Solon, requesting the Duluth Charter commission to recommend amendment of Sections 8 and 31 of the City Charter to authorize administrative approval of contracts expending up to \$25,000, was introduced for discussion.

President Prettnner Solon moved to table the resolution for a committee meeting, which motion was seconded and carried upon a unanimous vote.

- - -

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the proper city officers 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. 96-0923-32, at a cost to the city of not to exceed \$4,375, which shall be paid from the General Fund 010-1101-5319.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0860 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Mid-America Business Systems be and hereby is awarded a contract for furnishing and delivering a microfilm reader/printer for the library in accordance with specifications on its low specification bid of \$9,620, terms net/30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B645.

Resolution 96-0803 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Popular Subscriptions be and hereby is awarded a contract for furnishing and delivering magazine and periodical subscriptions for the main library and three branches in accordance with specifications on its low specification bid of \$22,254.89, terms net/30, FOB destination, payable out of various funds.

Resolution 96-0804 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to accept a Writers Live at the Library grant of \$8,575 from the American Library Association to present literary programs for the public and to highlight the role of the library as a cultural center, monies to be deposited in the General Fund 100, Agency 300, Organization 1704, Revenue Source 4702.

Resolution 96-0808 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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 \$12,500 for the maintenance, etc., of the Duluth snowmobile trails for the 1996-1997 season; said agreement to be in the form of Public Document No. 96-0923-33, on file with the city clerk; the funds therefrom to be deposited in the General Fund 100-500-1920-4233.

RESOLVED FURTHER, that the proper city officers are hereby authorized to pay up to \$12,500 to the Duluth Area Association of Snowmobile Clubs for snowmobile grooming and maintenance during the 1996-1997 season in accordance with the schedule of allowable costs which is filed with the city clerk as Public Document No. 96-0923-33, payable from the General Fund 100-500-1920-4233.

Resolution 96-0814 was unanimously adopted.
Approved September 23, 1996
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the city clerk's office as Public Document No. 96-0923-34, to accept \$8,300 from the Minnesota department of economic security to implement employment and training services in nontraditional occupations for Duluth resident women for the time period September 1, 1996, through December 31, 1997, said sum to be deposited in Fund No. 268, Budget Item No. 6261.

Resolution 96-0819 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Como Philgas Company be and hereby is awarded a contract for furnishing and delivering 90,000 gallons of liquid propane for the water and gas department in accordance with specifications on its low specification bid of \$40,707.50, terms net, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5213.

Resolution 96-0822 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that H and H Lumber Company be and hereby is awarded a contract for furnishing and delivering 142 pieces of structural redwood blocks for the water and gas department in accordance with specifications on its low specification bid of \$5,931.35, terms net 30, FOB destination, payable out of Water Construction Fund 511, Dept./Agency 900, Object 5532.

Resolution 96-0825 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Silverness Plumbing and Heating be and hereby is awarded a contract for construction of two inch plastic gas mains in 27th Avenue West and 28th Avenue West for the water and gas department in accordance with specifications on its low specification bid of \$15,359, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0827 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Dahlen, Berg and Company for professional services relating to natural gas transportation and FERC Docket No. RP96-347, The Carlton Resolution, which agreement is on file in the office of the city clerk as Public Document No. 96-0923-35, payment not to exceed \$10,000, payable from the Public Utility Gas Fund 520.

Resolution 96-0833 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Dresser Industries, Inc., be and hereby is awarded a contract for furnishing and delivering three natural gas meters for the water and gas department in accordance with specifications on its low specification bid of \$16,620.39, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0834 was unanimously adopted.

Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0838 by Councilor Hogg, amending policy for the extension of steam mains, was introduced for discussion.

Councilor Hogg moved to table the resolution for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Bohlmann, Hardesty, Hogg, Rapaich, Talarico and Wheeler -- 6

Nays: Councilors Hales, Keenan and President Prettner Solon -- 3

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Infratech be and hereby is awarded a contract for furnishing and delivering four atmospheric testers, battery packs, kits and cases for the sewer division in accordance with specifications on its low specification bid of \$9,137.70, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0796 was unanimously adopted.

Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that M.J. Widdes, Inc., be and hereby is awarded a contract for furnishing and delivering one tandem axle trailer for the sewer division in accordance with specifications on its low specification bid of \$10,011, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0824 was unanimously adopted.

Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that C. Anderson Sand and Gravel be and hereby is awarded a contract for hauling of demolition debris at various city locations for the sewer division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB job sites, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5384.

Resolution 96-0826 was unanimously adopted.

Approved September 23, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering one traffic signal control and cabinet to be installed at the intersection of Kenwood Avenue and Arrowhead Road for the traffic operations division in accordance with specifications on its low specification bid of \$13,948, terms net 30, FOB destination, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5285, Object 5530.

Resolution 96-0835 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering two traffic signal controls and cabinets to be installed at the intersection of 21st Avenue East and Superior Street and the intersection of 21st Avenue East and Second Street for the traffic operations division in accordance with specifications on its low specification bid of \$27,896, terms net 30, FOB destination, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 96-0836 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Morton International, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 4,600 tons of road salt, delivered at a unit cost of \$27.96 per ton and picked up at a unit cost of \$27.56 per ton, for the street maintenance division in accordance with specifications on its low estimated bid total of \$136,736.44, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 96-0837 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, a petition was presented to the city signed by 100 percent of the abutting owners to improve 37th Avenue East from Third Street to Fourth Street; and

WHEREAS, the Duluth City Council passed a resolution of intent to construct a street improvement in 37th Avenue East from Third Street to Fourth Street pursuant to said petition (Resolution No. 96-0778); and

WHEREAS, the "Y" configuration of 37th Avenue East between Third and Fourth Street would make the requested improvement much more expensive than a normal street improvement; and

WHEREAS, a public hearing was held on September 11, 1996, before the special assessment board where all of the signers of the original petition signed a writing stating they no longer wished the project to continue because of its expense and asked that their original petition be withdrawn, or, in the alternative, that they would file a remonstrance petition with 100 percent of the abutting owners signing; and

WHEREAS, the special assessment board has made a recommendation to the city council that the project be immediately abandoned because of the request of all the affected abutting owners.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby rescinds Resolution No. 96-0778 and directs that no further work be done at this time toward the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

improvement of 37th Avenue East between Third and Fourth Street.

Resolution 96-0839 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that A. G. O'Brien Plumbing & Heating Co., Inc., be and hereby is authorized to proceed with drinking fountain water pipe replacement (ground to third floor) as part of the city hall water pipe replacement project (Change Order No. G-2 to Contract No. 17689), in an amount of \$4,940, payable from General Fund 100, Obj. 1424.

Resolution 96-0840 was unanimously adopted.

Approved September 23, 1996

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 one-half of the nonfederal share of construction costs for S.P. 118-179-01, Federal Project BRSTP6996(233); 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 \$29,938.18.

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 96-0848 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 14,000 cubic yards of delivered washed winter sand for the street maintenance division in accordance with specifications on its estimated low total bid of \$134,277.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 96-0851 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized and directed to execute the agreement filed as Public Document No. 96-0923-36, setting forth the city's capacity allocation and user costs with the Western Lake Superior Sanitary District. All monies expended under this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

agreement shall be drawn upon Fund 530, Agency 500, Org. 0575, Object 5317.

Resolution 96-0855 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Western Lake Superior Sanitary District for a joint study of the measurement system used to determine the city's influent flow to the WLSSD sewage treatment works, in an amount not to exceed \$15,000, payable from Fund 530, Agency 500, Org. 0570, Object 5319.

Resolution 96-0856 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Aspen Equipment of Duluth be and hereby is awarded a contract for furnishing and delivering one fiberglass service body to be installed on a four wheel drive pickup truck for the fire department in accordance with specifications on its low specification bid of \$6,014, terms net, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5580.

Resolution 96-0828 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and President Prettnr Solon -- 8

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the United States department of justice, office of community oriented policing services to reimburse the police department, Minnesota program development, and women's coalition as outlined in the grant agreement.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute such agreements as necessary to implement the project on behalf of the Duluth police department. All revenue to be deposited in General Fund 100, Dept. 200, Org. 1640, Object 4210.

Resolution 96-0850 was unanimously adopted.

Approved September 23, 1996

GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT PRETTNER SOLON

96-032 - AN ORDINANCE GRANTING TO INDEPENDENT SCHOOL DISTRICT # 709, PERMISSION TO OCCUPY, CONSTRUCT AND MAINTAIN RESTRICTED ON STREET PARKING WITHIN THE NORTHERLY 15 FEET OF NORTH FIRST AVENUE EAST, AT NETTLETON

ELEMENTARY SCHOOL, AND IMPOSING CERTAIN CONDITIONS, LIMITATIONS AND RESTRICTIONS IN RELATION TO SUCH CONCURRENT USE PERMIT.

President Prettner Solon moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

President Prettner Solon reviewed that this request was turned down by the planning commission, that the planning committee of the council held a meeting on this request and that the committee unanimously recommends denial.

Ordinance 96-032 failed upon a unanimous vote (Public Document No. 96-0923-15).

- - -

The following entitled ordinance was read for the first time:

BY PRESIDENT PRETTNER SOLON

96-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 195, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C TO R-2, PROPERTIES LOCATED ON THE NORTHWEST CORNER OF MYRTLE STREET AND BASSWOOD AVENUE.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR HARDESTY

96-034 (9313) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. LUKE'S HOSPITAL AND REGIONAL TRAUMA CENTER FOR AN AMBULANCE GARAGE, RETAINING WALL, CANOPIES AND SIDEWALK ENCROACHMENT INTO THE NORTHERLY 20 FEET OF EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and Wheeler -- 8

Nays: None -- 0

Abstention: President Prettner Solon -- 1

- - -

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9313

BY COUNCILOR HARDESTY:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO ST. LUKE'S HOSPITAL AND REGIONAL TRAUMA CENTER FOR AN AMBULANCE GARAGE, RETAINING WALL, CANOPIES AND SIDEWALK ENCROACHMENT INTO THE NORTHERLY 20 FEET OF EAST FIRST STREET BETWEEN NINTH AND TENTH AVENUES EAST.

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. Luke's Hospital and Regional Trauma Center, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a garage, retaining wall, canopies and all fixtures and pertinencies in that part of East First Street as the same was dedicated to the use of the public and the plat of Portland Division, on file and of record

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows: The northerly 20 feet of East First Street adjacent to Lots 1-16, inclusive, Block 35, Portland Division.

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 garage, retaining wall, canopies 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 garage, retaining wall, canopies and all fixtures and pertinencies 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 First 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 First Street.

Section 6. That the permittee shall further observe the following condition: That the construction plans be in accordance with the plan submitted by St. Luke's Hospital and Regional Trauma Center dated August 1, 1996.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 3, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and Wheeler -- 8

Nays: None -- 0

Abstention: President Prettnner Solon -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 23, 1996
Approved September 23, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 30, 1996, 4:45 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 7

Absent: Councilors Bohlmann and Talarico -- 2

- - -

MOTIONS AND RESOLUTIONS

BY PRESIDENT PRETTNER SOLON:

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. 96-0930-01, with RREM, Inc., for preliminary engineering services related to the partial filling of Slip No. 1 in Bayfront, the diversion of storm drainage from Slip No. 1, and the expansion of the Bayfront Festival Park in the amount of not to exceed \$4,882, payable from Fund 450.

Resolution 96-0872 was unanimously adopted.

Approved September 30, 1996

GARY L. DOTY, Mayor

- - -

Councilors Bohlmann and Talarico took their seats at this time.

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Resolution 96-0886, authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, and Resolution 96-0887, affirming the decision of the board of building appeals to deny a request to relax the 60 percent rule for a nonconforming building; to the extent of more than 60 percent of its reproduction value at the time of damage shall not be restored, except in conformity with the regulations of the district in which it is located, to a dwelling at 209 Pittsburgh Avenue (Tony Cozzi), by President Prettner Solon, were introduced for discussion.

President Prettner Solon explained that Mr. Cozzi had not met the 60 day deadline from the building inspection's office for compliance for the property at 209 Pittsburgh Avenue, and that Assistant City Attorney Smedberg requested that the council pass a resolution as the last step in the demolition process. President Prettner Solon said that Mr. Cozzi had contacted her and requested that the council table this resolution until he has adequate time to prepare his case and come before the council. President Prettner Solon said that Mr. Cozzi has done some work on the property but does not meet the specifications of the building inspector.

City Attorney Dinan reviewed that he has been in contact with the building inspection division, and that they had gone out to the property after the 60 day deadline to see if the work had been done, and that some work had been done, but not what was required by their office for compliance.

Councilors Keenan, Hardesty, Hales and Hogg stated that they should move forward with these resolutions as enough time has been given Mr. Cozzi to comply with the building inspection office.

Resolutions 96-0886 and 96-0887 were adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcel of property, grounds of condemnation being the building is structurally unsound and a menace to the neighborhood; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, notice of condemnation was served as follows: Parcel 1, 209 Pittsburgh Avenue, also known as E25 feet of S79 feet of Lot 3, Block 1, Flesicher-Cremers Rearrangement of Block 56, Third Division of Duluth, by certified mail on Tony Cozzi, 421 North Second Avenue East, Duluth, Minnesota, 55805, signed by Anthony Cozzi on September 25, 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 96-0886 was unanimously adopted.

Approved September 30, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, the building official of the city of Duluth duly issued condemnation orders against the following parcel of property, grounds of condemnation being the building is structurally unsound and deteriorated to more than 60 percent of a similar new building; and

WHEREAS, notice of condemnation was served as follows: 209 Pittsburgh Avenue, also known as E25 feet of S79 feet of Lot 3, Block 1, Flesicher-Cremers Rearrangement of Block 56, Third Division of Duluth; and

WHEREAS, Section 10-3 of the Duluth City Code provides that if a structure is deteriorated from any cause to the extent of 60 percent of a similar new building it must be torn down and cannot be repaired or altered; and

WHEREAS, the determination of the building official was appealed to the building appeals board and the appeal was denied; and

WHEREAS, the decision of the building appeals board was appealed to the city council; and

WHEREAS, the city council, by Resolution 96-0680, adopted on July 22, 1996, withheld final judgment on the appeal conditioned upon the property owner complying with certain conditions, including making substantial progress toward completing repairs to the foundation within 60 days after adoption of such resolution; and

WHEREAS, the property owner has failed to comply with such conditions; and

WHEREAS, the Duluth City Council finds that the above described structure is deteriorated to the extent of 60 percent of a similar new building.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that the structure described above is deteriorated to the extent of more than 60 percent of a similar new building and must be torn down and hereby affirms the actions of the building official and the building appeals board.

Resolution 96-0887 was unanimously adopted.

Approved September 30, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Northland Bridge of Duluth, Inc., be and hereby is awarded a contract for construction repair of Chester Creek bridge at Skyline Parkway for the engineering division in accordance with specifications on its low specification bid of \$215,624.30, terms net, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2151, Object 5530.

Resolution 96-0863 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved September 30, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Northland Bridge of Duluth, Inc., be and hereby is awarded a contract for construction repair of Twin Ponds bridge at Skyline Parkway for the engineering division in accordance with specifications on its low specification bid of \$118,992.50, terms net, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2152, Object 5530.

Resolution 96-0864 was unanimously adopted.

Approved September 30, 1996
GARY L. DOTY, Mayor

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The meeting was adjourned at 5:10 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 15, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettnner Solon -- 8

Absent: Councilor Talarico -- 1

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The minutes of council meetings held on February 5, 12, 20 and 26, 1996, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1015-01 William Anderson, et al. (11 signatures), resubmitting petition to reclassify from R-2 to R-4 the property between Decker Road to Burning Tree Road. -- Assessor

96-1015-02 Minnesota District Court, Sixth Judicial District, Chief Judge John T. Oswald submitting orders for: (a) Appointments of Patricia Edwards, Allan Kehr and William R. Sample; (b) Reappointments of Mary Evans, Mark Knutson, Steve Ratte, James Shearer and Terry Trogdon as members of the Charter commission of the city of Duluth. -- Received

96-1015-03 Minnesota state auditor submitting audit report of Spirit Mountain recreation area authority for the year ended April 30, 1996. -- Received

96-1015-30 Park Point Community Club submitting letter regarding BZA appeal for a setback variance at 2939 Lake Avenue South (96-0877R). -- Received

96-1015-07 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Holly Felien and Dustin Melin on December 14, 1996. -- Received

96-1015-04 The following submitting letters regarding proposed changes to the sale and regulation of tobacco and tobacco related devices (96-035-O): (a) Bob Bucci, manager, SuperAmerica #4360; (b) Mark R. Eckman, M.D.; (c) Kimberly Odden; (d) Linda Papison; (e) William D. Paul; (f) Nancy Steen. -- Received

96-1015-05 The following submitting letters regarding appeal by neighbors of the board of zoning appeals' decision to allow for construction of a second story addition and new storage building at 722 East Ninth Street (A.G. O'Brien) (96-0883R): (a) John I. Hassenstab; (b) George Katalinich; (c) Duane R. Schroeder. -- Received

96-1015-06 The following submitting letters regarding alternate side parking on Greysolon Place from 31st Avenue East to Congdon Park Drive (96-0868R): (a) Katherine Agnew/Eklund; (b) Congdon Park Early Childhood Family Education; (c) Congdon Park School PTA; (d) Congdon Park School; (e) Louis, Evelyn, Duane and Doug Ranthum. -- Received

96-1015-31 The following submitting letters regarding CDBG funding (96-041-O): (a) American Indian Community Housing Organization; (b) College of St. Scholastica; (c) Damiano Center; (d) Duluth Community Garden Program; (e) Theresa Koenig; (f) Candace Kolenda; (g) League of Women Voters; (h) Lincoln Park Neighborhood Coalition; (i) Neighborhood Housing Services of Duluth, Inc.; (j) Kay Pepper; (k) Terrence Smith. -- Received

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REPORTS OF OFFICERS

96-1015-08 Assessor submitting:

(a) Letters of sufficiency to:

(1) Construct a permanent street in 49th Avenue East from Oneida Street to Glenwood Street;

(2) Reclassify from M-2 to C-2 Blocks C, D and E of Manufacturer's Division of New Duluth and Lots 1 and 3, Block H of Manufacturer's Division of New Duluth;

(3) Reclassify from R-2 to R-4 the property between Decker Road to Burning Tree Road. -- Received

(b) Assessment roll levied to defray the assessable portion of Contract No. 5294, demolition assessments. -- Clerk

96-1015-09 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Minnesota Sheriffs' Association at Holiday Inn; (b) Rotary Club of Duluth at Radisson Duluth; (c) Women's Association of the Duluth Symphony at Holiday Inn. -- Received

96-1015-10 Parks and recreation department director submitting: (a) Minutes of board of directors for the Lake Superior zoological society July 25, 1996, meeting; (b) Zoo director's report of September 26, 1996. -- Received

96-1015-11 Treasurer submitting acceptance of gambling funds from: (a) Duluth Softball Players Association; (b) Northland Vietnam Veterans Association. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-1015-12 Board of directors of trusts for Miller-Dwan Hospital and Medical Center: (a) Minutes of July 18, 1996, meeting; (b) Notification of 1996-A bond transaction. -- Received

96-1015-13 Civil service board minutes of August 6, 1996, meeting. -- Received

96-1015-14 Duluth airport authority minutes of August 20, 1996, meeting. -- Received

96-1015-15 Duluth transit authority: (a) Minutes of September 25, 1996, meeting; (b) August 1996 income statement. -- Received

96-1015-16 Lawful gambling commission minutes of September 10, 1996, meeting. -- Received

96-1015-17 Special assessment board: (a) Minutes of: (1) September 11; (2) October 1, 1996, meetings; (b) Reports for: (1) Re-establishing assessments on Plat 1270, Parcels 4560, 4570 and 4575; (2) Proposed improvement of 37th Avenue East from Third to Fourth Streets; (3) Proposed improvement of 35th Street South from Minnesota Avenue to 150 feet east. -- Received

96-1015-18 Tree commission minutes of September 9, 1996, meeting. -- Received

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RESOLUTION TABLED

Councilor Hogg moved to remove Resolution 96-0838, amending policy for the extension of steam mains, from the table, which motion was seconded and unanimously carried.

Nick Petrangelo, water and gas department office manager, gave a presentation on the Heat Share Program.

Resolution 96-0838 was adopted as follows:

BY COUNCILOR HOGG:

WHEREAS, the city council of the city of Duluth on January 22, 1979, adopted Resolution 78-803, which establishes a policy for the extension of steam mains; and

WHEREAS, the Duluth steam cooperative association has received requests to extend its steam mains to service new customers and more such requests are expected in the future; and

WHEREAS, an expanded customer and user base for the steam produced by the Duluth steam cooperative association is desirable in that such expansion will assist the Duluth steam

cooperative association in maintaining steam rates competitive to alternative heating and cooling sources; and

WHEREAS, the existing policy provides for payment of extensions out of the steam utility fund based on a five year contract with applicants for a quantity of steam necessary to produce new revenue for the steam utility which, after deducting incremental costs of producing and delivering the steam used by the new customer, will enable the city to amortize its investment with interest in such steam main extensions over such period of time; and

WHEREAS, it is desirable to increase the steam contract period from five years to ten years and the amortization period from five years to ten years so as to remain competitive with other heating and cooling energy providers; and

WHEREAS, at its August 28, 1996, meeting the board of directors of the Duluth steam cooperative association passed a resolution requesting that the Duluth City Council adopt the amended steam main extension policy set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby adopts the following amended policy on steam main extensions:

"Policy for Extension of Steam Mains

The city authorizes the Duluth steam cooperative association as operator of the steam utility to extend steam mains at its discretion and pay for such extension out of the steam utility fund if the applicant(s) for such extension agree(s) to take or pay for a sufficient quantity of steam over not to exceed a ten year period to produce an amount of new revenue for the steam utility that, after deducting the incremental cost of producing and delivering the steam used by such new customer(s), will enable the city to amortize its investment, with interest, in such steam main extensions over such period of time."

Resolution 96-0838 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 96-0823 to Envirobate Northland for additional asbestos abatement in conjunction with the City Hall water pipe replacement project be amended to increase the amount by \$4,276.76 for a new total of \$13,976.76, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object 1424.

Resolution 96-0823 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 96-0892 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that pursuant to Minnesota Statutes 204A.21, the following persons are hereby appointed as election judges in the respective precincts for the state general election on November 5, 1996, as listed in Public Document No. 96-1015-19.

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 \$.31 per mile; payable from General Fund 015-1512-5441.

Resolution 96-0895 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 96-0154 to Network Services, Inc., for furnishing and delivering paper products ordered as needed during 1996 for various departments and divisions, be amended to increase the amount by \$5,000 for a new total of \$18,370, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-0902 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering 25 portable radios and accessories for the police department in accordance with specifications on its low specification bid of \$17,679.80, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 96-0903 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Equipment Specialist be and hereby is awarded a contract for furnishing and delivering a soluble media blaster and 50 bags of baking soda for the fleet service division in accordance with specifications on its low specification bid of \$5,578.84, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 96-0907 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR RAPAICH:

RESOLVED, that Minncor Industries be and hereby is awarded a contract for furnishing and delivering 30 ergonomic chairs for the library department in accordance with specifications on its low specification bid of \$6,696.75, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B646.

Resolution 96-0908 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0896, by Councilor Bohlmann, authorizing the city to employ Lifestyle Consulting Services of Duluth to provide six customer service training sessions for city personnel at a cost to the city of \$2,400, was introduced for discussion.

Councilor Hales stated she cannot support this resolution since she has not yet received requested information regarding ownership of this company.

Councilor Bohlmann moved to table the resolution, which motion failed upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg and Keenan -- 4

Nays: Councilors Hardesty, Rapaich, Wheeler and President Prettner Solon -- 4

Absent: Councilor Talarico -- 1

Responding to Councilor Hales, Administrative Assistant Nollenberger stated that Lifestyle Consulting Services of Duluth is solely owned by Kathlynn McConnell.

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At this time, 8:00 p.m., President Prettner Solon announced that the public hearing (Public Document No. 96-1015-32) regarding CCAC recommendations for 1997 CDBG allocations would begin.

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At this time, 9:30 p.m., President Prettner Solon closed the public hearing and announced that the public hearing (Public Document No. 96-1015-33) regarding the second amendment to Development District No. 17 and TIF District No. 18 (Cirrus, Phase II) would begin.

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At this time, 9:45 p.m., President Prettner Solon closed the public hearing and the regular order of business resumed.

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Resolution 96-0896 was adopted as follows:

BY COUNCILOR BOHLMANN:

WHEREAS, the city of Duluth provides a wide variety of services for its citizens and others; and

WHEREAS, the city strives to provide those services in a professional, timely and courteous manner; and

WHEREAS, an effective way to ensure that city employees improve on their customer service techniques is by making a training session available to them; and

WHEREAS, Lifestyle Consulting Services is a recognized, local provider of such training.

NOW, THEREFORE, BE IT RESOLVED, that the city is hereby authorized to employ Lifestyle Consulting Services to provide such customer service training at a cost to the city of \$2,400, which shall be payable from the General Fund 100-015-1510-5334.

Resolution 96-0896 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0897, by Councilor Bohlmann, authorizing execution of an agreement with the Duluth News-Tribune providing for an exchange of training services between that organization and the city, was introduced for discussion.

Councilor Bohlmann voiced concern that training for city employees by Karen Rylander-Davis, even though an excellent facilitator, but also an employee of the Duluth News-Tribune, is inappropriate. She said she didn't believe such close association between the city and newspaper is wise.

Councilor Wheeler stated that the city is saving money by this exchange and noted that the city is getting a high quality person to train its personnel.

Councilor Hales stated that the Duluth News-Tribune is supposed to be a watchdog for the community and that the city shouldn't be in a partnership with this organization.

Resolution 96-0897 was adopted as follows:

BY COUNCILOR BOHLMANN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth News-Tribune providing for an exchange of employee training services between the two parties, which agreement is on file in the office of the city clerk as Public Document No. 96-1015-20.

RESOLVED FURTHER, that while it is not anticipated that the city will incur any costs under this agreement, if any costs are incurred, they shall not exceed \$2,500 and shall be paid from the General Fund 100-015-1510-5334.

Resolution 96-0897 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner
Solon -- 6

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Talarico -- 1

Approved October 15, 1996

GARY L. DOTY, Mayor

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

Peter Scott Downs for a term expiring September 1, 1999, replacing Judy Gillen Dahl.

Richard J. Andree for a term expiring September 1, 1999.

Resolution 96-0912 was unanimously adopted.

Approved October 15, 1996

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

Cheryl Graham for a term expiring September 17, 1999, replacing Judy Dahl.

Resolution 96-0914 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0815, by President Prettner Solon, approving a special law authorizing the city to establish housing replacement districts, was introduced for discussion.

President Prettner Solon made a motion to table the resolution for a committee meeting, which motion was seconded and unanimously carried.

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, Leroy J. Jaeger has submitted to the city council a request for a special use permit to provide for the construction of an eight unit condominium/townhouse development on property described as Lots 3-5, 6-13 and 14-16, Block 24, Duluth Heights Sixth Division and located at the northwest corner of Basswood Avenue and Myrtle Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and 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 Leroy L. Jaeger to allow for the construction of an eight unit condominium/townhouse development on the conditions that the project be limited to, constructed and maintained in accordance with the submitted and approved plans as identified as Public Document No. 96-1015-21 and that the property hereinbefore described be rezoned from R-1-c to R-2.

Resolution 96-0818 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, Brooks Anderson 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 for dwellings from 15 feet to one foot for construction of a five feet x 32 feet one and one-half story dwelling addition, kitchen and entryway, with bathroom on second floor, on the southeast side of an existing nonconforming dwelling on property located at 2939 Lake Avenue South; 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 five feet x 32 feet 1-1/2 story dwelling addition on the southeast side on an existing nonconforming dwelling one foot from a side yard corner lot property line 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 August 27, 1996, is hereby reversed by the city council, and the appeal is granted.

Resolution 96-0877 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, Holly Calantoc has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the front yard lot setback for detached garages when there is a platted alley or when there is a side street, from 60 feet to 44 feet for construction of an eight feet x 20 feet addition on the rear of a nonconforming detached garage on property located at 5419 Avondale Street; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of an eight feet x 20 feet addition on the rear of a nonconforming detached garage 44 feet from the front property line 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 August 27, 1996, is hereby reversed by the city council, and the appeal is granted.

Resolution 96-0881 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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Resolution 96-0883, by President Prettnner Solon, reversing the decision of the board of zoning appeals to approve a request to relax the rule that does not allow enlargement or alteration of a building devoted to a nonconforming use to allow construction of a 50 feet by 64 feet second story addition and construction of a 30 feet by 75 feet storage building on property devoted to C-2/C-4 uses in an R-2 zoning district; and relax the front and side yard setback for buildings in this zoning district to allow an addition zero feet from the front property line and zero feet from the east side property line for the 50 feet by 64 feet second story addition on property located at 722 East Ninth Street (Terry Groshong for A.G. O'Brien Plumbing and Heating), was introduced for discussion.

President Prettnner Solon explained that the committee supports this resolution because:

(a) Construction cannot occur without negatively impacting the neighbors because there is no side yard setback;

(b) There is ample space on the property to expand making it unnecessary to expand an already nonconforming building; and

(c) There has not been a good effort by the applicant to co-exist with the neighbors in a residential district.

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

David Morneau, adjacent property owner on the east side, supported the resolution because the zero feet side yard setback makes construction, without use of his property, impossible, it will decrease the market value of his property; and he will lose all privacy in his back yard.

Fran Thebarge, adjacent property owner on the west side, stated that the business expanded twice its size 37 years ago at which time he had requested from the business to put up a privacy fence. He continued that he has put up three fences of his own to maintain his privacy. Mr. Thebarge stated that they have been a good neighbor, but is worried that any increase in size by the business would cause traffic to be unbearable in the neighborhood.

Pauline Hassenstab objected to the expansion stating that A.G. O'Brien acquired another business to be housed in this building knowing that the building couldn't be expanded because of the zoning regulations. She said she believes the expansion will cause neighborhood property to be devalued.

Terry Groshong, architect for the project, stated that his client, A.G. O'Brien, would like to exercise their right as a property owner to expand their business, which is presently housed in a building with a definition of nonconforming use. Mr. Groshong reviewed that because the lot has severe site limitations and is not conducive for expansion outward of the existing footprint, vertical expansion is being proposed. He noted that because of existing underground drainage culverts and a fill site, costs to get to the point of building a footing will be between \$28,000 to \$35,000.

Councilor Hogg stated that he cannot support the BZA's decision to allow this variance, which relaxes the rule that does not allow enlargement or alteration of a building devoted to a nonconforming use, to allow for construction of a second story addition. Councilor Hogg stated

that this construction will negatively impact on the neighborhood, especially when the zoning was changed back to R-2 residential in the 1950's with the intent of keeping it a residential neighborhood.

President Prettner Solon stated that the council has requested the city business development division to contact A.G. O'Brien to work with them to find a suitable plan in which the business can continue to grow and prosper in the city.

Resolution 96-0883 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, 13 aggrieved neighbors have appealed by petition and letter to the city council the decision of the board of zoning appeals to grant a request as specified herein on property located at 722 East Ninth Street owned by A.G. O'Brien Plumbing and Heating; and

WHEREAS, the city council has considered this appeal and has determined that the required findings for granting of the variance set forth herein authorizing specified commercial uses that relax the rule that does not allow enlargement or alteration of a building devoted to a nonconforming use to allow construction of a 50 feet x 64 feet second story addition and construction of a 30 feet x 75 feet storage building on property devoted to C-2/C-4 uses in an R-2 zoning district and relax the front and side yard setbacks for buildings in this zoning district to allow an addition 0 feet from the front property line and 0 feet from the east side property line for the 50 feet x 64 feet second story addition, and that such specified commercial uses of the property 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 August 27, 1996, is hereby reversed by the city council, and the appeal is granted.

Resolution 96-0883 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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Resolution 96-0890, by President Prettner Solon, authorizing agreement with RREM, Inc., for construction engineering services related to the Bayfront Slip fill project in the amount of \$68,118, was introduced for discussion.

Councilor Bohlmann stated that she cannot support this resolution and she believes DEDA should be paying for 80 percent of this project because Lake Superior Center wants the land and needs to push the Bayfront stage to a new location.

Resolution 96-0890 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

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. 96-1015-22, with RREM, Inc., for construction engineering services related to the filling of Slip No. 1 in Bayfront and related work in the amount of not to exceed \$68,118, payable from Fund 450, Agency 015, Org. 1996, Object C602.

Resolution 96-0890 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved October 15, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city has received United States department of housing and urban development (HUD) funds under the HOME investment partnerships program (Catalog of Federal Domestic Assistance Number 14.239).

NOW, THEREFORE, BE IT RESOLVED, that \$22,225 is hereby transferred from the 1995 HOME CHDO subaccount to the 1995 HOME general account.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the fiscal year 1995 HOME program administration agreement, a copy of which is on file in the office of the city clerk as Public Document No. 96-1015-23(a), with HRA, thereby extending the term of the agreement from December 31, 1996, to December 31, 1997, and increasing the contract amount by \$22,225, payable from federal HOME program Fund 260, Agency 020, Organization 2651, Object H003.

FURTHER 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. 96-1015-23(b), with HRA for administration of the fiscal year 1996 HOME program administration agreement in an amount not to exceed \$368,220 payable from federal HOME program Fund 260, Agency 020, Organization 2621, Object H003.

Resolution 96-0893 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

RESOLVED, that Ray Risberg, Inc., be and hereby is awarded a contract for installing a ticket booth and furnishing security system at the East Superior Street parking ramp in accordance with specifications on its low specification bid of \$113,126, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I602.

Resolution 96-0918 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city council of the city of Duluth, Minnesota (the council) has determined that there is a need and opportunity for the development of property at Duluth International Airport to encourage aircraft-related industry in the city; 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 December 18, 1995, the council 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 by its Resolution 95-1074; and

WHEREAS, on September 17, 1996, the Duluth economic development authority approved the second amendment to development program for Development District No. 17 and tax

increment financing plan for Tax Increment Financing District No. 18, Cirrus Development Corporation, Phase II (the "plan") by its Resolution No. 96D-66; and

WHEREAS, said plan proposes the creation of a new tax increment district adjacent to the geographical area of Tax Increment Financing District No. 15 currently occupies and used by Cirrus Development Corporation for the development of light aircraft and a financing plan for the new district to accommodate the construction of light aircraft at Duluth International Airport as part of Phase II of the Cirrus development at the airport; and

WHEREAS, the amended development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 18, Cirrus Development Corporation Phase II 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 amenities and other attractive planning features, thereby further encouraging industrial development in the area and providing jobs and economic development in Duluth; and

WHEREAS, the proposed development, 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 project and the city could not completely finance the costs without the use of tax increment to assist with financing of the project; and

WHEREAS, the site of the project is not located with an existing tax increment financing district and therefore Tax Increment Financing District No. 18 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 September 26, 1995, said boards have been notified that the amended plan was to be considered at a public hearing on the date hereof and both boards have waived the statutory notice period provided for in Minnesota Statutes 469.175, subd. 2; and

WHEREAS, notice of such public hearing was published in a newspaper of general circulation in the city of Duluth on October 5, 1996, and the council held such public hearing on the date hereof regarding the approval and adoption of the plan; and

WHEREAS, members of the council have determined that the 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 plan.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the information presented to council, the information included in the plan, and the information provided at public hearing, the council hereby finds:

(a) That the adoption of the plan is in the public interest and to the benefit of the health, safety and welfare of the city of Duluth;

(b) That the plan conforms to the general plan for the development of the city of Duluth as a whole;

(c) That Tax Increment Financing District No. 18, is an "Economic Development District" as described in Minnesota Statutes Section 469.174, subdivision 12;

(d) That the proposed site for the expanded project would not be available for development without the tax increment sought;

(e) That the plan will afford maximum opportunity consistent with the needs of the locality as a whole, for redevelopment by private enterprise;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(f) That the plan conforms to the general plan for the development of the locality as a whole;
and

(g) That the project, would not, in the opinion of the council, reasonably be expected to occur within the reasonably foreseeable future solely through private investment and 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 subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan.

FURTHER RESOLVED, that the 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. 96-1015-24, as of this date.

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 plan.

Resolution 96-0926 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner
Solon -- 7

Nays: Councilor Bohlmann -- 1

Absent: Councilor Talarico -- 1

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the council of the city of Duluth, on its behalf and on behalf of all citizens of the city, gratefully acknowledges and accepts the following gifts from the following individuals and organization:

Lynn Hardesty	\$1,000
Sharon Torrison	600
Robert and Margaret Seitz	400
Bluege B. and Jean A. Greene	100
Beverly J. Ellstrom	100
Gene and Cindy Karwoski	50
Marc and Marion Raihala	50
Greysolon Duluth Chapter of the D.A.R.	50
Robert Mars. Jr.	50
Kathleen A. McRae	20

Which amounts shall be used for the preservation and betterment of Duluth's public gardens and parks, and shall be deposited in the Special Projects Fund 210-030-2105-4690.

Resolution 96-0861 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the council of the city of Duluth, on its behalf and on behalf of all citizens of the city, gratefully acknowledges and accepts a donation of \$15,000 from the Duluth Rotary Club 25 to be used for the preservation and betterment of Duluth's public gardens. Said donation shall be deposited in the Special Projects Fund 210-030-2105-4690.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Duluth Rotary Club 25 as a message of thanks for their donation.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0862 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city of Duluth hereby accepts a donation of an Electronic Controls Ltd. Lake Effect 5000 Model snow making machine and its attachments and pump house from Chester Bowl Improvement Club to be used primarily at the Chester Bowl ski area.

RESOLVED FURTHER, that the city clerk is directed to send a certified copy of this resolution to the Chester Bowl Improvement Club as a message of thanks for their donation.

Resolution 96-0865 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Darryl Booker, A.I.A., at hourly rate, for the sum of not to exceed \$10,000, from Capital Fund 450, Object C436, for providing certain architectural services to the city of Duluth in connection with Fire Station No. 6 (Lakeside) and Lester Park and Woodland Branch libraries facility evaluations, 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. 96-1015-25.

Resolution 96-0874 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to amend City Contract No. 17505 with the Minnesota department of economic security/community based services to extend the contract end date from August 31, 1996, to September 30, 1996. No additional funds are being received, nor are additional costs incurred. Total funding amount remains at \$54,428. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 96-1015-26.

Resolution 96-0888 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

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 \$41,347 for the period October 1, 1996, through September 30, 1997.

FURTHER RESOLVED, that funds received under this agreement shall be deposited in Fund No. 269, Budget Item 6293.

Resolution 96-0889 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Resolution 96-0428 to Silverness Plumbing, Heating and Excavating for installation of one inch, two inch and three inch gas mains and ½ inch and one inch gas services at various locations, be amended to increase the amount by \$55,000 for a new total of \$147,830, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0898 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Gustave A. Larson, Inc., be and hereby is awarded a contract for furnishing and delivering furnace repair parts for the gas service division in accordance with specifications on its low specification bid of \$6,613.65, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 96-0906 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for installation of water hydrants at London Road and Tenth Avenue East for the water and gas department in accordance with specifications on its low specification bid of \$21,550, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 96-0919 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

WHEREAS, it appears that it may be necessary to construct a storm sewer in Acre Street Alley from Kenwood Avenue westerly (City Job No. 8975ST96).

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 96-0866 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with St. Louis County for the reconstruction of Arrowhead Road and Kenwood Avenue/Howard Gnesen Road (City Job No. 8689MA92, County Project No. 8176, State Project S.P. 69-634-11), said agreement filed as Public Document No. 96-1015-27. All monies received from St. Louis County pursuant to this agreement shall be deposited in Fund 810, Org. 5285.

Resolution 96-0891 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering a van and body for the sewer division in accordance with specifications on its low specification bid of \$25,002.05, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 96-0899 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HOGG:

RESOLVED, that Resolution 96-0434 to Northland Ready Mix, Inc., for furnishing and delivering Class 5 gravel as requested by city personnel, be amended to increase the amount by \$10,000 for a new total of \$35,564.50, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 96-0901 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

BY COUNCILOR HOGG:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of the Endion Neighborhood street improvement program for the engineering division in accordance with specifications on its low specification bid of \$965,361.58, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9605, Object 5530.

Resolution 96-0904 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to complete a preliminary engineering services for Bristolwood Phase I; and

WHEREAS, the city desires to hire a consulting engineer to provide the project services required to accomplish this project; and

WHEREAS, Seaway Engineering Company 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 Seaway Engineering Company to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$56,708, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5292, Object 5530.

Resolution 96-0905 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

BY COUNCILOR HOGG:

RESOLVED, that Duluth Superior Erection be and hereby is awarded a contract for street improvement of Maple Ridge - Phase I for the engineering division in accordance with specifications on its low specification bid of \$396,545.40, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5255, Object 5530.

Resolution 96-0911 was unanimously adopted.

Approved October 15, 1996

GARY L. DOTY, Mayor

BY COUNCILOR HOGG:

RESOLVED, that Resolution 96-0511 to Duluth Superior Erection for the 1996 city wide street patching program, be amended to increase the amount by \$100,000 for a new total of \$397,140.60, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2164, Object 5530.

Resolution 96-0913 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved October 15, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

WHEREAS, the city of Duluth desires to complete preliminary engineering services; and
WHEREAS, the city desires to hire a consulting engineer to provide construction engineering services required for Maple Ridge-Phase I for Hickory Street utilities and street construction; and
WHEREAS, Salo Engineering has submitted a proposal for construction 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 to provide the city with such construction engineering services.

BE IT FURTHER RESOLVED, that the cost of said construction engineering services, estimated at \$43,400, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5255, Object 5530.

Resolution 96-0915 was unanimously adopted.

Approved October 15, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of a gabion system retaining wall at 11th Avenue West and Fourth Street in accordance with specifications on its low specification bid of \$49,380, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2162, Object 5530.

Resolution 96-0916 was unanimously adopted.

Approved October 15, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0868, by Councilor Hales, to rescind no parking on both sides of Greysolon Place from 31st Avenue East to Congdon Park Drive, was introduced for discussion.

Councilor Wheeler raised concern that both sides of the street will be designated as no parking and noted that residents are opposed to any changes.

Mr. Nollenberger stated the change is being proposed to accommodate street maintenance and snow plowing.

Councilor Wheeler moved to table the resolution so that a compromise between the administration and the residents can be explored, which motion was seconded and passed upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich and Wheeler -- 5

Nays: Councilors Bohlmann, Hales and President Prettner Solon -- 3

Absent: Councilor Talarico -- 1

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement filed as Public Document No. 96-1015-28 with the city clerk, with Holiday Inn Hotel and Suites for the furnishing of premises in the Holiday Center to be used as a city neighborhood police station and for related purposes.

Resolution 96-0873 was unanimously adopted.

Approved October 15, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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:
south side of London Road from 60th Avenue East to 500 feet easterly.
Resolution 96-0875 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following one hour parking, 8:00 a.m. - 5:00 p.m., Monday - Friday zone is hereby established:
west side of Seventh Avenue East from Fourth Alley to Fourth Street.
Resolution 96-0884 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of public safety under which the city will receive not to exceed \$134,000 to establish a regional hazardous materials emergency response/chemical assessment team, which agreement is on file in the office of the city clerk as Public Document No. 96-1015-29.
Resolution 96-0885 was unanimously adopted.
Approved October 15, 1996
GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT PRETTNER SOLON

96-035 (9314) - AN ORDINANCE PERTAINING TO THE SALE AND REGULATION OF TOBACCO AND TOBACCO RELATED DEVICES; AMENDING SECTIONS 11-1, 11-2, 11-3, 11-4, 11-5, 11-7, 11-8 AND 11-9, AND ADDING A NEW SECTION 11-10 TO THE CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

President Prettner Solon moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

President Prettner Solon gave a brief summarization of specific changes included in the proposed ordinance.

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

William Paul, attorney for D & C's Spur, Milkhouses, Little Stores, Inc., and Liquor Stores Association spoke against the ordinance stating that it will cause his clients to lose revenue in excess of \$200,000 annually. He stated that if self service displays are banned, the economically beneficial use of the self service display space will be eliminated which nullifies contracts between the manufacturers and the retailers. He further noted that by banning self service displays the retailers could have a legal claim against the city for compensation due to the lost payments paid by the manufacturer to the retailers. He asked that consideration be given to the negative economic impact this ordinance will have on retailers, and requested an amendment to achieve the goal of trying to restrict the sale of tobacco to underage individuals but afford the retailers to continue to receive allowances from manufacturers.

Peggy Colliar, territorial manager for B & W Tobacco, stated that there is a substantial difference in payments from the tobacco companies going from self service on the counter to nonself service.

Councilor Hardesty stated that if having self service counter sales of cigarettes is so lucrative for tobacco companies, it would seem reasonable for them to develop some other kinds of advertising strategies to sell their product such as signs on the counter instead of product.

Responding to Councilor Wheeler's question, Ms. Colliar replied that established guidelines for contracts and allowances are set when a partnership with the retailer and wholesaler is formed.

Tammy Locke, representing R.J. Reynolds Tobacco Company, clarified that current contracts with retailers will be void if this ordinance is adopted and contractual dollars as well as jobs will be lost.

Responding to Councilor Hardesty, Ms. Locke replied that she has not encountered similar proposed restrictions in her area, but acknowledged that self service counter sales do sell the product.

Ann Hanson, representing Phillip Morris Company, reiterated that if this ordinance is adopted, contracts with retailers will be terminated and encouraged exploring an alternative to a total ban of counter sales and spoke of some restrictions used in other communities.

Councilor Hogg read an excerpt of an ordinance adopted in St. Cloud, Minnesota, establishing certain restrictions with regard to counter sales of tobacco products.

Nancy Steen supported the ordinance noting that easy access contributes to the escalating community problem of underage smoking and makes a parents job regarding underage smoking more difficult.

Linda Papison, representing the Family Resource Center at Lester Park Elementary School, referred to her letter (Public Document No. 96-1015-04(e)), and stated that the proposed ordinance addresses the concerns she has heard from parents who are trying to deter their underage children from smoking. She encouraged a partnership between parents and the community to resolve the issue of underage smoking.

Wesley Gallup, supported the ordinance and stated he believes that counter sales of tobacco are a deliberate scam by tobacco companies to hook teenagers, and promotes theft and shoplifting.

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At this time, 11:00 p.m., a motion was made to extend the council meeting for 30 minutes to finish hearing testimony and vote on the ordinance, which motion was seconded and carried.

- - -

Jenny Peterson gave statistics of recent studies regarding teenage smoking and stated the community needs to do more to protect their children from falling victim to unhealthy smoking habits by supporting the ordinance.

Ken Steil, who works with kids, stated he doesn't believe ten to 12 year old children can be held responsible for developing their own addictions, and then there are problems in the schools when they become 14 and 15 year olds and realize they are hooked and can't stop.

Sharon Lund stated that 3,000 children start smoking per day and that one third will die of tobacco related illnesses. She stated that the purpose of the ordinance is to limit children smoking because children are more vulnerable and less able to resist the impulses and the advertising of counter displays. She noted that it is the responsibility of adults to protect children, and that it is illegal for children to possess and smoke tobacco product under age 18.

Jim Skoog, St. Louis County public health employee and current chairperson of the Twin Ports Area Youth and Tobacco Coalition, spoke on the slotting fees stating that the industry is trying to convince the council the city will lose more than \$200,000 annually. He noted that in two of three communities that passed strong ordinances within the last year, slotting fees were always lost. He stated that the estimated cost in 1995 for smoking in Duluth was over \$22 million which consists of health care costs and lost wages from premature death.

Donella Kubiak related that her son was ticketed in the last year for the shoplifting of cigarettes and chewing tobacco because he was told by peers how easy it was to steal them. As a respiratory therapist, she said that smoking causes damage to the lungs, and the ordinance should

be passed to stop easy access to tobacco to children who have not yet reached the age of consent and do not realize they are making a lifetime commitment.

Bob Bucci, manager of Super America, Arrowhead Road, disagreed that the way to stop underage smoking is to eliminate access to cigarettes. He said his employees are trained not to make questionable sales of tobacco products and doesn't think it is fair to restrict access to cigar and pipe smokers who are usually older residents. He advocated personal and parental responsibility in teaching children to make appropriate choices.

Pat McKone displayed a box full of tobacco products that were purchased by underage students in Duluth and Hermantown and said that 66 percent of the products were purchased from self service settings where the clerk did not have to be asked for the item.

Larry Sundberg noted indirect costs related to smoking including health insurance costs and sick time costs for smokers and family members, and costs related to fires and replacement of clothing.

Jane Olson, manager of Holiday Stationstore in Hermantown, stated confidence in the their employee training program used by her firm and suggested the use of enclosed display cases for counter sales that are inaccessible to customers to reduce theft.

Chris McKinny, representing Little Stores, Inc., stated that his stores does everything possible to prevent sales of tobacco to minors and that theft of cigarettes is less than one tenth of one percent. He spoke of several factors which determine how much a store is paid in allowances. He spoke of more lenient ordinances adopted by other communities that he felt would work just as well as the one proposed but retain the store's right to market a legal product.

Dick Katoski, representing the Off Sale Liquor Association, stated his business sells liquor and tobacco products to customers who aren't minors, and said that members of the association feel they are being punished by this proposed ordinance. He further stated he is aware of 18 year old students who make \$25 to \$35 per week selling cigarettes to minors.

Don Letourneau, representing D&C Spur, stated his organization does everything possible to prevent sale of tobacco products to minors. He questioned why school officials don't turn in underage smokers making the children be responsible for their actions, and why police officers don't ticket them.

A motion was made to extend the meeting until 12:00 a.m., which motion was seconded and unanimously carried.

Councilor Hales stated that she believed the ordinance before the council only represents one side of the issue and said it is unfortunate that it was brought to the council before a balanced group of individuals from all sides was able to work together toward a compromise. She said she believes that the people who will be impacted the most were not informed that the ordinance was being revisited and changed. Councilor Hales moved to amend the ordinance as follows:

In Section 11-8

(a) Paragraph (b) change age "19" to "21";

(b) Paragraph (c) add at the end of the first paragraph after the word "following" "forms of photographic identification";

(c) Add the paragraph

"(e) In the event that an employee of a licensee sells tobacco products to a person under the age of 18 then the employee shall attend a tobacco sales training seminar conducted by a Duluth D.A.R.E. police officer or by another local government agency."

Change the language in Section 11-10 to read:

"A person may offer for sale single packages of tobacco products in open displays which are accessible to the public without the intervention of a store employee provided that the open displays of single packages of tobacco products are placed on a check-out counter or on a service counter that is staffed by an on-duty store employee and the open displays of single packages of tobacco products are within the direct view of an on-duty store employee. Cartons and other multi-pack units of tobacco products may be offered and sold through open displays accessible to the public," which motion was seconded and discussed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Hogg stated that the important issue is that reduction of accessibility of tobacco products to young people needs to be recognized and suggested that the council review a number of sample ordinances from other cities to come up with some other ways that accomplishes the purpose of reducing accessibility of cigarettes to young people without doing something as harsh to the retailers as what is being proposed.

Councilors Wheeler and Keenan stated they will support the changes proposed for Section 11-8, but cannot support the language change in Section 11-10.

Councilor Hardesty noted that numbers of young people who are smoking is increasing and felt that the present law is ineffective and needs to be made stronger.

Councilor Hales stated that this ordinance legislates social behavior that the police chief has stated he will not enforce and dictates how private retailers to run their business.

President Prettner Solon noted that new language in the ordinance makes it illegal for those under 18 to possess, purchase or conspire to purchase cigarettes. She stated she has no difficulty with social legislation when it affects the health and welfare of our youth, adding that adults need to take responsibility to ensure that youth do not become prey to addictions that are unnecessary, and that she is in favor of the council standing in the way to help prevent it.

Mr. Nollenberger noted that any administrative recommendations need to come through him and that it is not appropriate to suggest that Chief Lyons is in favor or not since it has not gone through that internal process. He stated that the administration is taking no position on the amendment.

Councilor Wheeler made a motion to call the question to vote on the amendment, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Absent: Councilor Talarico -- 1

Councilor Hales' amendment failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilors Hardesty, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5

Absent: Councilor Talarico -- 1

Councilor Bohlmann stated she opposes any kind of smoking but doesn't believe the council should pass legislation that it won't enforce and won't support the ordinance because it will make a mockery of the law.

Councilor Wheeler noted that there seems to be unity in the testimony that no one is in favor of young people smoking and that disagreement is how to prevent it. He said he believes the important issue is making tobacco less accessible to adolescents and to do that will cause loss of slotting fees to retailers.

Councilor Keenan said he agrees with everything in the ordinance, and stated society and the tobacco industry are changing and that with those changes, retail business practices must also change.

Councilor Hales moved to table the ordinance to review ordinances of other municipalities and to get input from retailers to try to reach a compromise, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

Nays: Councilors Hardesty, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5

Absent: Councilor Talarico -- 1

Councilor Hardesty stated that the council's intent is to send a message to the community that if the onset of smoking is delayed, cultivation of lifelong smoking habits is much less likely, and she said she believes that this ordinance is in the best interest of the kids.

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

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 6

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Nays: Councilors Bohlmann and Hales -- 2
Absent: Councilor Talarico -- 1

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

96-041 - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1997 ACTION YEAR.

- - -

BY PRESIDENT PRETTNER SOLON

96-038 - AN ORDINANCE REQUESTING RECLASSIFICATION AND ACQUISITION OF CERTAIN PROPERTY ON PARK POINT FROM ST. LOUIS COUNTY FOR \$7,794.25 AND SALE THEREOF TO ELIZABETH GEORGE AND DALE SOLA IN A LIKE AMOUNT, SUBJECT TO RESERVATION FOR A STREET EASEMENT.

- - -

The following entitled ordinance was read for the second time:

BY PRESIDENT PRETTNER SOLON

96-037 (9315) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, TO R-2, PROPERTIES LOCATED ON THE NORTHWEST CORNER OF MYRTLE STREET AND BASSWOOD AVENUE.

President Prettner Solon moved passage of the ordinance and the same was adopted upon a unanimous vote:

- - -

The meeting was adjourned at 12:00 a.m.

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

- - -

ORDINANCE NO. 9314

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE PERTAINING TO THE SALE AND REGULATION OF TOBACCO AND TOBACCO RELATED DEVICES; AMENDING SECTIONS 11-1, 11-2, 11-3, 11-4, 11-5, 11-7, 11-8, AND 11-9, AND ADDING A NEW SECTION 11-10 TO CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 11-1 of the Duluth City Code, 1959, as amended be amended to read as follows:

Sec. 11-1. License to sell--required; definitions.

(a) For the purposes of this Chapter, the terms "tobacco" and "tobacco related devices" shall have the meanings given them in Section 609.685 of Minnesota Statutes, 1994;

(b) No person or any clerk, servant, employee or agent of any such person shall, within the city, directly or indirectly upon any pretense manufacture, sell, exchange, barter or keep for sale any tobacco or tobacco related devices without first having obtained a license therefor.

Section 2. That Section 11-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-2. Same--Fee.

The fee for a license required by this Chapter shall be \$60 per year.

Section 3. That Section 11-3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-3. Same--Grant or denial and issuance; expiration date.

(a) Licenses for the manufacture, sale, exchange, barter or keeping for sale of tobacco or tobacco related devices shall be granted by the administrative assistant and issued by the city clerk, who shall provide a suitable blank form of application for the use of the applicant. Such licenses shall expire on April 30 next after issue;

(b) The administrative assistant may deny a license for any of the following reasons:

(1) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the sale or possession of tobacco or tobacco related devices;

(2) That the applicant, its managers or employees were convicted of a crime that directly relates to the sale of tobacco or tobacco related devices and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

(3) That the applicant made material misstatements of fact or omissions of fact on its present or past applications;

(4) That the applicant, its managers or employees refused to answer questions concerning its application or operations asked by the police or the administrative assistant;

(5) That the applicant failed to pay any city tobacco license fees when due.

Section 4. That Section 11-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-4. Same--Character of applicant; movable places of business and vending machines licenses prohibited; to be issued for sale only at single location.

No license required by this Chapter shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of cigarettes at any place other than his established place of business. No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any license be issued for the sale of cigarettes at more than one place of business. No license shall be issued authorizing the sale of cigarettes from a vending machine or any other mechanical device.

Section 5. That Section 11-5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-5. Same--Revocation or suspension.

(a) Every license issued under this Chapter may be suspended up to 60 days or revoked by the administrative assistant for any cause set forth in paragraph (b) of this Section after a public hearing held for such purpose, notice of which shall be mailed to the licensee at his place of business ten days before the holding of such hearing. Any licensee aggrieved by a decision of the administrative assistant may appeal such decision to the city council by filing a written notice of appeal with the city clerk within ten days after receiving notice of the administrative assistant's decision;

(b) The following shall be good cause to revoke or suspend a tobacco license:

(1) That the applicant, its managers or employees violated any ordinance or state or federal statute or regulation which relates to the sale or possession of tobacco or tobacco related devices;

(2) That the applicant, its managers or employees were convicted of a crime that directly relates to the sale of tobacco or tobacco related devices and have not been rehabilitated within the meaning of Minnesota Statutes, Chapter 364;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

(3) That the applicant made material misstatements of fact or omissions of fact on its present or past applications;

(4) A refusal by the applicant or its managers or employees to cooperate with the police in any investigation of unlawful tobacco sales.

Section 6. That Section 11-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-7. Sales from vending machines prohibited.

No person shall sell or offer for sale any cigarettes from a vending machine or other mechanical device. The presence of a cigarette vending machine containing cigarettes on any business premises other than that of a supplier, repairer or distributor of cigarette vending machines shall constitute prima facie evidence of such business offering for sale cigarettes through the use of a vending machine.

Section 7. That Section 11-8 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-8. Sales to minors prohibited.

(a) No person, or any clerk, servant, employee or agent of any such person, directly or indirectly, upon any pretense or by any mechanical device, shall sell, exchange, barter, dispose of or give away, to any person below the age of 18 years, any tobacco or tobacco related devices;

(b) It shall be the affirmative duty of every seller of tobacco or tobacco related devices to ascertain the age of every prospective purchaser who reasonably appears to be 19 years of age or less;

(c) Proof of age for purchasing tobacco or tobacco related devices may be established only by one of the following:

(1) A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States department of defense; or

(3) In the case of a foreign national, from a nation other than Canada, by a valid passport;

(d) In a prosecution under this section, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (c) in selling, bartering, furnishing, or giving the tobacco or tobacco related devices.

Section 8. That Section 11-9 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 11-9. Smoking by minors, possession or purchase of tobacco prohibited.

(a) The smoking of cigarettes or other use of tobacco within the city by any person below the age of 18 years is hereby prohibited. Any person of such minor age found smoking cigarettes or using tobacco shall be guilty of a misdemeanor;

(b) No person under 18 years of age shall possess any tobacco or tobacco related devices on his or her person;

(c) No person under 18 years of age shall purchase, attempt to purchase, or conspire to have another person purchase for him or her any tobacco or tobacco related devices.

Section 9. That a new Section 11-10 be added to Chapter 11 of the Duluth City Code, 1959, as amended, to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Sec. 11-10. Self-service merchandising.

No person shall offer for sale single packages of tobacco in open displays which are accessible to the public without the intervention of a store employee. Cartons and other multi-pack units may be offered and sold through open displays accessible to the public.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 24, 1996)

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

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 6

Nays: Councilors Bohlmann and Hales -- 2

Absent: Councilor Talarico -- 1

Passed October 15, 1996
Approved October 15, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9315

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-C, TO R-2, PROPERTIES LOCATED ON THE NORTHWEST CORNER OF MYRTLE STREET AND BASSWOOD AVENUE.

The city of Duluth does ordain:

Section 1. That Plate No. 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:

[MAP]
[refer to page 487]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 24, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 8

Nays: None -- 0

Absent: Councilor Talarico -- 1

Passed October 15, 1996
Approved October 15, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, October 21, 1996, 7:45 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Absent: Councilor Hogg -- 1

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MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

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 26, 1996, with Melanie Rotz, manager.

Resolution 96-0933 was unanimously adopted.

Approved October 21, 1996

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 7:50 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 28, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Absent: None -- 0

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The minutes of council meetings held on March 4, 18 and 25, 1996, were unanimously adopted.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1028-02 Arrowhead Equipment Company, by Neal J. Hessen, attorney, petitioning for vacation of a portion of the plat restriction restricting access from Carlton Street to Lot 1, Block 3, Twin Ports Truck Center Division. -- Assessor

96-1028-01 Junior L. Carlson, et al. (four signatures), petitioning for construction of a sanitary sewer on the south side of Grand Avenue from 84th Avenue West to 250 feet southwesterly. -- Assessor

96-1028-03 LeRoy L. Jaeger petitioning for vacation of existing alley right-of-way adjacent to the northwest corner of Myrtle Street and Basswood Avenue, Duluth Heights. -- Assessor

96-1028-05 St. Louis County Board of Commissioners submitting Resolution No. 811 regarding proposal to create Tax Increment Financing District No. 18 (Cirrus Development Corporation, Phase II) (96-0926R). -- Received

96-1028-04 Robert and Theresa Harry appealing the planning commission decision on a variance for 12920 Water Street. -- Committee 2 (planning)

96-1028-06 The following submitted communications regarding variance appeal by William B. Scalzo of 2430 East Third Street (96-0878R): (a) Mark A. Fugelso; (b) Cheryl A. Hable; (c) Gordon J. and Patricia A. Harvieux. -- Received

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REPORTS OF OFFICERS

96-1028-07 Assessor submitting letter of sufficiency regarding construction of a sanitary sewer on the south side of Grand Avenue from 84th Avenue West to 250 feet southwesterly. -- Received

96-1028-08 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from St. Mary's Medical Center at the DECC. -- Received

96-1028-09 Purchasing agent submitting emergency purchase order for demolition and debris removal for 209 Pittsburg Avenue awarded to Salo Trucking Company. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-1028-10 Alcoholic beverage board minutes of: (a) August 21; (b) September 5; (c) September 18, 1996, meetings. -- Received

96-1028-11 Board of zoning appeals minutes of September 24, 1996, meeting. -- Received

96-1028-12 Charter commission minutes of July 10, 1996, meeting. -- Received

96-1028-13 Citywide citizens advisory committee minutes of October 8, 1996, meeting. -- Received

96-1028-14 Duluth airport authority: (a) Minutes of September 17, 1996, meeting; (b) Balance sheet of August 31, 1996. -- Received

96-1028-15 Duluth housing trust fund board: (a) Minutes of: (1) August 8; (2) September 12, 1996, meetings; (b) September 30, 1996, budget report and balance sheet. -- Received

96-1028-16 Duluth SRO housing commission minutes of August 14, 1996, meeting. -- Received

96-1028-17 Heritage preservation commission minutes of September 11, 1996, meeting. -- Received

96-1028-18 Lawful gambling commission minutes of: (a) August 13; (b) September 10, 1996, meetings. -- Received

96-1028-19 Parking commission minutes of October 1, 1996, meetings. -- Received

96-1028-20 Spirit Mountain recreation area authority minutes of August 19, 1996, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Richard Gottschald commented upon a large sewer back up at his residence, noting that the city has been doing street repairs there and feels that city and the contractor are responsible.

City Attorney Dinan responded to councilors' questions as to the initial review by the city's claims adjuster, the contractor and the contractor's insurance company as to the responsible party. Mr. Dinan stated that the initial report show that there was no breakage on the cities part of the lines.

Councilor Keenan requested that the administration work with Mr. Gottschald to see who the responsible party would be for this breakage.

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RESOLUTIONS TABLED

Councilor Wheeler moved to remove Resolution 96-0700 approving the purchase of microcomputers from the table, which motion was seconded and carried on the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: Councilors Bohlmann and Hales -- 2

Councilor Wheeler reviewed the background of this issue, noting the various options that the administration presented.

Councilor Hales noted that very few councilors are using the existing voice mail and that very few of her constituents are using personal computers. She suggested using other options, such as possibly councilors having computers available to them in City Hall or to have fax machines.

Councilor Hogg expressed concern over the cost of laptops and the range of experience/training that the councilors have. He further supported the option from the administration of providing hardware/software for council members individual needs.

Councilor Bohlmann felt that there was a need for the council to go a little slower in that City Hall isn't totally "online" yet, questioning whether this is practical at this time. Councilor Bohlmann also questioned the rational of the portable computers in that they could be damaged or stolen easier and the higher costs.

Councilor Hardesty pointed out that this equipment purchased would be city property and intended to be returned when the councilor leaves office. She felt there needs to be some flexibility for each councilors individuals needs, but that the laptops are what she would be interested in using.

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Councilor Talarico reviewed that the administration supported that one type of unit would be the same for all and that it would be easier for the administration to teach us. He noted that it will take a while for everyone to be brought up to the same level of knowledge. Councilor Talarico reviewed the advantages of the laptop, in that they could use it at their work sites, council chambers or even at the National League of Cities meetings. Even though he supported acquiring the necessary computer needs that each individual councilor would prefer, he fully understood the administrations preference for standardization.

President Prettner Solon stated that her schedule doesn't allow her large amounts of time to use desk top models and stated that she would use the laptop at various time of the day.

Councilor Keenan stressed the need for consensus to work together to get started.

Councilor Hogg moved to amend the resolution to in affect provide hardware/software for each council member's individual needs, which motion was seconded.

Councilor Hogg stated that he felt that if was important to use the least costly method, to prove that councilors are using the equipment and to show that it is helpful.

Councilor Hardesty questioned if this amendment could be done right now, without a Charter change.

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

Yeas: Councilors Bohlmann, Hales and Keenan -- 3

Nays: Councilors Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner Solon -- 6

Councilor Wheeler moved to call the question on the amendment, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hogg, Rapaich, Talarico, Wheeler and President Prettner Solon -- 5

Nays: Councilors Bohlmann, Hales, Hardesty and Keenan -- 4

There being no further discussion, Councilor Hogg's amendment failed upon the following vote:

Yeas: Councilors Hardesty, Hogg, Rapaich and Wheeler -- 4

Nays: Councilors Bohlmann, Hales, Keenan, Talarico and President Prettner Solon -- 5

Resolution 96-0700 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the purchase of microcomputer hardware for councilor use be approved with the following specifications: microcomputer hardware to be ordered as needed from Ameridata following specifications of the state of Minnesota Contract M-1275, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B662; equipment costs not to exceed \$28,200.

BE IT FURTHER RESOLVED, that hardware and software to communicate with the city of Duluth network system will be provided including computer, modem and software to support electronic mail, Internet access and word processing.

NOW, THEREFORE, BE IT RESOLVED, that the computer purchased under this resolution is the property of the city of Duluth, and is insured under the general liability coverage held by the city. Equipment will be returned to the city at the end of a councilor's term.

Resolution 96-0700 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Councilor Hales moved to remove from the table Resolution 96-0868, rescinding no parking on both sides of Greysolon Place from 31st Avenue East to Congdon Park Drive, which motion was seconded and carried.

Councilor Wheeler reviewed that he has discussed this issue with the residents, and that they would prefer to have parking on the upper side only.

To President Prettner Solon's inquiry Public Works Director Richard Larson stated that while his department would prefer alternate side parking, that they could accept parking on the upper side. Mr. Larson reviewed that the street parking in this area is only during the week when school is in session, therefore evening snow plowing shouldn't be affected.

Mr. Dinan noted that if the council wishes to have parking on the upper side, that it would be better that the resolution be returned to the administration and a new resolution be drafted.

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

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MOTIONS AND RESOLUTIONS

BY COUNCILOR WHEELER:

RESOLVED, that pursuant to Minnesota Statutes, Section 118A.02, Subd. 1, the city council hereby authorizes the director of finance or designee to designate depositories of city funds and to make investments of city funds under Minnesota Statutes, Sections 118A.01 to 118A.06.

RESOLVED FURTHER, that this resolution shall become effective on January 1, 1997.

Resolution 96-0854 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the assessment roll levied to defray the assessable portion of demolition assessments (Contract No. 5294) be and the same is hereby confirmed.

Resolution 96-0920 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0943, by Councilor Wheeler, authorizing execution of an agreement with the Canal Park Merchants Association, was introduced for discussion.

Councilor Keenan moved to amend the resolution changing the word "Christmas" to "holiday," which motion was seconded and carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Resolution 96-0943, as amended, was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Canal Park Merchants Association, under which the city will reimburse such business association for the purchase of holiday lighting and tree lighting in exchange for certain services, which agreement is on file in the office of the city clerk as Public Document No. 96-1028-21, at

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a cost to the city of not to exceed \$7,400, which shall be paid from the Economic Development Fund 255.

Resolution 96-0943, as amended, was unanimously adopted.

Approved October 28, 1996

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 of indebtedness and general obligation tax increment bonds for the following purposes:

c. \$1,960,000 General Obligation Equipment Certificates of Indebtedness, Series 1996C (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;

d. \$1,285,000 General Obligation Tax Increment Bonds, Series 1996D (the "Bonds"), are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Section 469.178, Subd. 2, and Chapter 475, for the purpose of providing funds to pay part of the public development costs associated with the improvement and expansion of Bayfront Park located in Duluth Development District No. 17.

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 subsequent resolutions of this City Council.

Resolution 96-0948 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that pursuant to Section 2-15 of the Duluth City Code, 1959, as amended, the following rates are hereby set for copies of material and printed material furnished to persons or organizations by the city clerk's office.

Council minutes (monthly)	\$ 5
Council proceedings - bound (annual)	\$ 50
Meetings audio tapes (per tape)	\$ 5
(committee meetings, agenda sessions, council meetings and/or	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

public hearings)
Legislative Code - complete set
disk (two disks) \$100
hard copy (three ring binder
included) \$200
Legislative Code supplement - changes only
disk \$ 50
hard copy \$100

RESOLVED FURTHER, that all prior resolutions setting fees for copies of the above listed items are hereby rescinded.

Resolution 96-0894 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Ray Dahl Construction, Inc., be and hereby is awarded a contract for the reconstruction of the ore boat play structure at Park Point for the city architect division in accordance with specifications on its low specification bid of \$38,130, terms net, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994, Object C410.

Resolution 96-0900 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Hogg -- 1

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Billman's Construction, Inc., be and hereby is awarded a contract for construction of the city of Duluth firing range building in accordance with specifications on its low specification bid of \$89,069, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C427.

Resolution 96-0929 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
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East End Hockey	Midway Bar	October 18, 1996
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Resolution 96-0935 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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, 1997, subject to departmental approvals:

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, with Donald Bleau, president; Michael J. Paulucci, 75 percent stock, treasurer; Andy Borg, 25 percent stock, CEO/secretary; transferred from Angie's Cantina, Inc. (Little Angie's Cantina), same address.

Resolution 96-0936 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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, 1997, subject to departmental approvals, and the payment of property and sales taxes, and further subject to approval of the liquor control commissioner:

Grandma's Sports Bar & Grill, Inc. (Grandma's Sports Garden), 425 Lake Avenue South, transferred from John Goldfine, 105 Holiday Center, with Grandma's, Inc., 100 shares; Andy Borg, Jr., CEO; Don Bleau, president; Brian Daugherty, vice president; Joe Bennett, vice president; Paul Javorina, treasurer; Ronald Anderson, secretary.

Resolution 96-0937 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Henke Manufacturing Corporation be and hereby is awarded a contract for furnishing and delivering a motor grader cable wing for the fleet service division in accordance with specifications on its low specification bid of \$8,156.84, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1563, Object E536.

Resolution 96-0939 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that resolution 96-0702, adopted on August 12, 1996, is hereby amended to decrease the number of representatives from church groups on the storm water management utility task force from two to one and to add one representative from the Western Lake Superior Sanitary District to such task force.

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

STORM WATER MANAGEMENT UTILITY TASK FORCE

Michael Talarico, city official.
John Hoban, ISD 709.
Kathy Hermes, private schools.
Ted Lee, church group.
Rod Saline and Craig Carlson, business community.
Mark Jeronimus and Michael Garey, small business.
Peter Bowman and James Doyle, apartment owners.
Buckley Simmons, car dealer.
Thomas Kennedy, port authority.
Jack Ezell, WLSSD.
Henry Storms, airport.
Jim Foldesi, St. Louis County.
John Thomas, environmental group.
Resolution 96-0925 was unanimously adopted.
Approved October 28, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0927, by Councilor Bohlmann, confirming appointments of Kathleen Bushey and Lee Gittleman to animal humane board replacing Gerald Anderson and Jeffrey Urbaniak, was introduced for discussion.

Mr. Larson, acting administrative assistant, requested that this resolution be referred back to the administration for review.

Councilor Keenan move that the resolution be referred back to the administration, which motion was seconded and carried by the following:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 8

Nays: Councilor Bohlmann -- 1

- - -

BY COUNCILOR BOHLMANN:

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

PARK AND RECREATION BOARD

Laurie Berner-Uggla for a term expiring February 13, 1999.
Gene Johnson McKeever for a term expiring February 13, 1999, replacing John Serre.
Resolution 96-0928 was unanimously adopted.
Approved October 28, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DULUTH PUBLIC ARTS COMMISSION

Ann Klefstad, Mavis Whiteman and Fred Youngstrand for term expiring September 30, 1999.
Resolution 96-0934 was unanimously adopted.
Approved October 28, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proper city officers are hereby authorized to employ Karen Ray Associates to provide a training session for department directors at a cost of \$275, which shall be paid from the General Fund 100-015-1510-5334.

Resolution 96-0950 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Resolutions 96-0878 and 96-0879, by President Prettner Solon, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request to relax the interior side yard lot setback from three feet to zero feet for construction of a 22 feet by 24 feet detached garage on property located at 2430 East Third Street, were introduced for discussion.

President Prettner Solon reviewed that the planning committee met and that there is a unanimous recommendation for Resolution 96-0878.

The rules were suspended to hear speakers on the resolutions.

Gordon Harvieux voiced support for Resolution 96-0878 noting that it protects the neighborhood from building up to property lines and that 19 neighbors also supported this and referred to his communication (Public Document No. 96-1028-06).

Cheryl Hable stated that she is the other adjacent neighbor and that her accessibility would be adversely affected and that there is a minimum area for snow placement. She also stated that there are utility vehicles that need to use the easement to access other properties and that beautiful trees would have to be taken down.

Resolution 96-0878 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, William Scalzo has appealed to the city council the decision of the board of zoning appeals to deny a request to relax the interior side yard lot setback from three feet to zero feet for construction of a 22 foot x 24 foot detached garage on property located at 2430 East Third 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 22 foot x 24 foot detached garage zero feet from the interior side yard lot property line 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 August 27, 1996, is hereby affirmed by the city council, and the appeal is denied.

Resolution 96-0878 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0879 was referred back to the administration.

- - -

Resolution 96-0921, by President Prettner Solon, granting an amendment to a special use permit to Steve Paulson for expanding of a mini storage facility in a S zone for property located at the southeast corner of Norton Road and Rice Lake Road, was introduced for discussion.

President Prettner Solon stated that the planning division and herself are recommending against this resolution, while the planning commission supported it.

Councilor Keenan moved to table the resolution for more information, which motion was seconded and carried.

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, Mike Ives and Dave Goldberg have submitted to the city council a request for an amendment to a special use permit for expansion of the open storage portion of a mini storage facility in an "S" suburban district on property described as the west 675.00 feet of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 11, T49N, R15W, of the 4th Principal Meridian, lying NE'ly of the existing centerline of U.S. Highway No. 2 and located at the northeast corner of Boundary Avenue and U.S. Hwy. No. 2; and said permit 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 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 an amendment to special use permit granted pursuant to Resolution No. 91-0728, dated September 16, 1991, is hereby granted to Mike Ives and Dave Goldberg to allow the expansion of the open storage area portion of the mini storage facility at the northeast corner of Boundary Avenue and U.S. Hwy. No. 2, on the condition that expansion be limited to that shown on the amended site plan by Salo Engineering, Inc., entitled "Mike Ives Realty" dated July, 1996, as identified as Public Document No. 96-1028-25 with the following condition:

that landscaping be provided along the chain link fence and the access road, as well as five feet in width inside the fence, running northwesterly from the "proposed gate" to the edge of the existing bituminous surface. This landscaping is to consist of evergreen and deciduous trees of not less than five feet in height or 2-1/2 inch caliber, spaced not more than 30 feet apart. Said landscape planting plan to be approved in writing by the planning department prior to the issuance of permits for the facility.

Resolution 96-0922 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0924, by President Prettner Solon, approving the 1997 action plan of the consolidated plan, authorizing a request for HUD federal community development grant (CDBG) funds, HUD HOME funds and HUD emergency shelter grant program funds for the 1997 program as well as approving the reallocation of certain prior CDBG funds, was introduced for discussion.

President Prettner Solon reviewed at length the substance of the resolution.

Councilors Hogg, Hales and Bohlmann felt that there wasn't adequate time to discuss the changes and have input.

Pam Kramer, manager of the community development and housing division, reviewed at great length the public notice that was given and the process that has been followed up to this point.

Councilor Hogg move to separate out the 1997 action plan and vote on that separately, which motion was seconded and unanimously carried.

Resolution 96-0924(a) was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, regulation 24 CFR Part 91 issued by the United States department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD approved five year consolidated plan for the city of Duluth; and

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 - ESP - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the "FY97 Action Plan" portion of 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.

Resolution 96-0924(a) was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0924(b) was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, regulation 24 CFR Part 91 issued by the United States department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD approved five year consolidated plan for the city of Duluth; and

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, establishes a community 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Steward B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESP - 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:

1997 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6001	\$800,000	HRA housing rehabilitation
6002	388,000	CAP weatherization - regular program
6003	75,000	CAP weatherization - sliding fee
6004	300,000	Neighborhood Housing Service (NHS) neighborhood revitalization
6005	75,000	SVCNDA West Duluth housing revitalization
6006	50,000	East Hillside HARP program
<u>PHYSICAL IMPROVEMENTS</u>		
6007	\$309,000	West Duluth streets and sewers
6008	140,000	Morgan Park Goodfellowship Community Center - Phase II
6009	114,000	Lincoln Park Business District streetscape
6010	75,000	Duluth Community Health Center expansion
6011	70,000	Hillside Sport Court
6012	60,000	Endion/East Hillside sidewalk safety
6013	50,000	CHUM Drop-In Center improvement
6014	15,000	Central Hillside mid-block lighting
6015	10,000	Portland Square tree project
6016	1,000	West Duluth sidewalk safety
<u>ECONOMIC DEVELOPMENT</u>		
6017	\$115,000	North Star Community Development Corp. (NSCDC)
6018	75,000	N/E Entrepreneur Fund - microenterprise program
6019	36,000	Project SOAR economic self-sufficiency
<u>PUBLIC SERVICE PROJECTS</u>		
6020	\$ 80,000	Boys/Girls Club youth & family center
6021	80,000	Duluth hunger project
6022	60,000	Duluth Community Health Center - youth and seniors
6023	60,000	YWCA Kids Corner - East Hillside/Endion

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

6024	45,000	YWCA Kids Corner - Central Hillside
6025	40,000	Neighborhood Youth Service (NYS)
6026	38,000	Women's Transitional Housing Coalition
6027	33,000	Salvation Army Family transitional housing
6028	28,000	Life House youth center
6029	23,000	Tenants Union - MN Clients Council
6030	15,000	YMCA mentoring program
6031	13,000	American Indian Community transitional housing
6032	9,000	Playfair Discovery Center
6033	1,000	Truancy Action Project (TAP)

ADMIN/PLANNING/CONTINGENCY

6034	\$121,579	Program administration
6035	80,000	Neighborhood Planning
6036	15,421	Contingency

\$3,500,000 Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 20 (1997) CDBG grant - city - estimated	\$3,500,000
Year 1 (1993) CDBG grant - city/county	2,480
Year 2 (1994) CDBG grant - city/county	161,330
Year 3 (1995) CDBG grant - city/county	13,611
Year 19 (1996) CDBG grant - city	16,000

Total \$3,693,421

BE IT FURTHER RESOLVED, that city council Resolution 96-0712 passed on August 12, 1996, is hereby rescinded in order that funds allocated for the Duluth Bethel Society (Port Rehabilitation Center) project can be reprogrammed as set forth below.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to make the following transfers in prior year community development accounts:

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	\$ 59,712	-2,480	\$ 57,232
6180	Program administration	281,095	+2,480	283,575

Year 2 (1994) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6257	East Hillside streets/sewers	\$112,500	- 10,356	\$102,144
6258	West Duluth streets/sewers	476,000	- 41,024	434,976
6264	Port Rehab Center (Bethel)	99,000	- 99,000	-0-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

6286	Contingency	10,950	- 10,950	-0-
6284	Program administration	275,000	+161,330	436,330

Year 3 (1995) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6355	Neighborhood Housing Service	\$242,000	- 4,630	\$237,370
6360	Central Hillside stair project	43,000	- 7,981	35,019
6377	Men's transitional housing	1,000	- 1,000	-0-
6383	Program administration	262,647	+13,611	276,258

Year 19 (1996) CDBG Program - 262 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6912	Bethel Society (Port Rehab Ctr)	\$ 15,000	-15,000	-0-
6930	Men's transitional housing	1,000	- 1,000	-0-
6933	Program administration	305,000	+16,000	\$321,000

\$193,421 - total amount reprogrammed

BE IT FURTHER RESOLVED, per citywide citizens advisory committee (CCAC) recommendation, that the proper city officers are hereby authorized to make the following transfer in prior year community development accounts:

Year 1 (1993) CDBG Program - 263 Fund

<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6382	Legal aid housing project	\$1,000	+3,257	\$4,257
6385	Contingency	3,257	-3,257	-0-

BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

1997 HOME PROGRAM

Funds to be distributed by local formula (shown by percentages). The following assumes Duluth will receive \$646,000 for FY97:

- A. Tenant-based rental assistance / 20.3%: \$131,000
- B. Single-family homeowner property rehabilitation / 49.5%: \$320,000
- C. Set aside for community housing development organizations:
 - Project fund (affordable rental and homeowner acquisition; rehab and new construction) /20.9%: \$135,000
 - Project-specific assistance / 2.3%: \$15,000
- D. Program administration
 - Tenant-based rental assistance program / 2.9%: \$19,000
 - General HOME program / 4.0%: \$26,000

1997 ESG program

Funds to be distributed by local formula once FY97 allocation is received from HUD. The following allocation assumes Duluth will receive \$90,000 for FY97:

- A. Operations (e.g., rent, utilities, equipment, maintenance, staffing) of emergency or transitional housing / \$63,000
- B. Renovation and conversion (for emergency shelters and transitional housing units / \$18,000

C. Essential social services (for the prevention of homelessness) / \$9,000.

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.

Resolution 96-0924(b) was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering two golf course greens mowers for the golf courses in accordance with specifications on its low specification bid of \$26,563.23, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object E623.

Resolution 96-0917 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Minnesota National Guard Armory be and hereby is awarded a contract for providing approximately 288 hours of volleyball court space for the parks and recreation department in accordance with specifications on its low specification bid of \$8,064, terms net 30, FOB destination, payable out of Special League Fund 790, Dept./Agency 400, Object 5412.

Resolution 96-0930 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement filed as Public Document No. 94-1011-11, granting to Jeff Wallace in consideration for undertaking the obligation of performing the services set forth in the agreement, the right to occupy the living quarters at the Lester Park golf clubhouse for a net rental of \$100 per month.

Resolution 96-0932 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are authorized to pay to Shelley Neumann the sum of \$55,000 in full and final settlement of the claim which arose out of her termination from employment on September 26, 1991; payment to be made from the self insurance fund.

Resolution 96-0945 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HARDESTY:

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. 96-1028-23, 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 96-0923 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Capp, Inc., be and hereby is awarded a contract for furnishing and delivering Bryant Carrier furnace repair parts for the gas service division in accordance with specifications on its low specification bid of \$19,913.47, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 96-0931 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that Anderson Fuel and Lubricants be and hereby is awarded a contract for furnishing and delivering 18 55-gallon drums of nontoxic hydrant antifreeze for the water and gas department in accordance with specifications on its low specification bid of \$6,884.91, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0938 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Premier Lawn Service be and hereby is awarded a second year of a potential three year 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 \$25,000, terms net 30, FOB job sites, approximately \$10,000 payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5441 and \$15,000 payable out of 1997 budget General Fund 100, Dept./Agency 500, Organization 1950, Object 5441.

BE IT FURTHER RESOLVED, that the proper city officials may renew this contract for an additional snow season (third year of a three year contract) subject to budget approval and the agreement of both parties.

Resolution 96-0940 was unanimously adopted.

Approved October 28, 1996

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 \$50,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 96-0942 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Peter J. Patchin & Associates for professional appraisal services in connection with Duluth Dumpsite No. 1, which agreement shall be substantially in the form of Public Document No. 96-1028-24, on file in the office of the city clerk, at a cost to the city of not to exceed \$7,500, which shall be payable from the self insurance fund.

Resolution 96-0944 was unanimously adopted.

Approved October 28, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the first time:

BY PRESIDENT PRETTNER SOLON

96-039 - AN ORDINANCE AMENDING ORDINANCE 8977, AS AMENDED BY ORDINANCES 9072 AND 9189, CHANGING ITS SUNSET DATE TO TEN YEARS (MOUNT ROYAL PINES APARTMENTS).

- - -

BY PRESIDENT PRETTNER SOLON

96-040 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 4 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-2, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED EAST OF COMMONWEALTH AVENUE SOUTH OF THE FORMER NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY (AAMODT AND ENVALL).

The rules were unanimously suspended to hear a speaker on this ordinance.

Ed Aamodt requested the council's support for passage of the ordinance.

- - -

BY COUNCILOR HALES

96-042 - AN ORDINANCE REQUIRING CITY COUNCILORS TO FILE STATEMENTS DISCLOSING POSITIONS AS OFFICERS OR BOARD MEMBERS OF NONPROFIT ORGANIZATIONS AND MEMBERSHIP ON BOARDS, COMMISSIONS AND AUTHORITIES, ADDING A NEW SECTION 2-56.1 TO THE CITY CODE.

- - -

The following ordinances were read for the second time:

BY COUNCILOR WHEELER

96-041 (9317) - AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1997 ACTION YEAR.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY PRESIDENT PRETTNER SOLON

96-038 (9316) - AN ORDINANCE REQUESTING RECLASSIFICATION AND ACQUISITION OF CERTAIN PROPERTY ON PARK POINT FROM ST. LOUIS COUNTY FOR \$7,794.25 AND SALE THEREOF TO ELIZABETH GEORGE AND DALE SOLA IN A LIKE AMOUNT, SUBJECT TO RESERVATION FOR A STREET EASEMENT.

President Prettner Solon 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. 9317

BY COUNCILOR WHEELER:

AN ORDINANCE APPROPRIATING FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE 1997 ACTION YEAR.

The city of Duluth does ordain:

Section 1. Pending anticipated receipt of funds from the United States department of housing and urban development (HUD), said funds shall be appropriated to the federal program fund - community development as follows:

1997 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6001	\$800,000	HRA housing rehabilitation
6002	388,000	CAP weatherization - regular program
6003	75,000	CAP weatherization - sliding fee
6004	300,000	Neighborhood Housing Service (NHS) Neighborhood Revitalization
6005	75,000	SVCNDA West Duluth housing revitalization
6006	50,000	East Hillside HARP program
<u>PHYSICAL IMPROVEMENTS</u>		
6007	\$309,000	West Duluth streets and sewers
6008	140,000	Morgan Park Goodfellowship Community Center - Phase II
6009	114,000	Lincoln Park Business District streetscape
6010	75,000	Duluth Community Health Center expansion
6011	70,000	Hillside Sport Court
6012	60,000	Endion/East Hillside sidewalk safety
6013	50,000	CHUM Drop-In Center improvement
6014	15,000	Central Hillside mid-block lighting
6015	10,000	Portland Square tree project
6016	1,000	West Duluth sidewalk safety
<u>ECONOMIC DEVELOPMENT</u>		
6017	\$115,000	North Star Community Development Corp. (NSCDC)
6018	75,000	N/E Entrepreneur Fund - microenterprise program

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

6019	36,000	Project SOAR economic self-sufficiency
		<u>PUBLIC SERVICE PROJECTS</u>
6020	\$ 80,000	Boys/Girls Club youth & family center
6021	80,000	Duluth hunger project
6022	60,000	Duluth Community Health Center - youth & seniors
6023	60,000	YWCA Kids Corner - East Hillside/Endion
6024	45,000	YWCA Kids Corner - Central Hillside
6025	40,000	Neighborhood Youth Service (NYS)
6026	38,000	Women's Transitional Housing Coalition
6027	33,000	Salvation Army Family transitional housing
6028	28,000	Life House Youth Center
6029	23,000	Tenants Union - MN Clients Council
6030	15,000	YMCA mentoring program
6031	13,000	American Indian Community transitional housing
6032	9,000	Playfair Discovery Center
6033	1,000	Truancy Action Project (TAP)
		<u>ADMIN/PLANNING/CONTINGENCY</u>
6034	\$121,579	Program administration
6035	80,000	Neighborhood planning
6036	15,421	Congingency

\$3,500,000 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 8, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 28, 1996
Approved October 28, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9316

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE REQUESTING RECLASSIFICATION AND ACQUISITION OF CERTAIN PROPERTY ON PARK POINT FROM ST. LOUIS COUNTY FOR \$7,794.25 AND SALE THEREOF TO ELIZABETH GEORGE AND DALE SOLA IN A LIKE AMOUNT, SUBJECT TO RESERVATION FOR A STREET EASEMENT.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Section 1. That the city hereby requests the reclassification from conservation to nonconservation of the following described properties in St. Louis County, Minnesota: the easterly 75 feet of Lot 224, upper Duluth, Lake Avenue Division

Section 2. That the proper city officials are hereby authorized to purchase the aforesaid property from St. Louis County for the amount of not to exceed \$7,794.25, payable from Fund 255, subject to the execution of the agreement described in paragraph 3 below.

Section 3. 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. 96-1028-22, for the sale of the hereinbefore described property, by quit claim deed, to Elizabeth George and Dale Sola for the sum of \$7,794.25, said sum to be deposited in Fund 255, and execute all documents necessary with regard to said conveyance, subject to paragraph 4 below.

Section 4. That the conveyance of the hereinbefore described properties to Elizabeth George and Dale Sola shall be subject to the reservation over the entirety of said parcel of an easement for street and roadway purposes.

Section 5. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 8, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 28, 1996
Approved October 28, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 7, 1996, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 96-0957, by President Prettnr Solon, awarding contract to Northland Constructors of Duluth for Bayfront Landing and Slip fill in accordance with specifications on its low specification bid of \$636,945.70, was introduced for discussion.

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

Glenn Evavold, representing RREM Engineering, reviewed that because both the base bid and the addendum bid came in much lower than what was estimated, it is being recommended that filling of the slip and the extension of the storm sewer work all be done at this time.

Responding to Councilor Bohlmann, Administrative Assistant Nollenberger stated that the public had input to this issue at a prior meeting when a majority of the council supported proceeding with these improvements. He added that the planning commission will take public input at a future date regarding the public use of this area which has been dedicated for public use in perpetuity.

Responding to Councilor Hogg regarding payment of project costs, Mr. Nollenberger stated that the city share will be 80 percent and that DEDA's share will be 20 percent; and that the remaining future issue will be the moving of the stage.

Resolution 96-0957 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that Northland Constructors of Duluth be and hereby is awarded a contract for slip filling a portion of Slip No. 1 and offsite mitigation for the Bayfront Landing in accordance with specifications on its low specification bid of \$636,945.70, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1996, Object C602.

Resolution 96-0957 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved November 7, 1996

GARY L. DOTY, Mayor

- - -

The meeting was adjourned at 5:10 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 12, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1112-01 Leif and Gloria Brush petitioning for vacation of a utility easement of that part of Block 21, Rearrangement of part of East Duluth and of First Addition to East Duluth and that part of the south 1/2 of Section 13, Township 50 North, Range 14 West. -- Assessor

96-1112-17 Minnesota state auditor submitting management and compliance report of the city of Duluth for the year ended December 31, 1995. -- Received

96-1112-19 William Koski submitting letter regarding the proposed removal of structurally unsound buildings (96-0973R). -- Received

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REPORTS OF OFFICERS

96-1112-02 Assessor submitting letters of sufficiency regarding petitions to:

(a) Vacate that portion of the right-of-way adjacent to Carlton Street and adjacent to Lot 1, Block 3, Twin Ports Truck Center Division;

(b) Vacate existing alley right-of-way adjacent to the property located on the northwest corner of Myrtle and Basswood Avenue, Duluth Heights. -- Received

96-1112-03 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (bingo) from St. Benedict's Church. -- Received

96-1112-18 Community development and housing division submitting: (a) HRA report for the CD-funded housing rehabilitation program for August 1996; (b) 1997 CDBG program final allocation summary sheets. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-1112-04 Planning commission minutes of: (a) September 10; (b) October 8, 1996, meetings. -- Received

96-1112-05 Seaway Port authority of Duluth: (a) Minutes of August 6, 1996, meeting; (b) June 30, 1996, financial statements; (c) June 1996 balance sheet and income statement; (d) July 17, 1996, combined summary. -- Received

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At this time, 8:00 p.m., President Prettnr Solon stated that the public hearing (Public Document No. 96-1112-20) regarding leasehold cooperative status for Washington Studios Cooperative would begin.

- - -

At this time, 8:15 p.m., President Prettnr Solon adjourned the public hearing and the regular order of business was resumed.

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President Prettnr Solon moved to consider at this time, Resolution 96-0953, making statutory findings regarding leasehold cooperative status for Washington Studios Cooperative, which motion was seconded and unanimously carried.

Resolution 96-0953 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, Washington Studios Limited Partnership, a Minnesota limited partnership (the "partnership"), owns and has rehabilitated a portion of the former Washington Junior High School site to provide housing to certain persons of low income within the city of Duluth (the "city"); and

WHEREAS, said housing development (the "studios") has been leased to Washington Studios Cooperative, a Minnesota cooperative corporation (the "cooperative"); and

WHEREAS, the city recognizes the need for safe, clean, and affordable housing within the city limits; and

WHEREAS, homestead classification of the property as a leasehold cooperative for purposes of real property taxes is an integral part of making such housing affordable; and

WHEREAS, pursuant Section 273.124, Subd. 6, governing leasehold cooperatives requires that the city hold a public hearing and make certain findings with regard to the property for which leasehold cooperative status and homestead classification is sought.

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

(a) That the granting of the homestead treatment of the units in the studios will facilitate safe, clean, affordable housing for members of the cooperative that would otherwise not be available absent the homestead designation;

(b) That the partnership has presented information satisfactory to the city showing that the savings garnered from the homestead designation of the units in the studios will be used to reduce tenants' rents or provide a level of furnishing or maintenance not possible absent the designation;

(c) That the cooperative has leased the studios from the partnership for a term of more than 20 years pursuant to a certain master lease agreement which permits that the cooperative, while not in default under the master lease, to participate materially in the management of the studios, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent;

(d) That a minimum of 40 percent of the cooperative's members had incomes, at the time they acquired their membership in the cooperative, at or less than 60 percent of area median gross income as determined by the United States secretary of housing and urban development under Section 142(d)(2)(B) of the Internal Revenue Code of 1986, as amended through December 31, 1991;

(e) That public financing was received for the studios from (i) tax increment financing used for acquisition and rehabilitation of the Studios; (ii) low income housing credits under Section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1991; and (iii) HOME block grants.

FURTHER RESOLVED, that the city hereby requests that homestead classification be granted to the studios as a leasehold cooperative.

Resolution 96-0953 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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RESOLUTION TABLED

President Prettner Solon moved to remove from the table, Resolution 96-0921, granting an amendment to a special use permit to Steve Paulson for expanded use of a mini storage facility in an "S" zone for property located at the southeast corner of Norton Road and Rice Lake Road, which motion was seconded and unanimously carried.

President Prettner Solon moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Steve Paulson spoke in support of the resolution.

President Prettner Solon stated that she opposes this resolution because she believes it will set a precedent.

Councilors Keenan and Hardesty supported the resolution because it was approved by the planning commission and staff.

Resolution 96-0921 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, Steven E. Paulson has submitted to the city council a request for an amendment to a special use permit for mini storage in an "S" suburban zone on property described as: all that part of the NW1/4 of the SW1/4 of the SW1/4, 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 4514 Rice Lake 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 an amendment that a special use permit granted pursuant to Resolution No. 95-0843, dated September 18, 1995, is hereby granted to Steven E. Paulson to allow for the display of one used vehicle for sale on that portion of the above described property located at 4514 Rice Lake Road, as identified on Public Document No. 96-1112-06, for a period of one year, not to be extended, from the effective date of this resolution.

Resolution 96-0921 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich and Wheeler -- 7

Nays: Councilor Talarico and President Prettner Solon -- 2

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

Resolution 96-0909, by Councilor Wheeler, authorizing execution of a memorandum of understanding with the Duluth economic development authority (DEDA) relating to participation by the Duluth economic development authority in the city of Duluth self insurance fund program, was introduced for discussion.

Responding to Councilor Bohlmann, City Attorney Dinan stated that this issue relates to a claim caused by an action of DEDA and that the intent is to establish an appropriate premium for the level of risk.

Councilor Bohlmann felt that DEDA should pay for their own liabilities by having their own self insurance program.

Councilor Hogg reviewed that it was decided that DEDA would perform certain functions of economic development as the city's representative and that he doesn't see a difference between the city and DEDA, liability-wise.

Resolution 96-0909 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute a memorandum of understanding between the city of Duluth and the Duluth economic development authority, which memorandum of understanding allows the Duluth economic development authority to participate on a temporary basis in the city of Duluth self insurance fund program, and which memorandum is on file in the office of the city clerk as Public Document No. 96-1112-07.

Resolution 96-0909 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that American Legion Lakeview Post #342 be and hereby is awarded a contract for the purchase of property located at Lester Park Fourth Division, Block 55, Lots One and Two for the city of Duluth in accordance with its acceptance of \$12,400, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 700, Organization 2726, Object I604.

Resolution 96-0958 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

WHEREAS, RSI, Inc., 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 RSI, Inc., 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 96-0960 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the civil service classification of police sergeant, which were approved by the civil service board on October 3, 1995, and which are filed with the city clerk as Public Document No. 96-1112-08, are approved. This classification remains represented by the police unit and compensated at Range 328, \$3,229 to \$3,632 per month.

Resolution 96-0869 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

WHEREAS, that the proposed amendments to the specifications for the civil service classification of assistant business developer, which were approved by the civil service board on June 4, 1996, and which are filed with the city clerk as Public Document No. 96-1112-09, are approved. This classification remains represented by the basic unit and compensated at Range 135, \$2,998 to \$3,512 per month.

Resolution 96-0870 was unanimously adopted.

Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the new specifications for the civil service classification of senior ramp worker, which were approved by the civil service board on August 6, 1996, and which are filed with the city clerk as Public Document No. 96-1112-10, are approved. This classification will be represented by the basic unit and compensated at Range 17, \$1,505 to \$1,819 per month.

Resolution 96-0871 was unanimously adopted.

Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-1112-11, to the neighborhood matching grants fund agreement with the citizens' coalition of Gary-New Duluth, extending the term of said agreement for an additional one year period at no change in project cost.

Resolution 96-0962 was unanimously adopted.

Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

Resolution 96-0964, by President Prettner Solon, supporting application of M.J. Sill Trust/ Aspen Aerials, Inc./Aspen Equipment Company for a state challenge grant, was introduced for discussion.

Councilor Wheeler stated that he will abstain from voting on the resolution because of any perceived conflict of interest that might exist.

Resolution 96-0964 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to the Rural Development Act, local units of government are required to issue a sponsoring resolution on behalf of the business requesting financing through the Northland Foundation; and

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of M.J. Sill Trust/Aspen Aerials, Inc./Aspen Equipment Co.; and

WHEREAS, it is consistent with the purpose of this governing unit to encourage employment and increase tax base.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports this application for funding on behalf of M. J. Sill Trust/Aspen Aerials, Inc./Aspen Equipment Co.

Resolution 96-0964 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico and President Prettner Solon -- 8

Nays: None -- 0

Abstention: Councilor Wheeler -- 1

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, the neighborhood matching grants fund program has been in existence for a period of two years; and

WHEREAS, the neighborhood matching grants fund city wide review team has recommended that changes be made to the neighborhood matching grants funds program guidelines; and

WHEREAS, the city desires to adopt the amended guidelines based on the city wide review team's recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the amended guidelines for the neighborhood matching grants fund program are hereby adopted.

Resolution 96-0968 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-0973, by President Prettner Solon, authorizing the building official to abate certain nuisances by removal of structurally unsound buildings in the city of Duluth, was introduced for discussion.

Councilor Hales moved to remove parcels 2, 4, 6 and 8 from the resolution, which motion was seconded and discussed.

Councilor Hales said that she drove by these properties, which are owned by the Housing and Redevelopment Authority (HRA), and she questioned why they were let to deteriorate to the point that they need to be torn down at the expense of the city. She noted that she is aware of adjoining neighbors who wish to purchase some of these properties.

Jerry Thompson, building official, stated that he has no problem with removing these properties from the list. He reviewed the lengthy procedure followed to finally remove structurally unsound buildings.

Councilors expressed concern that it appears that the HRA has not been responsible with regard to the upkeep of these properties and questioned what the process is for interested parties to purchase the properties.

Councilor Hales' amendment passed upon a unanimous vote.

Resolution 96-0973, as amended, was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

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 neighborhood; and

WHEREAS, notices of condemnation were served as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- Parcel 1 11 East Sixth Street, a.k.a. Lot 5, Duluth Proper First Division, East Sixth Street, by certified mail on James D. and Mary J. Farwell, P.O. Box 291, Duluth, Minnesota, 55801-0291, signed by Mary J. Farwell on March 22, 1996; and
- Parcel 3 19 East Fourth Street, a.k.a. E½ of Lot 9, Duluth Proper First Division, East Fourth Street, by certified mail on Joan McNamara, 17516 Sarita Avenue, Canyon County, California, 91351, signed by Joan McNamara on February 26, 1996; and
- Parcel 5 920½ East Ninth Street, a.k.a. Lots 10 & 11, Rays Annex to Portland, Block 160, Portland Division, by certified mail on Gregory J. Twilight, 2034 Columbus Avenue, Duluth, Minnesota, 55803, signed by Mary Jo Langler Twilight on March 16, 1996; and
- Parcel 7 1712 East Fifth Street, a.k.a. east 35 feet of Lot 3, Block 93, Endion Division, by certified mail on Steven Mesedahl, 1712 East Fifth Street, Duluth, Minnesota, 55812, signed by Steven Mesedahl on October 3, 1995; and
- Parcel 9 204 Piedmont Avenue, a.k.a. W 25 feet of Lot 291 and E 12½ feet of Lot 293, Block 94, Duluth Proper Second Division, by certified mail on Gerald V. Miller, 204 Piedmont Avenue, Duluth, Minnesota, 55806, signed by Candy Miller on April 1, 1996, and by legal notice in the Duluth News-Tribune to Lorne Swanstrom, address unknown, on April 4 and 5, 1996; and
- Parcel 10 910 Piedmont Avenue, a.k.a. Lots 7 and 8, Block 75, Harrisons Brookdale Division of Duluth, by certified mail on Frances M. Gunsolus, Dennis and Cathy Gunsolus, 2321 East Pioneer Road, Duluth, MN 55804, signed by Vivian Hanson on June 6, 1996, and by certified mail on Michael and Barbara DeRoche, 910 Piedmont Avenue, Duluth, Minnesota, 55806, and returned marked "unclaimed," and by legal notice in the Duluth News-Tribune to Michael and Barbara DeRoche on June 27 and 28, 1996; and
- Parcel 11 318 North 27th Avenue West, a.k.a. SLY 30 feet of Lots 430 and 432, Block 115, Duluth Proper Second Division, by certified mail on St. Louis County Auditor, c/o Scott Occhino, 320 West Second Street, Room 607, Duluth, Minnesota, 55802, signed by K. Thiersmith on December 5, 1995; and by certified mail on Mary Ann Albano, 703 North 27th Avenue West, Duluth, Minnesota, 55806, signed by Mary Ann Albano on December 5, 1995; and
- Parcel 12 14 North 39th Avenue West, a.k.a. NLY 66 feet of Lots 1 thru 4, Block 3, Harringtons Addition to Duluth, by certified mail on Alan G. Miller, 1903 Woods Lane, Burnsville, Minnesota, 55337, signed by Allen Miller, March 18, 1996; and by certified mail on Joe Kleiman, 332 North 13th Avenue East, Duluth, Minnesota, 55805, signed by Joe Kleiman on March 19, 1996; and by legal notice in the Duluth News-Tribune to Charlotte Hardt, Carolyn Hooker and Rick Miller, address unknown, on March 28 and 29, 1996; and
- Parcel 13 209 - 133rd Avenue West, a.k.a. NLY 90 feet of Lots 38 and 40, Fond du Lac, Second Street, Duluth, by certified mail on James M. Blackburn, 13302 West Third Street, Duluth, Minnesota, 55808, signed by James M. Blackburn on January 27, 1992; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- Parcel 14 831 East Third Street, garage only, a.k.a. NLY 40 feet of Lot 15 and all of Lot 16, Block 74, Portland Division, by certified mail on Robert R.W. Larson, 109 East Third Street, Duluth, Minnesota, 55805, signed by R.W. Larson on July 25, 1996; and by certified mail on Clarence Aaberg and Ruth Aaberg, 831 East Third Street, Duluth, Minnesota, 55805, and returned marked "unclaimed," and by legal notice in the Duluth News-Tribune to Clarence Aaberg and Ruth Aaberg on August 22 and 23, 1996; and
- Parcel 15 113-115 West First Street, concrete block and brick garage only, a.k.a. Lot 23 except WLY 51/100 feet of SLY 74 39/100 feet, Duluth Proper, First Division, West First Street, by certified mail on Florian Wizner, 2116 West 22nd Street, Duluth, Minnesota, 55811, signed by Flor Ann Wizner on March 18, 1996.

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 96-0973, as amended, was unanimously adopted.
Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Marshall School under which the city would contribute \$1,000 to Marshall to assist with resurfacing of the tennis courts on the school's property, which agreement is on file in the office of the city clerk as Public Document No. 96-1112-12, payment of such sum to be made from the General Fund 100-015-1514-aid to other agencies.

Resolution 96-0963 was unanimously adopted.
Approved November 12, 1996
GARY L. DOTY, Mayor

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Resolution 96-0967, by Councilor Keenan, authorizing the city to enter into an agreement with Independent School District No. 709 for the providing of chemical health specialist services in conjunction with the juvenile alcohol/curfew offender program in an amount not to exceed \$6,002, was introduced for discussion.

Councilor Hardesty stated that she will be abstain from voting on the resolution because of any perceived conflict of interest because of her employment.

Resolution 96-0967 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized and directed to execute the agreement filed as Public Document No. 96-1112-13, with Independent School District No. 709 for the providing of chemical health specialist services in an amount not to exceed \$6,002, to be paid from Fund 268, Budget Item 6258.

Resolution 96-0967 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: None -- 0

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Abstention: Councilor Hardesty -- 1
Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute a cooperative construction agreement with the state of Minnesota, department of transportation, for the following purposes, to-wit: to provide for payment by the state to the city of the costs of the water hydrant construction and other associated construction to be performed upon, along and adjacent to London Road at Tenth Avenue East and 150 feet easterly of 12th Avenue East within the corporate city limits under State Project No. 6982-254 (T.H. 35-395), said agreement to be in the form of Public Document No. 96-1112-14, on file in the office of the city clerk.

Resolution 96-0954 was unanimously adopted.
Approved November 12, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering 171 cast transitional couplings for the water and gas department in accordance with specifications on its low specification bid of \$8,348.41, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0955 was unanimously adopted.
Approved November 12, 1996
GARY L. DOTY, Mayor

- - -

Resolutions 96-0969 and 96-0972, by Councilor Hogg, establishing fixed charge water rates effective with meter readings after January 1, 1997; and establishing revised natural gas rates effective with meter readings after January 1, 1997, and rescinding all prior inconsistent or conflicting resolutions with respect to such rates, were introduced for discussion.

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

Lyle Winters, executive vice president of the Minnesota Senior Coalition, stated that his organization has not formally reviewed the proposed changes and is unable to take a position at this time. He requested further time to study the issue. Mr. Winters questioned what affect, if any, this will have on WLSSD's "user charge" on individual bills.

Rodd Ward opposed using the gas bill reduction for road improvement and questioned why WLSSD is raising the sewer bill to the city. He made the following cost cutting suggestions as alternatives to an increase of water rates: centralize supply storage, reduce professional services, reduce number of city employees, closer coordination with street repair operations, increased utilization of Fond-du-Luth Gaming Casino receipts and a tax on gas sales.

Administrative Assistant Nollenberger stated that the wastewater treatment charge to the city is being raised by 2.75 percent.

Councilor Hogg agreed that it is unfortunate that fees must be raised, but called attention to the many years when rates were not increased with consequences being years of inadequate maintenance.

Councilor Hogg moved to table Resolution 96-0969, which motion was seconded and carried upon a unanimous vote.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0972 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, effective with the natural gas readings after January 1, 1997, all customers of the natural gas utility of the water and gas department of the city of Duluth, whose natural gas supply is measured by meter, shall be charged for such natural gas in accordance with the schedule of rates established by this resolution as follows:

CUSTOMER RATE SCHEDULE BASED UPON MONTHLY METERED VOLUME

	Effective January 1, 1997 Rate		Effective July 31, 1995 Rate	
FIRM SALES SERVICE				
Residential	\$ 6.00	\$0.513	\$ 4.00	\$0.525
Residential Heating	N/A	N/A	\$ 6.00	\$0.525
Commercial/Industrial Heating	N/A	N/A	\$ 7.50	\$0.525
Commercial/Industrial Small Volume	\$ 25.00	\$0.418	N/A	N/A
Commercial/Industrial Large Volume	\$250.00	\$0.360	N/A	N/A
INTERRUPTIBLE SALES SERVICE				
Commercial/Industrial Small Volume	\$100.00	\$0.295	\$ 35.00 Min	\$0.456 (1st million cu.ft.) \$0.412 (over million cu.ft.)
Commercial Industrial Large Volume	\$275.00	\$0.269	N/A	N/A
FIRM TRANSPORT SERVICE				
Commercial/Industrial Small Volume	\$50.00	\$0.095	\$150 + \$ 34.39/MMBTU	\$0.04872
Commercial/Industrial Large Volume	\$275.00	\$0.057	N/A	N/A
INTERRUPTIBLE TRANSPORT SERVICE				
Commercial/Industrial Small Volume	\$125.00	\$0.060	\$150.00	\$0.04872
Commercial/Industrial Large Volume	\$300.00	\$0.046	N/A	N/A

Purchased gas adjustment (PGA).

If the wholesale price of gas purchased by the city of Duluth is increased or decreased as compared to 1995 base gas costs, and any such change results in an average unit cost of gas in excess, or less than the 1995 base gas costs, the unit commodity charge (\$ per ccf) for gas sold under the applicable rate schedule shall be increased or decreased on the customer's monthly bill in the same amount as the unit cost of gas has been increased or decreased.

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 96-0972 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that L.J. Walsh Company be and hereby is awarded a contract for furnishing and delivering approximately 35 windows for the building maintenance division in accordance with specifications on its low specification bid of \$9,837.35, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 96-0951 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a sanitary sewer design; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to reroute sanitary sewer at 28th Avenue East and Jefferson 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 \$2,000, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5295, Object 5530.

Resolution 96-0956 was unanimously adopted.

Approved November 12, 1996

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 state of Minnesota under the Minnesota trails assistance program, under which agreement the city will receive \$6,000 to assist with maintenance of ski trails in the city during the 1996-97 winter season, which grant funds shall be deposited in General Fund 100-500-1920-4232.

Resolution 96-0961 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0575 to Salo Engineering, Inc., for furnishing design engineering services required for 1997 street improvement program for the Norton Park East project, be amended to increase the amount by \$91,500 for a new total of \$103,000, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9701, Object 5530.

Resolution 96-0965 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0575 to Seaway Engineering Company for furnishing design engineering services required for 1997 street improvement program for the upper Woodland-2 project, be amended to increase the amount by \$87,455 for a new total of \$130,902, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9703, Object 5530.

Resolution 96-0966 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

WHEREAS, the city of Duluth desires to complete a study of the condition of the Aerial Lift Bridge; and

WHEREAS, the city desires to hire a professional consulting engineer to provide the consulting services required for a comprehensive inspection and analysis of the condition of the Aerial Lift Bridge; and

WHEREAS, Hardesty and Hanover, LLP, has submitted a proposal for consulting 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 Hardesty and Hanover, LLP, to provide the city with such consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$98,000, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303.

Resolution 96-0970 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0615 to Duluth-Superior Blacktop, Inc., for furnishing annual requirements of bituminous material, be amended to increase the amount by \$40,000 for a new total of \$149,820, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232.

Resolution 96-0971 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the City Code, the following no parking zone is hereby established:

the south side of Greysolon Place from 31st Avenue East to Congdon Park Drive.

RESOLVED FURTHER, that all prior resolutions regulating parking on this street are hereby rescinded.

Resolution 96-0868 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute a subgrant agreement with Minnesota Program Development, Inc., relating to the community policing to combat domestic violence grant, which agreement shall be substantially in the form of Public Document No. 96-1112-15, on file with the office of the city clerk, at a cost to the city of not to exceed \$67,124, which shall be paid from Fund 100-200-2438-5310.

Resolution 96-0946 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute a subgrant agreement with the Women's Coalition, Inc., relating to the community policing to combat domestic violence grant, which agreement shall be substantially in the form of Public Document No. 96-1112-16, on file with the office of the city clerk, at a cost to the city of not to exceed \$31,163, which shall be paid from Fund 100-200-2438-5310.

Resolution 96-0947 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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:

in front of 2616 West Fourth Street; in front of 531 North 23rd Avenue West; in front of 830 East First Street; in front of 1608 East Superior Street.

Resolution 96-0952 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Streicher's be and hereby is awarded a contract for furnishing and delivering 151 gun holsters for the police department in accordance with specifications on its low specification bid of \$12,876.96, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 96-0959 was unanimously adopted.

Approved November 12, 1996

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT PRETTNER SOLON

96-044 - AN ORDINANCE ESTABLISHING AN ENVIRONMENTAL ADVISORY COUNCIL FOR THE CITY, ADDING A NEW ARTICLE XXV TO CHAPTER 2 OF THE CITY CODE.

- - -

BY COUNCILOR KEENAN

96-043 - AN ORDINANCE PERTAINING TO THE STORAGE OF ABANDONED PROPERTY AND INOPERATIVE VEHICLES IN THE CITY OF DULUTH; CHANGING REGULATIONS PERTAINING TO SUCH STORAGE; AMENDING CHAPTER 30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Tom Thatcher, J.P. King, Terry Blotti, Allan Kehr and Jim VanDell opposed the ordinance. Their reasons for opposition were as follows: the Code is too vague; it is sometimes financially difficult to repair a vehicle in a short period of time; the notice requirement should be 30 days instead of seven; if it is the owner's intent to fix a vehicle, it shouldn't be regarded as salvage; it is un-American to have strangers come on your property for the purpose of declaring your property as junk; due process isn't being followed with this issue; there is a utopian view as to how persons should keep their property; and it will be too costly to enforce if it is enforceable. They questioned who will determine what is an abandoned vehicle; are seasonal recreational vehicles affected by this ordinance; and why can't those who don't have a garage have the same privilege to cover the vehicle with a tarp?

Councilor Keenan stated he believes that city staff will work cooperatively with individuals.

Councilor Wheeler commented that in urban settings where families live in close proximity to their neighbors there are situations when there needs to be respect for each other with regard to storage of external belongings.

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The following entitled ordinances were read for the second time:

BY PRESIDENT PRETTNER SOLON

96-039 (9318) - AN ORDINANCE AMENDING ORDINANCE 8977, AS AMENDED BY ORDINANCES 9072 AND 9189, CHANGING ITS SUNSET DATE TO TEN YEARS (MOUNT ROYAL PINES APARTMENTS).

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

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BY PRESIDENT PRETTNER SOLON

96-040 (9319) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 4 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-2, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED EAST OF COMMONWEALTH AVENUE SOUTH OF THE FORMER NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY (AAMODT AND ENVALL).

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

- - -

BY COUNCILOR HALES

96-042 - AN ORDINANCE REQUIRING CITY COUNCILORS TO FILE STATEMENTS DISCLOSING POSITIONS AS OFFICERS OR BOARD MEMBERS OF NONPROFIT ORGANIZATIONS AND MEMBERSHIP ON BOARDS, COMMISSIONS AND AUTHORITIES, ADDING A NEW SECTION 2-56.1 TO THE CITY CODE.

Councilor Hales reviewed the scope and intent of the ordinance in that it discloses individuals' affiliation with agencies.

Responding to councilors, City Attorney Dinan stated that under this ordinance councilors must reveal their membership on a public board, commission or authority; and that if board or officer positions in nonprofit organizations are held, they too must be recognized. Mr. Dinan stated that these are public accountabilities and that there are no criminal penalties.

Councilor Hogg moved to amend the ordinance to change the wording after the words "a statement" to say "disclosing their membership on public boards, commissions and authorities; and their current affiliation with nonprofit organizations, other than political organizations or religious organizations, which neither contract with, nor receive funds from the city of Duluth," which motion was not seconded.

Councilor Wheeler expressed his support for the elimination of religious involvements.

President Prettner Solon stated that she believes that in the future more and more nonprofit organizations will be involved in performing services to the city because of cutbacks, and as councilors serve on these boards and commissions, they will not be able to vote on certain issues when they come before the council.

Councilor Hogg felt that the intent here is public disclosure, and not to prohibit voting by councilors who serve on various boards.

Councilor Hales stated that the purpose of this ordinance is for accountability to make information available to the public as to what boards councilors are involved with.

Councilor Talarico noted that there are certain aspects that need clarification and that more work is needed to address concerns mentioned this evening.

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

Yeas: Councilors Hardesty, Keenan, Rapaich, Talarico and Wheeler -- 5

Nays: Councilors Bohlmann, Hales, Hogg and President Prettner Solon -- 4

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The meeting was adjourned at 10:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9318

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE AMENDING ORDINANCE 8977, AS AMENDED BY ORDINANCES 9072 AND 9189, CHANGING ITS SUNSET DATE TO TEN YEARS (MOUNT ROYAL PINES APARTMENTS).

The city of Duluth does ordain:

Section 1. That Section 2(b) of Ordinance No. 8977, as amended by Ordinance No. 9072, and Ordinance No. 9189, is hereby amended by deleting the words "four years" therefore and substituting therefore the words "ten years" therefore.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 22, 1996)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Nays: None -- 0

Passed November 12, 1996
Approved November 12, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9319

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 4 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM M-2, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY LOCATED EAST OF COMMONWEALTH AVENUE SOUTH OF THE FORMER NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY (AAMODT AND ENVALL).

The city of Duluth does ordain:

Section 1. That Plate No. 4 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 at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 22, 1996)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 9

Nays: None -- 0

Passed November 12, 1996
Approved November 12, 1996
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 21, 1996, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Hales, Hogg, Keenan, Rapaich, Wheeler and Vice President Hardesty -- 6

Absent: Councilors Bohlmann, Talarico and President Prettner Solon -- 3

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MOTIONS AND RESOLUTIONS

Resolution 96-0976, by Councilor Wheeler, providing for the issuance, sale and delivery of \$1,960,000 general obligation equipment certificates of indebtedness, Series 1996C; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 96-0977, providing for the issuance, sale and delivery of \$1,285,000 general obligation tax increment bonds, Series 1996D; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, were introduced for discussion.

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

Responding to Councilor Hogg, Finance Director Torvinen stated that approximately 20 percent of the Bayfront improvements will be paid for out of this issue.

Katherine Kardell, of Evensen Dodge, reviewed the make up of the bidders for both issues and stated that it was a very good bid response given the number of bidders for a relatively small issue.

Resolutions 96-0976 and 96-0977 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. Certificate Purpose and Authorization.

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 No. 96-0948 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,960,000 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 \$1,960,000 General Obligation Equipment Certificates of Indebtedness, Series 1996C, 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 \$1,960,000 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, (the "Purchaser"), to purchase the Certificates at a cash price of \$1,952,120.80, plus accrued interest on the total principal amount from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

December 20, 1996, 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, 1996, 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 set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate
1997	\$360,000	See Exhibit A
1998	375,000	
1999	390,000	
2000	410,000	
2001	425,000	

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, 1997. 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 15 days next preceding the Interest Payment Date (whether or not a business day) 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.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 1996C

R-1 \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	December 20, ____	December 20, 1996	

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, 1996, 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, 1997. 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 \$1,960,000, 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 21, 1996 (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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/20/96	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 \$1,960,000, 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 set forth on Exhibit A attached hereto.

B. A separate debt service account is hereby created and designated as the "1996 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 \$1,960,000, 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 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 the Debt Service Fund. 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.

The City acknowledges that the Certificates are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Certificates. 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 the Rule, which will enhance the marketability of the Certificates, the Mayor and the Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City Clerk.

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 96-0976 was unanimously adopted.

Approved November 21, 1996

GARY L. DOTY, Mayor

- - -

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 A. The Duluth Economic Development Authority ("DEDA") established a Development Program and Plan for Development District No. 17, dated September 12, 1994. Tax Increment Financing Districts No. 1, 2, 3, 4, 14 and 17 (the "Combined TIF Districts") are located within Development District No. 17. Such Development Plan provides for use of tax increment from the Combined TIF Districts for expanding and improving Bayfront Park (the "Project") which is located within Development District No. 17.

B. Pursuant to Minnesota Statutes Section 469.178, the City is authorized to issue its general obligation bonds for the purpose of financing public development costs of Development District No. 17.

1.02 By Resolution 96-0948, the City authorized the issuance of \$1,285,000 General Obligation Tax Increment Bonds, Series 1996D (the "Bonds"), for the purpose of providing funds to pay part of the public development costs associated with the Project, and directed that the terms, conditions and security provisions of the Bonds be provided by resolution, and pledged the full faith and credit of the City for their payment.

1.03 It is hereby determined that no less than 20% of the cost of the Project to the City is to be received from tax increments derived from the Combined TIF Districts. Work on the Project shall proceed with due diligence to completion.

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$1,285,000 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Bank Milwaukee, N.A. of Milwaukee, Wisconsin, (the "Purchaser"), to purchase the Bonds at a cash price of \$1,270,560.60, plus accrued interest on the total principal amount from December 1, 1996, 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 December 1, 1996, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

Year	Amount	Interest Rate
1998	\$ 90,000	See Exhibit A
1999	95,000	
2000	100,000	
2001	105,000	
2002	110,000	
2003	115,000	
2004	120,000	
2005	125,000	
2006	135,000	
2007	140,000	
2008	150,000	

2.02 The Bonds maturing in the years 1998 through 2005 shall not be subject to redemption and prepayment before maturity, but those maturing in the year 2006 and subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2005, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City. If only part of the Bonds having a common maturity date are called for prepayment, the specific Bonds to be prepaid will be chosen by lot. All prepayments shall be 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 the Bond Registrar designated below and to the registered owner of each Bond to be redeemed, at the owner's address shown on the registration books of the City, 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. Notice of redemption and prepayment shall also be given in accordance with the terms of the Representation Letter described in Section 2.06 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 on August 1, 1997. Interest will be computed upon 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 designated below 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., 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 the form of the Bond, 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 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 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.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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 mailing 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

R-_____ \$_____

CITY OF DULUTH
GENERAL OBLIGATION TAX INCREMENT BOND, SERIES 1996D

Interest			
<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	February 1, ____	December 1, 1996	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Duluth, 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, 1996, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, 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, 1997. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft by

Norwest Bank Minnesota, National Association, of Minneapolis, Minnesota, as bond 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 all interest payments 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 (whether or not a business day) of the month next preceding the Interest Payment Date 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 \$1,285,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Sections 469.174 to 469.179, and all other laws and home rule charter provisions of the City thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on November 21, 1996 (the "Resolution"), for the purpose of financing a portion of public development costs associated with the improvement and expansion of Bayfront Park located in Development District No. 17 in the City and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable in part from tax increment and in part from 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 1998 through 2005 are not subject to redemption before maturity, but those maturing in the year 2006 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2005, and on any date thereafter, in whole or in part, and if in part at the option of the City and in such manner as the City shall determine 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. 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, but no defect in or failure to give such mailed notice of redemption 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. 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 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 principal amount of this Bond, of the same maturity, and bearing interest at the same rate. 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 and the cost of printing the new Bonds.

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 above-described 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, St. Louis County, Minnesota, by its governing body, 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>
12/___/96	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 4. Revenues, Accounts and Covenants.

4.01 The City has created a separate construction account in the Capital Improvement Fund (Fund 450) of the City, to which there shall be credited \$1,285,000, 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 the Project. The funds from this account shall be used solely to pay public development costs of the Project and all other costs incurred and to be incurred of the kind authorized in Minnesota Statutes, Section 475.65 and the tax increment act; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 Until the Bonds 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 City's debt service funds created by Section 54(a) 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. There is hereby pledged to the Debt Service Fund certain tax increments from the Combined TIF Districts received by the City pursuant to the Tax Increment Pledge Agreement between the City and DEDA (the "Pledge Agreement"), which pledge is hereby accepted by the City, and the City officers are hereby authorized to execute the Pledge Agreement. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$1,285,000, 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, all tax increment payable pursuant to the Pledge Agreement and the ad valorem taxes levied pursuant to Section 4.03 hereof.

4.03 A. There shall be and hereby is 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, together with the tax increments payable pursuant to the Pledge Agreement, 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 become due as set forth on Exhibit A attached hereto.

B. All proceeds of said taxes and of said tax increments are hereby appropriated and shall be paid when collected into the Debt Service Fund to pay the Bonds. Said taxes shall be irrevocable until the Bonds and interest are fully paid, except that if the City Council in any year

shall make an irrevocable appropriation to said fund 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 tax rolls next thereafter prepared.

C. If the balance in the Debt Service Fund to pay the Bonds 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 such Debt Service Fund when the balance therein is sufficient. It is estimated that the tax increment and taxes herein pledged and appropriated to said fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds.

D. It is recognized, however, that the City's liability on the Bonds is not limited to the tax increment and taxes 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 5. Continuing Disclosure.

The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to such bonds. 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 the Rule, which will enhance the marketability of the Bonds, the Mayor and the City Clerk are hereby authorized and directed to execute a Continuing Disclosure Certificate substantially in the form of the Certificate currently on file in the office of the City.

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. 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.

6.03 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.

Section 7. Certificates of Proceedings.

7.01 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 Bonds herein authorized have been duly entered on the County Auditor's register.

7.02 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 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 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.

7.03 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 Bonds 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.

7.04 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 Bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 96-0977 was unanimously adopted.

Approved November 21, 1996

GARY L. DOTY, Mayor

The meeting was adjourned at 5:20 p.m.

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JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 25, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 7

Absent: Councilors Bohlmann and Talarico -- 2

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The minutes of council meetings held on April 1, 8, 15, 22 and 29, 1996, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1125-01 Summit Management, Inc., et al. (six signatures), submitting petition to reclassify from R-1-b to R-3 property located on Rice Lake Road near Lowell Magnet School. -- Assessor

96-1125-02 WDSM/KZIO, Inc., by Alok Vidyarthi, attorney, et al. (three signatures) submitting petition for vacation of the alley in Block 32, Duluth Heights, First Division. -- Assessor

96-1125-03 Food-N-Fuel, by Jack Curtis, submitting letter regarding the sale and regulation of tobacco and tobacco related devices (Ordinance No. 9314). -- Received

96-1125-24 Minnesota Senior Federation, Northeast Coalition, submitting letter regarding the proposed establishment of fixed charge water rates (96-0969R). -- Received

96-1125-04 The following submitting letters regarding the proposed storage of abandoned property and inoperative vehicles (96-043-O): (a) Beverly Ecklund; (b) Northern Knights Car Club; (c) Jim VanDell; (d) Sheila P. Vedder. -- Received

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REPORTS OF OFFICERS

96-1125-05 Assessor submitting letter of sufficiency regarding petition to vacate an easement in and along that part of Lot 8, Block 21, Rearrangement of part of East Duluth and of First Addition to East Duluth and dedicating a new easement for sanitary sewer under and across that part of Block 21, rearrangement of part of East Duluth and of First Addition to East Duluth. -- Received

96-1125-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Women's Association of Duluth Symphony Orchestra at the DECC. -- Received

96-1125-07 Community development and housing division submitting: (a) Community development status report for July through September, 1996; (b) HRA report for the HUD CD-funded housing rehabilitation program for August 1996. -- Received

96-1125-08 Engineering division submitting November 1, 1996, monthly project status report. -- Received

96-1125-09 Parks and recreation department director submitting minutes of board of directors for the Lake Superior zoological society September 26, 1996, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-1125-10 Board of zoning appeals minutes of October 22, 1996, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

96-1125-11 Civil service board minutes of: (a) September 3; (b) September 17, 1996, meetings. -- Received

96-1125-12 Duluth transit authority: (a) Minutes of October 30, 1996, meeting; (b) September 1996 financial statement summary; (c) September 1996 income statement. -- Received

96-1125-13 Planning commission minutes of October 23, 1996, meeting. -- Received

96-1125-14 Spirit Mountain recreation area authority minutes of: (a) September 23; (b) October 22, 1996, meetings. -- Received

96-1125-15 Tree commission minutes of October 14, 1996, meeting. -- Received

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The rules were suspended upon a unanimous vote to consider Ordinance 96-043-O at this time.

The following entitled ordinance was read for the second time:

BY COUNCILOR KEENAN

96-043 - AN ORDINANCE PERTAINING TO THE STORAGE OF ABANDONED PROPERTY AND INOPERATIVE VEHICLES IN THE CITY OF DULUTH; CHANGING REGULATIONS PERTAINING TO SUCH STORAGE; AMENDING CHAPTER 30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hogg reviewed his concerns regarding the adoption of this ordinance as it is and suggested that the council take time to go through the ordinance line by line and consider the suggestions presented.

Councilor Wheeler noted how neighbors react to neighbors and said he believes there is a need for them to talk more to each other. He further noted that representatives of the collector car association should be represented on the building appeal board if this ordinance passes.

Councilor Hardesty stated her concern over property rights and how those situations aren't adequately addressed.

To Councilor Rapaich's questions regarding a licensed vehicle that isn't operable, Assistant City Attorney Smedberg reviewed that the car would be allowed to be kept under a tarp for six months.

Councilor Hales questioned how the city will assist owners to remove a problem item and enforce this type of ordinance. She reviewed the extent of existing ordinances and state statutes.

President Prettner Solon noted that this is before the council because there is no power to enforce the existing ordinances.

Councilor Keenan moved to amend the ordinance as follows:

(a) That a new Section 30-13 be added to read as follows:

"Sec. 30-13. Restoration of vehicles.

Notwithstanding provisions of this Chapter to the contrary, one motor vehicle that is being kept for restoration purposes may be stored on each residential parcel of land if:

(a) The motor vehicle is kept under a tarp or is kept behind opaque visual screening;

(b) Substantial and verifiable progress is made toward the restoration of the vehicle beginning within 180 days after it is parked on the lot and continuing thereafter until the restoration is completed."

(b) That a new Section 30-14 be added to read as follows:

"Sec. 30-14. Appeals.

Any person aggrieved by a decision of the enforcement officer in the enforcement of this Chapter may appeal the decision to the building appeal board in the manner set forth in Section 10-5 of this Code.”

(c) In Sections 30-7 and 30-9 change the word “seven” to “14,” which motion was seconded and carried.

Councilor Keenan moved to table the ordinance, as amended, for further discussion, which motion was seconded and carried.

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RESOLUTIONS TABLED

President Prettner Solon moved to remove Resolution 96-0815, approving a special law authorizing the city to establish housing replacement districts, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Hardesty, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5

Nays: Councilors Hales and Hogg -- 2

Absent: Councilors Bohlmann and Talarico -- 2

President Prettner Solon reviewed the nature of the resolution in that the city has only to December 31 to accept this enabling legislation. She noted that this legislation doesn't create the districts, and that they could be developed later.

Councilor Hogg expressed his concern that he did not anticipate that this would be taken off the table tonight and said he would prefer that consideration of it be delayed until December 2.

Councilor Wheeler moved to table the resolution, which motion was seconded and unanimously carried.

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Councilor Hogg moved to remove Resolution 96-0969 establishing fixed charge water rates effective with meter readings after January 1, 1997, and rescinding all prior inconsistent or conflicting resolutions with respect to such rates, from the table, which motion was seconded and carried.

Councilor Hogg supported the resolution, noting the changes and said this is the best solution to the problem of an aging and deteriorating water system. He referred to a letter (Public Document No. 96-1125-24) from the Minnesota Senior Federation, Northeast Coalition, requesting that the increase be distributed in a fair and equal manner and that all of the increase be used to improve the water system.

Water and Gas Department Director Voller reviewed that the lowest users will actually see a decrease in their water rates.

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

Rodd Ward made suggestions for water line improvements based on his review of the water and gas budget.

Resolution 96-0969 was adopted as follows:

BY COUNCILOR HOGG:

RESOLVED, effective with the water meter readings after January 1, 1997, 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 established by this resolution as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

MONTHLY METERED VOLUME

	effective January 1, 1997 rate \$/CCF	effective April 3, 1995 rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$1.42	\$1.31
next 96,000 cubic feet, per 100 cubic feet	0.92	0.85
next 900,000 cubic feet, per 100 cubic feet	0.77	0.71
over 1,000,000 cubic feet, per 100 cubic feet	0.64	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 effective January 1, 1997, \$0.92 per 100 cubic feet (effective April 3, 1995, \$0.85).

FIXED CHARGES ARE AS FOLLOWS:

<u>meter size</u>	effective January 1, 1997	effective April 3, 1995
1 inch & under	\$ 2.00	\$ 5.24
1½ inch	3.50	12.69
2 inch	6.00	18.64
3 inch	22.00	27.11
4 inch	28.00	40.62
6 inch	42.00	67.58
8 inch	58.00	109.92
10 inch	76.00	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	\$2.14 effective 1/1/97 1.97 effective 4/3/95
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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	\$1.96 effective 1/1/97 1.81 effective 4/3/95
next 200,000 cubic feet, per 100 cubic feet	1.74 effective 1/1/97 1.60 effective 4/3/95
all over 300,000 cubic feet, per 100 cubic feet	1.57 effective 1/1/97 1.45 effective 4/3/95

Volumes exceeding 500,000 cubic feet per month, pumped to an elevation not exceeding 825 feet above Lake Superior shall be effective January 1, 1997, \$0.95 per cubic foot (effective April 3, 1995, \$0.88).

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 96-0969 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Resolution 96-0995, by Councilor Rapaich, approving the issuance of a bingo hall license at 2224 West Superior Street, was introduced for discussion.

Councilor Wheeler stated that he can't support this because he believes it is an expansion of gambling.

Resolution 96-0995 was adopted as follows:

BY COUNCILOR RAPAICH:

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;

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 96-0995 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich and President Prettner Solon -- 6

Nays: Councilor Wheeler -- 1

Absent: Councilors Bohlmann and Talarico -- 2

Approved November 25, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PARKING COMMISSION

Harold D. Puhl (Fifth District) for a term expiring July 1, 1999.

Resolution 96-0978 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0393, adopted on May 1, 1995, the city of Duluth (the city), entered into an agreement with the Duluth Art Institute Association, Inc., Duluth, Minnesota (the agency), in which the agency agreed to operate the art institute tuition assistance project (the agreement), payable from the 1994 Federal Program Fund 263 - community development - Art Institute Tuition Assistance Project Account 6271; and

WHEREAS, both parties desire to amend the agreement.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-1125-16, to the agreement with the agency which extends the agreement to December 31, 1997, at no change in compensation under terms of the agreement.

Resolution 96-0974 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, on October 17, 1994, the city established the legal aid housing project pursuant to Resolution 94-0915.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, a copy of which is on file with the city clerk as Public Document No. 96-1125-17, with Legal Aid of Northeastern Minnesota of Duluth, Minnesota, to implement the above project. Payment for said services shall not exceed \$4,257, payable out of the 1995 Federal Program Fund 263 - community development - Legal Aid Housing Project Account No. 6382.

Resolution 96-0975 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of the right-of-way of Carlton Street adjacent to Lot One, Block Three, Twin Ports Truck Center Division: that part of the Carlton Street right-of-way adjacent to Lot One, Block Three, Twin Ports Truck Center Division lying north of the northerly line of Carlton Street at its intersection with Truck Center Drive and as the same is extended to the east; 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 12, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of the right-of-way adjacent to Carlton Street and adjacent to Lot One, Block Three, Twin Ports Truck Center Division described above, and as more particularly described on Public Document No. 96-1125-18.

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 right-of-way to be vacated.

Resolution 96-0979 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alleyway in Block 24, Duluth Heights Sixth Division legally described as: all alleyways within

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Block 24, Duluth Heights Sixth 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 November 12, 1996, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alleyway described above, and as more particularly described on Public Document No. 96-1125-19.

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 alleyway to be vacated.

Resolution 96-0980 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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Resolution 96-0982, by President Prettner Solon, authorizing agreement with Melander and Schilling, Inc., for the Coleman Barge feasibility study in the amount of \$11,880, was introduced for discussion.

Administrative Assistant Nollenberger reviewed the concept regarding this operation.

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

Greg Price stated that he didn't support this concept noting that performers will have difficulty transporting their equipment on to a barge and he felt that a band shell concept would be better suited because the music will be directed to the audience as well as protect the performers better.

Councilor Hogg questioned if the city intends to buy the barge, and what will maintenance costs be versus building a new stage.

Councilor Keenan moved to table the resolution, which motion was seconded and carried upon a unanimous vote.

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Resolution 96-0983, by President Prettner Solon, authorizing agreement with F.I. Salter Company, Inc., for appraisal services related to the Lincoln Park project and the cross-city trail project in the amount of \$54,000, was introduced for discussion.

Councilor Keenan raised questions regarding the trail system and how it all pieces together. He noted that there hasn't been a full public discussion regarding how an inter-city cross-city trail system for summer and winter use will work.

Mr. Nollenberger reviewed the details of the proposed plan and the intent to get the initial appraisal completed. He noted that there have been meetings with biking, snowshoe, SVDA and others regarding this and that there has been support to use railroad right-of-ways in this part of the city. He noted that in addition, there are details regarding the city's desire to enter into an agreement with North Star Ford in conjunction with the Michigan street project, and that this is needed for that.

Councilor Wheeler said he will support the initial appraisal of \$14,000 at this time, but that the city needs to firmly decide about cross-city trails before proceeding with the total appraisal.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler moved to amend the resolution to delete the "\$40,000" and change it to a "\$14,000 initial appraisal," which motion was seconded and discussed.

Mr. Nollenberger noted that the administration will be back in a few weeks to receive approval for the final appraisal, which will tie into the total Lincoln Park project, and that it will be necessary at that time to support the city trail in this area. He stated that that doesn't mean the city will have to allow snowmobiles, though.

President Prettner Solon stated that she will support the Lincoln Park project, but that the council will retain the right to turn down snowmobile uses at any point.

Councilor Wheeler's amendment failed upon the following vote:

Yeas: Councilors Keenan, Rapaich and Wheeler -- 3

Nays: Councilors Hales, Hardesty, Hogg and President Prettner Solon -- 4

Absent: Councilors Bohlmann and Talarico -- 2

Resolution 96-0983 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

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. 96-1125-20 with F.I. Salter Company, Inc., for appraisal services related to Lincoln Park project and the cross-city trail project in the amount of not to exceed \$54,000, payable from Economic Development Fund No. 255 and to be reimbursed at some future date from bond proceeds and/or state funds as they become available.

Resolution 96-0983 was unanimously adopted.

Approved November 25, 1996

GARY L. DOTY, Mayor

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Resolution 96-0993, by President Prettner Solon, approving the allocation of additional low-income housing tax credits for 1996, was introduced for discussion.

Responding to Councilor Hogg's concerns over the high costs for this project and why more tax credits are being requested if the per unit cost is being lowered, Mr. Nollenberger stated that there is still a financing gap and that the costs of the project is being lowered.

Resolution 96-0993 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Minnesota Statutes, Chapter 462A.221, et seq. (the code), the city of Duluth, Minnesota (the city) is a suballocator of low income housing tax credits (LIHTCs); and

WHEREAS, on May 20, 1996, by Resolution No. 96-0438 the Duluth City Council allocated \$155,689 in 1996 LIHTCs to Buckingham Green Limited Partnership (the partnership) for the Buckingham Green Apartments project (the project); and

WHEREAS, the partnership applied and was approved for an additional \$44,929 in 1996 LIHTCs from the Minnesota housing finance agency (the MHFA); and

WHEREAS, pursuant to Reg. Section 1.42-1T(c)(4)(iii); the MHFA apportioned the \$44,929 tax credit reservation to the city for allocation to the partnership for the project.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, that there is hereby allocated to the partnership for the project an additional \$44,929 in 1996 LIHTCs, which was apportioned to the city for the project by the MHFA. Staff is authorized to prepare, execute and deliver all documentation necessary to provide for the commitment, carry over and allocation of such credits, based on findings made in accordance with the requirements of the code.

Resolution 96-0993 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Yeas: Councilors Hardesty, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5
Nays: Councilors Hales and Hogg -- 2
Absent: Councilors Bohlmann and Talarico -- 2
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Arrowhead Regional Development Commission for the furnishing of meals for senior citizens during the period from January 1, 1997, through December 31, 1997, said agreement filed as Public Document No. 96-1125-21.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Fund No. 272-031-6307.

Resolution 96-0988 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 53,000 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 \$3.47 per meal for eligible senior citizens and \$4 per meal for guests or approximately \$184,191, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6307, Object 0071.

Resolution 96-0989 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the St. Louis County social services department hereby is awarded a contract for furnishing approximately 67,500 hot meals for senior citizens at eight meal site locations in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$2.37 per meal or approximately \$159,975, payable out of Federal Program Fund 272, Dept./Agency 031, Organization 6307, Object 0071.

Resolution 96-0990 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept JTPA eight percent education coordination allocation funds of \$11,140 from the Minnesota State Board of Colleges and Universities. This money will be used to provide adult basic education instruction for JTPA eligible participants. This funding is available from July 1, 1996, through June 30, 1997. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 96-1125-22.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund No. 268, Budget Item 6257.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-0991 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Rosemount Sales be and hereby is awarded a contract for furnishing and delivering ten Rosemount pressure transmitters for the water and gas department in accordance with specifications on its low specification bid of \$6,797.68, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 96-0987 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to pay to David Sharp and his attorney, David L. Weidt, the amount of \$40,875 in full settlement of all claims for injury and property damage arising out of an accident that occurred December 10, 1993, near Superior Street and Glen Place Drive, payment from self insurance fund.

Resolution 96-0981 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement with Remediation Services, Inc., of Duluth, in substantially the same form and under substantially the same terms as contained in Public Document No. 96-1125-23, on file with the city clerk, for services related to remediation of contaminated water and earth near the Pioneer Building and related vapor problems, payments not to exceed \$30,000 and to be from self insurance fund.

Resolution 96-0994 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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 northbound).

RESOLVED FURTHER, that the resolution shall be effective with proper installation of signs indicating the same to be a one way roadway.

Resolution 96-0984 was unanimously adopted.
Approved November 25, 1996
GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT PRETTNER SOLON

96-045 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE AS AMENDED, AMENDING SECTION 50-24(b) TO DELETE THE REQUIREMENT FOR A 60 FOOT FRONT YARD SET BACK FOR DETACHED GARAGES.

- - -

BY PRESIDENT PRETTNER SOLON

96-046 - 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 FROM R-2, TWO FAMILY RESIDENTIAL, TO R-4, APARTMENT RESIDENTIAL, PROPERTY LOCATED WEST OF DECKER ROAD AND SOUTH OF VILLAGE MALL (ANDERSON-CICH).

- - -

At this time, 10:59 p.m., Councilor Keenan moved to suspend the rules to extend the meeting until 11:10 p.m., which motion was seconded and unanimously carried.

- - -

BY PRESIDENT PRETTNER SOLON

96-044 (9320) - AN ORDINANCE ESTABLISHING AN ENVIRONMENTAL ADVISORY COUNCIL FOR THE CITY, ADDING A NEW ARTICLE XXV TO CHAPTER 2 OF THE CITY CODE.

Councilor Wheeler moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and carried.

Greg Price commended the council on the establishment of this environmental advisory council, citing examples of how this body will be helpful to the administration and city council.

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

- - -

The meeting was adjourned at 11:10 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9320

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE ESTABLISHING AN ENVIRONMENTAL ADVISORY COUNCIL FOR THE CITY, ADDING A NEW ARTICLE XXV TO CHAPTER 2 OF THE CITY CODE.

The city of Duluth does ordain:

Section 1. That a new Article XXV be added to Chapter 2 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXV. Environmental Advisory Council.

Sec. 2-131. Creation of council; purpose.

There is hereby established an environmental advisory council. The purpose of the council is to promote environmental awareness and to advise and educate the city council, city administration and the community on environmental issues.

Sec. 2-132. Membership; terms; vacancies.

The council shall consist of 13 members. There shall be five nonvoting ex-officio members: a member of the Duluth City Council selected by the president of the city council; the director of physical planning of the city or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

designee; the chair of the planning commission environmental committee; an appointee of the Western Lake Superior Sanitary District; and the director of public works of the city or designee. The eight voting members shall be appointed by the mayor and confirmed by the city council. A minimum of four of these members shall be selected from lists of persons recommended by locally recognized environmental organizations. Vacancies shall be filled for the unexpired terms in the same manner. Of these initial eight members, three shall be appointed for three years, three shall be appointed for two years, and two shall be appointed for one year. Thereafter, all appointments shall be for a term of three years. Members shall serve until their successors are appointed and qualified.

Sec. 2-133. Officers; meetings; conduct of business.

The council shall meet within 30 days after all its initial members are appointed and elect a chairperson and a vice chairperson. The council shall adopt rules and regulations for the conduct of its business.

Sec. 2-134. Powers and duties.

The council shall have the following powers and duties:

(a) Develop and recommend to the city council and city administration an environmental policy to guide city actions which involve environmental issues;

(b) Advise the city council and city administration on environmental issues referred to it for review;

(c) Hear and review complaints and concerns from the public on environmental matters and recommend actions to be taken by the city where appropriate;

(d) Educate the city council, city administration and the community on environmental issues;

(e) Recommend public initiatives on environmental matters to the city administration.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 5, 1997)

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

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Wheeler and President Prettner Solon -- 7

Nays: None -- 0

Absent: Councilors Bohlmann and Talarico -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 25, 1996
Approved November 25, 1996
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

At this time, 7:00 p.m., President Prettner Solon called the public hearing regarding the 1997 budget to order (Public Document No. 96-1202-21).

- - -

At this time, 7:30 p.m., President Prettner Solon declared the hearing closed and the council meeting was called to order.

- - -

Duluth City Council meeting held on Monday, December 2, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Absent: Councilor Bohlmann -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1202-01 Harvey D. Plasch submitting petition to vacate the westerly one foot of North First Avenue East adjacent to the southerly 75 feet of Lot 16 and northerly 33.6 feet of Lot 15, Block 130, Duluth Proper, Third Division. -- Assessor

96-1202-02 Sam Scott submitting petition for construction of a sanitary sewer at 48th Avenue West and Oneota Street. -- Assessor

96-1202-03 Minnesota state auditor submitting management and compliance report on the Duluth economic development authority for the year ended December 31, 1995. -- Received

96-1202-04 Dennis F. Krueth submitting letter regarding the proposed storage of abandoned property and inoperative vehicles in the city of Duluth (96-043-O). -- Received

96-1202-05 Lighthouse for the Blind, by Paul L. Almirall, CEO, submitting letter regarding their proposed grant agreement with the city (96-1001R). -- Received

96-1202-11 D. Michael Moyle submitting letter regarding the proposed rate increases for municipal golf courses (96-1006R). -- Received

96-1202-06 The following submitting letters regarding the proposed 1997 tax levy (96-047-O): (a) Lawrence B. Wietman; (b) Hattie Zhorela. -- Received

- - -

REPORTS OF OFFICERS

96-1202-07 Assessor submitting letters of sufficiency regarding petitions to:

(a) Reclassify from R-1-B to R-3 that part of the Southeast Quarter of Northwest Quarter, Section 16, Township 50 North Range 14 West of the Fourth Principal Meridian;

(b) Vacate the alley lying within Block 32, Duluth Heights First Division, lying between Lots 1 through 13 and Lots 14 through 29;

(c) Vacate the westerly one foot of North First Avenue East adjacent to the southerly 75 feet of Lot 16 and the northerly 33.6 feet of Lot 15, Duluth Proper, Third Division;

(d) Construction of a sanitary sewer at 48th Avenue West and Oneota Street. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

96-1202-08 Board of directors of trusts for Miller-Dwan Hospital and Medical Center minutes of: (a) September 19; (b) October 17, 1996, meetings. -- Received

96-1202-09 Housing and redevelopment authority minutes of: (a) March 27; (b) April 24; (c) May 29; (d) June 26, 1996, meetings. -- Received

96-1202-10 Special assessment board minutes of November 12, 1996, meeting. -- Received

- - -

RESOLUTIONS TABLED

President Prettner Solon moved to remove from the table Resolution 96-0815, approving special law authorizing the city to establish housing replacement districts, which motion was seconded and unanimously carried.

Councilor Hogg stated that he will not support the resolution because he feels DEDA's function is economic development, not housing.

Councilor Hales noted that she does not support the resolution and feels more discussion is needed regarding the city's housing policy.

President Prettner Solon noted that other Minnesota cities have established housing replacement districts, which permits the city to use tax increment financing to purchase vacant parcels and replace them with market rate housing. She stated that she does not support expenditures from the general fund for this program, but would advocate matching grants from other sources.

Resolution 96-0815 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the city council hereby gives the necessary local approval to Laws of Minnesota, 1996, Chapter 471, Article 7, Sections 21 and 22.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to file the required documents with the secretary of state indicating city approval of this special law, as set forth in Minnesota Statutes, Section 645.021, Subd. 3.

Resolution 96-0815 was adopted upon the following vote:

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

Nays: Councilors Hales and Hogg -- 2

Absent: Councilor Bohlmann -- 1

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

President Prettner Solon moved to remove from the table Resolution 96-0982, authorizing agreement with Melander, Melander and Schilling Architects, Inc., for the Coleman Barge feasibility study in the amount of \$11,800, which motion was seconded and unanimously carried.

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

Greg Price spoke against the proposal, saying he feels the barge would not provide the best staging possible for musical events at Bayfront.

Councilor Wheeler said he supports the concept, but has concerns about potential damage resulting from storms.

Councilor Hardesty pointed out that the study does include a wave analysis and a structural inspection of the barge. She supported the concept and said it would be unique to Duluth.

Councilor Hales felt the study is premature, and said she does not feel that the climate in Duluth is conducive to the proposal.

Councilor Talarico did not agree that the study is premature, saying that the results can be used in other ways if the barge is found to be unfeasible.

Councilor Hogg supported the study, noting that it is to be completed in sections, with the structural inspection of the barge occurring first.

Councilor Wheeler requested a report to the council after that section of the study is completed.

Councilor Keenan voiced support for the study, pointing out that it will include a determination of the city's risk potential relating to the proposal.

Resolution 96-0982 was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

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. 96-1202-12, with the firm of Melander, Melander and Schilling Architects, Inc., for architectural services related to the evaluation of the use of the Coleman Barge as a stage facility for Bayfront Festival Park in the amount of \$11,880, payable from Fund 450, Agency 015, Org. 1996, Object C-602.

Resolution 96-0982 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: Councilor Hales -- 1

Absent: Councilor Bohlmann -- 1

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR RAPAICH:

RESOLVED, that Minnesota Power be and hereby is awarded a contract for furnishing and installing electrical service, transformer and pad for the police firing range building in accordance with specifications on its low specification bid of \$5,080, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C427.

Resolution 96-0998 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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:

ALS Association, a Minnesota Chapter (Eggebrecht ALS fundraiser), Army National Guard Building, for January 18, 1997, with David Kolquist, manager.

Resolution 96-1007 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license, for the period ending August 31, 1997, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Wine Cellars, Inc. (Wine Cellars), 600 East Superior Street, transferred from Liquor Mart of Duluth, Inc. (The Liquor Mart), 2116 Maple Grove Road, with Elizabeth Anderson, president, and Luanne Kaspszak, vice president.

Resolution 96-1008 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved December 2, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 nonintoxicating malt liquor license and on sale wine license for the period ending April 30, 1997, and August 31, 1997, respectively, subject to departmental approvals:

Just Take Action, Inc. (Fitzer's Brewhouse), 600 East Superior Street.

Resolution 96-1009 was unanimously adopted.

Approved December 2, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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 for the period ending August 31, 1997, subject to departmental approvals:

MKR Limited (Bennett's Bar & Grill), 319 West Superior Street.

Resolution 96-1010 was unanimously adopted.

Approved December 2, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a conditional grant agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-1202-13(a), with the Duluth Lighthouse for the Blind (the Lighthouse) in the amount of \$75,000 to assist in the purchase of a napkin converting machine, said sum to be payable from the Federal Program Fund 263 - Year 2 (1994), Community Development Account No. 6266.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an intercreditor agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 96-1202-13(b) with Pioneer National Bank of Duluth (Pioneer) providing for cooperation of the parties in the event it becomes necessary for Pioneer or the city to exercise their rights and remedies as secured creditors with respect to the napkin machine.

Resolution 96-1001 was unanimously adopted.

Approved December 2, 1996
GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 93-0364 adopted on May 24, 1993, the city of Duluth (the city), entered into an agreement with the Housing and Redevelopment Authority, Duluth, Minnesota (HRA), in which HRA agreed to operate the single room occupancy (SRO) Federal Program Fund 263 - community development - SRO Housing Rehabilitation Project Account 6157; and

WHEREAS, Amendment No. 1 to the agreement was authorized by Resolution No. 94-1033, adopted on December 12, 1994; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

WHEREAS, Amendment No. 2 to the agreement was authorized by Resolution No. 95-1017, adopted on November 20, 1995; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 3, a copy of which is on file in the office of the city clerk as Public Document No. 96-1202-14, to the agreement with HRA which extends the term of the agreement to December 31, 1997, with no change in compensation under terms of the agreement.

Resolution 96-1015 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 94-0503 adopted on June 13, 1994, the city of Duluth (the city), entered into an agreement with Spirit Valley Citizens Neighborhood Development Association, Inc., Duluth, Minnesota (SVCNDA), in which SCVNDA agreed to operate the SVCNDA housing rehabilitation program project (the agreement), payable from the 1994 Federal Program Fund 263 - community development - SVCNDA Housing Project Account 6255; and

WHEREAS, Amendment No. 1 to the agreement was authorized by Resolution No. 95-1018, adopted on November 20, 1995; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 2, a copy of which is on file in the office of the city clerk as Public Document No. 96-1202-15, to the agreement with SVCNDA which revises the project operating guidelines and extends the term of the agreement to December 31, 1997, with no change in compensation under terms of the agreement.

Resolution 96-1016 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0383 adopted on May 1, 1995, the city of Duluth (the city), entered into an agreement with Spirit Valley Citizens Neighborhood Development Association, Inc., Duluth, Minnesota (SVCNDA), in which SVCNDA agreed to operate the West Duluth housing rehabilitation program project (the agreement), payable from the 1995 Federal Program Fund 263 - community development - SVCNDA Housing Rehabilitation Program Project Account 6354; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-1202-16, to the agreement with SVCNDA which revises the project operating guidelines and extends the term of the agreement to December 31, 1997, with no change in compensation under terms of the agreement.

Resolution 96-1017 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-1006, by Councilor Keenan, establishing the 1997 golf course rates, was introduced for discussion.

Councilor Rapaich moved to amend the resolution to change the following rates:

Unlimited season ticket, from "\$415" to "\$400";

5-day restricted season ticket, from "\$265" to "\$250"; and

Family season ticket, from "\$750" to "\$725," which motion was seconded.

Councilor Wheeler felt the proposed rates provide a very good value per round of golf for the average golfer, noting that the average season ticket holder plays 43 rounds of golf per season.

Councilor Hogg said he supports the amendment, because he believes that reducing the rates will increase the number of tickets sold and generate more revenue, noting that his goal is to decrease the city subsidy.

Councilor Keenan supported the amendment, saying that he feels it is a more realistic increase. He agreed that if rates are too high less revenue will be generated.

The amendment passed unanimously.

Resolution 96-1006, as amended, was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Section 35-15 of the Duluth City Code, the Duluth City Council hereby establishes rates for the use of municipal golf courses as set forth in Exhibit A on file in the office of the city clerk as Public Document No. 96-1202-17, effective upon the passage of this resolution, and does further rescind all former rates.

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 96-1006, as amended, was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$47,171 in Minnesota Youth Works/AmeriCorps Program funds from the Minnesota department of economic security for the period October 1, 1996, through June 30, 1997. Funds will provide work experience for ten participants who will do community service work 30 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. 96-1202-18.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund No. 268, Budget Item No. 6262.

Resolution 96-1012 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with RREM, Inc., for professional services relating to the study of alternatives for increasing water pressure and capacity to the Duluth International Airport area, which agreement is on file in the office of the city clerk as Public Document No. 96-1202-19; payment not to exceed \$8,900.50, payable from the Public Utility Water Fund 510.

Resolution 96-1013 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

WHEREAS, the city desires to develop an equitable cost allocation system for the sanitary sewer utility and has put forth a request for proposals for professional services to assist in this process; and

WHEREAS, Camp, Dresser & McKee, Inc., has represented that it is qualified and willing to perform the services set forth in its proposal to assist the city in the planning and implementation of a sanitary sewer utility cost allocation system.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 96-1202-20, for professional services in the planning, development and implementation of a sanitary sewer utility cost allocation system in the city of Duluth. The compensation under this agreement shall not exceed \$50,000, and these payments shall be made from Fund 530-500-0500-5303.

Resolution 96-0910 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0904, passed by the Duluth City Council on October 15, 1996, awarding a construction contract to Northland Constructors of Duluth, Inc., for the Endion neighborhood street improvement program in the amount of \$965,361.58, be amended to add that the normally assessable portion of the project be paid from the 1996 Federal Program Fund 263 - community development - Endion Area Streets Project Account No. 6906 in an amount not to exceed \$245,000 and \$720,361.58 payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9605, Object 5530.

Resolution 96-0997 was unanimously adopted.

Approved December 2, 1996

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. 118-179-01, Federal Project BRSTP 6996 (233); 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 \$27,765.30.

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 96-1002 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

BE IT RESOLVED, that the proper city officials are authorized to pay to Garfield Management the sum of \$8,020.09 in full settlement of all claims arising from the damage to the private sewer line serving 537 Garfield Avenue, which damage was discovered about February 2, 1996, payable from self insurance fund.

Resolution 96-1011 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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:

south side of London Road from 60th Avenue East to 500 feet easterly.

Resolution 96-0996 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

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 23rd Avenue East from Fifth Street to 300 feet northerly.

Resolution 96-0999 was unanimously adopted.

Approved December 2, 1996

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR WHEELER

96-047 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1997.

- - -

BY COUNCILOR WHEELER

96-048 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1997 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT PRETTNER SOLON

96-045 (9321) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE AS AMENDED, AMENDING SECTION 50-24(b) TO DELETE THE REQUIREMENT FOR A 60 FOOT FRONT YARD SET BACK FOR DETACHED GARAGES.

President Prettnr Solon moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY PRESIDENT PRETTNER SOLON

96-046 (9322) - 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 FROM R-2, TWO FAMILY RESIDENTIAL, TO R-4, APARTMENT RESIDENTIAL, PROPERTY LOCATED WEST OF DECKER ROAD AND SOUTH OF VILLAGE MALL (ANDERSON-CICH).

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

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: None -- 0

Abstention: Councilor Hogg -- 1

Absent: Councilor Bohlmann -- 1

- - -

The meeting was adjourned at 8:35 p.m.

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

- - -

ORDINANCE NO. 9321

BY PRESIDENT PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE AS AMENDED, AMENDING SECTION 50-24 (b) TO DELETE THE REQUIREMENT FOR A 60 FOOT FRONT YARD SET BACK FOR DETACHED GARAGES.

The city of Duluth does ordain:

Section 1. That Section 50-24 (b) of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 50-24. Same--Rear yards.

(b) An accessory building not exceeding 20 feet in height may occupy not to exceed 30 percent, and unenclosed parking spaces may occupy not to exceed 90 percent of the area of a required rear yard, but no accessory building, or private swimming pool, shall be closer than ten feet to any dwelling or other main building which is located on an adjacent property, no closer than five feet to any rear lot line, nor closer than two feet six inches to any side property line, an accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Section 50-20.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 12, 1997)

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

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: None -- 0

Absent: Councilor Bohlmann -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 2, 1996
Approved December 2, 1996
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9322

BY PRESIDENT PRETTNER SOLON:

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 FROM R-2, TWO FAMILY RESIDENTIAL, TO R-4, APARTMENT RESIDENTIAL, PROPERTY LOCATED WEST OF DECKER ROAD AND SOUTH OF VILLAGE MALL (ANDERSON-CICH).

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 573]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 12, 1997).

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

Yeas: Councilors Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: None -- 0

Absent: Councilor Bohlmann -- 1

Abstention: Councilor Hogg -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 2, 1996

Approved December 2, 1996

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 16, 1996, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 9

Absent: None -- 0

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The minutes of council meetings held on May 6, 13 and 20, 1996, were approved upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettnr Solon -- 8

Nays: Councilor Hogg -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

96-1216-29 Ron and Marcia Hanson submitting letter regarding the proposed storage of abandoned property and inoperative vehicles (96-043-O). -- Received

96-1216-01 Lake Superior Medical Society submitting letter regarding the sale and regulation of tobacco and tobacco related devices (Ordinance No. 9314). -- Received

96-1216-10 Public Access Community Television submitting letter regarding 1997 budget request (96-1047R). -- Received

96-1216-02 The following submitting letters regarding the tax levy (96-047-O): (a) David G. Garrick; (b) Mabel Lessard. -- Received

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REPORTS OF OFFICERS

96-1216-03 Parks and recreation department director submitting minutes of board of directors for the Lake Superior zoological society November 21, 1996, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

96-1216-04 Duluth airport authority: (a) Minutes of October 15, 1996, meeting; (b) Unaudited balance sheet for September 30, 1996. -- Received

96-1216-06 Duluth transit authority: (a) October 1996 financial statement summary; (b) October 1996 income statement; (c) Minutes of November 26, 1996, meeting. -- Received

96-1216-05 Heritage preservation commission minutes of October 9, 1996, meeting. -- Received

96-1216-07 Parking commission minutes of December 3, 1996, meeting. -- Received

96-1216-08 Seaway Port authority of Duluth: (a) August 31, 1996, financial statements; (b) Minutes of September 25, 1996, meeting; (c) September 30, 1996, financial statements; (d) Minutes of October 29, 1996, meeting. -- Received

96-1216-09 Tree commission minutes of November 18, 1996, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

State Auditor Judith Dutcher reviewed the functions of the state auditor's office. Ms. Dutcher expressed her view point regarding the aspect of the city of Duluth looking to an "outside" auditor to audit the city's performances. She felt that the state auditor performs an excellent audit for the city to insure that city officials are performing their function properly.

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Administrative Assistant Nollenberger noted that January 31 is the deadline for receiving neighborhood matching grant applications and Lynn Hollatz explained how the program works.

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Regarding a stop sign at 42nd Street and Minnesota Avenue, Keith Stauber expressed concern that there may have been some misrepresentation and that due process might not have been followed.

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RESOLUTION TABLED

President Prettner Solon moved to remove Resolution 96-0859, requesting the Duluth charter commission to recommend amendment of Sections 8 and 31 of the City Charter to authorize administrative approval of contracts, which motion was seconded and unanimously carried.

President Prettner Solon noted that the resolution requests the charter commission to review this issue and that upon recommendation from the charter commission the council can either adopt it unanimously or place the issue on the ballot for voters to decide.

Councilor Bohlmann stated that she opposes sending this issue to the charter commission, that she believes it is good for the council to have oversight and that it will not save that much time.

Councilors Wheeler and Hardesty noted that, given the size of the city budget, the \$5,000 requirement is outdated and that it is appropriate to send this issue to the charter commission to review.

Councilor Hogg stated that he supports a change, but with raising the limit, he is concerned that by the simple majority of 5 to 4, permission could be given to the administration to purchase whatever and that besides changing the dollar amount it takes out all the protections that are provided for in the charter. Councilor Hogg made a motion to amend the resolution and draft ordinance, as follows:

(a) In the resolution, in the last paragraph, after the words "city council" add the words "by a minimum majority of seven positive votes";

(b) In the attached draft ordinance, in the middle of the first page after "\$5,000" and on the bottom of page 2, under (b), second sentence, after "\$5,000 or less" add "or such greater amount as is approved by the vote of at least seven members of the council," and in the second to last sentence, at the bottom of page 2, delete "\$5,000" and add "such limit," which motion was seconded and discussed.

Councilor Bohlmann noted that this responsibility should remain in the charter and with the council, and that a change should not be allowed, even with a 7/9's vote of the council.

Councilor Hogg's amendment, carried upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Councilor Talarico noted how the ability to use technology will affect the efficient cost savings with the bidding process and the acquisition of materials, and governments will need to act promptly in order to secure those savings.

Councilor Bohlmann noted that with these changes, the council will have no say in those areas, and that if the council has control over the small items, the larger items will also be reviewed.

Councilor Hogg noted that this resolution just requests the charter commission to recommend that sections of the charter be amended and then before any change is approved, ground rules

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

must be agreed upon with the administration. He moved to call the question, which motion was seconded and unanimously carried.

Resolution 96-0859, as amended, was adopted as follows:

BY PRESIDENT PRETTNER SOLON:

WHEREAS, Sections 8 and 31 of the Duluth City Charter authorize the city council to delegate to administrative officers of the city the authority to approve contracts of \$5,000 or less; and

WHEREAS, these monetary limits on delegation of contract approving authority were enacted in 1956, and over the intervening years inflation of the dollar has rendered these limits obsolete; and

WHEREAS, any new limits established in the City Charter on the city council's power to delegate contract approving authority to administrative officers of the city will also become obsolete over time; and

WHEREAS, the city council feels that it should be given the authority to adjust the limits of the contract approving authority of administrative officers from time to time as needed to ensure a balance between efficiency in the contracting process and council oversight of such process.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the charter commission to recommend amendment of Sections 8 and 31 of the City Charter to authorize the city council, by a minimum majority of seven positive votes, to delegate to administrative officers the power to award contracts in amounts determined by the council, which proposed amendment is on file in the office of city clerk as Public Document No. 96-1216-27.

Resolution 96-0859, as amended, was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

The rules were suspended upon a unanimous vote to consider ordinances 96-047 and 96-048 at this time.

The following entitled ordinances were read for the second time:

BY COUNCILOR WHEELER

96-047 (9324) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1997.

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

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

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BY COUNCILOR WHEELER

96-048 (9325) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1997 APPROPRIATING MONIES

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

Yeas: Councilors Bohlmann, Hales, Hogg, Keenan, Prettner Solon, Rapaich, Talarico, Wheeler and President Hardesty -- 9

Nays: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 96-0816, by Councilor Wheeler, approving a special law relating to student housing at Lake Superior College, was introduced for discussion.

Councilor Hales stated that she isn't convinced there is a need for additional housing at this time.

Councilor Bohlmann stated she can't support this resolution because she feels the HRA should be paying the "in lieu of" property taxes.

Resolution 96-0816 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city council hereby gives the necessary local approval to Laws of Minnesota, 1995, Chapter 264, Article 3, Sections 29, 30 and 31.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to file the required documents with the secretary of state indicating city approval of this special law, as set forth in Minnesota Statutes, Section 645.021, Subd. 3.

Resolution 96-0816 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, pursuant to sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of recovering 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 6, 1997, 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	\$5.8971 per month
User charge - class I	2.4085/ccf
User charge - class II	3.3527/ccf
User charge - class III	4.1815/ccf
Miles, Inc.	7.7212/ccf
Chroma	4.6032/ccf
Kemp	5.186/ccf.

BE IT FINALLY RESOLVED, that the rate regulations established and approved by Resolution 96-0098 are rescinded as of January 6, 1997.

Resolution 96-0992 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-1003, by Councilor Wheeler, distributing the 1997 estimated special city excise and sales taxes known as tourism taxes, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Bohlman expressed concerns regarding the funding to the DECC, that the attendance figures for the OMNIMAX are down and that these dollars will be used to finance the shortfall.

Finance Department Director Todd Torvinen noted that while some projections for the slow times are down, the projections for high attendance times are below actual. He further noted that the DECC will efficiently cut costs during these slow times.

Councilor Keenan stated he will abstain from voting on this resolution because of his portion as executive director of Grandma's Marathon.

Resolution 96-1003 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the 1997 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3%	1%	1%	Add'l 2%	TOTAL
	<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			22,000	13,600	35,600
DECC	\$512,500		23,900	24,000	560,400
Convention and					
Visitors Bureau	276,000	92,100	296,500	85,000	749,600
Heritage and					
Arts Center		89,000	49,600	8,000	147,500
Spirit Mountain			78,600	25,000	103,600
Donations			30,000	20,000	50,000
Transfer to					
general fund	41,500	95,000	225,200	69,900	431,600
Transfer to					
debt service			<u>384,200</u>	<u>255,500</u>	<u>639,700</u>
	<u>\$830,000</u>	<u>\$277,000</u>	<u>\$1,130,000</u>	<u>\$511,000</u>	<u>\$2,748,000</u>

Resolution 96-1003 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

Resolution 96-1004, by Councilor Wheeler, approving the fiscal year January 1, 1997, to December 31, 1997, operation budget of the Duluth Airport and the Duluth transit authority, was introduced for discussion.

Councilor Hogg moved to divide the resolution to consider each authority separately, which motion was seconded and unanimously carried.

Resolution 96-1004(a) was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1997, to December 31, 1997, in the amount of \$1,724,165 for the Duluth airport authority is hereby approved.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

FURTHER RESOLVED, that the authority shall submit to the city council its proposed budget in a prescribed format on or before September 1 of each year.

Resolution 96-1004(a) was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

Councilor Hogg stated that he wasn't comfortable with the way the transit authority developed their budget, or with the process they used to extend the contract with the management company.

Resolution 96-1004(b) was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1997, to December 31, 1997, in the amount of \$8,572,085 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority shall submit to the city council its proposed budget in a prescribed format on or before September 1 of each year.

Resolution 96-1004(b) was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Hogg -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR WHEELER:

RESOLVED, that the operation budget for the fiscal year January 1, 1997, to December 31, 1997, for Duluth Steam District No. 2 in the amount of \$6,035,106 is hereby approved.

Resolution 96-1005 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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Resolution 96-1018, by Councilor Wheeler, approving DEDA's general, debt service and storefront loan fund budgets for 1997, was introduced for discussion.

Councilor Bohlman stated that she opposes the debt service which is included in this resolution.

Resolution 96-1018 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 1997.

Resolution 96-1018 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Resolution 96-1026, by Councilor Wheeler, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 1997 Grandma's Marathon, was introduced for discussion.

Councilor Keenan stated that he will abstain from voting on this resolution because he is the executive director of Grandma's Marathon.

Resolution 96-1026 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for 1997 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 96-1216-28, at a cost to the city of \$15,000 plus in kind services, which shall be paid from Fund 258-030-1431-5490.

Resolution 96-1026 was adopted upon the following vote:

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Rapaich, Talarico, Wheeler and President Prettnner Solon -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the monthly salary schedule for assistant city attorneys is hereby established as follows:

Effective January 1, 1997

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
3209	3373	3536	3702	3864
<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
4048	4255	4461	4667	4874
<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
5107	5370	5633	5898	6161

Assistant city attorneys shall, at the time of initial appointment, be placed at Step 1 of such scale, unless a higher step is recommended by the city attorney and approved by the director of the department of administrative services. During their first two and ½ years of service such attorneys shall advance one step in the pay scale every six months, and thereafter such attorneys shall advance one step in the pay scale upon completion of each additional year of service.

RESOLVED FURTHER, that effective January 1, 1997, the monthly salary for the city attorney shall be \$6,603.

RESOLVED FURTHER, that the city attorney and assistant city attorneys shall be entitled to the same fringe benefits as the supervisory employees of the city, excluding longevity awards.

RESOLVED FURTHER, that the monthly salary schedule for the position of equal opportunity representative is established as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
3242	3402	3573	3752	3940

The person employed in this position shall initially be placed at Step A of such schedule, unless placement at a higher step is approved by the mayor, and shall advance one step in the schedule at the beginning of the next pay period after completion of six months service in the position; and shall advance one further step in the schedule at the beginning of the next pay period after completion of each additional 12 months of service in such position.

The equal opportunity representative shall be entitled to the same longevity award and fringe benefits as the supervisory employees of the city.

RESOLVED FURTHER, that this resolution shall be effective as of January 1, 1997.

Resolution 96-1046 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the firm of Durenberger/Foote to provide the city with Washington legislative services during 1997, which agreement is on file in the office of the city clerk as Public Document No. 96-1216-11, at a cost to the city of not to exceed \$31,500 plus certain expenses, which shall be payable from the General Fund 015-1510-5312.

Resolution 96-1051 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR WHEELER:

WHEREAS, the newly formed Hillside Business Association has requested a grant from the city's economic development fund to assist with start up costs for this organization; and

WHEREAS, this association will be working on solutions to problems presently experienced in the Central and East Hillside areas of Duluth that may be inhibiting economic growth in those areas; and

WHEREAS, the city council believes that this association could be a valuable tool in improving the economic status of the Central and East Hillside areas;

NOW, THEREFORE, BE IT RESOLVED, the city council hereby approves a grant of \$1,500 to the Hillside Business Association to assist with start up costs for this organization, which monies shall be paid from the Economic Development Fund 255.

Resolution 96-1052 was unanimously adopted.

Approved December 16, 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. Certificates of Indebtedness, Purpose and Authorization.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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.

1.02 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 \$9,525,000 to be dated January 22, 1997 (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.

Section 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.

Section 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.

Resolution 96-1073 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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Resolution 96-1077, by Councilor Wheeler, authorizing execution of an amendment to the city's employment contract with Karl Nollenberger, was introduced for discussion.

Councilor Bohlmann felt the salary for the position of the administrative assistant is adequate at this time.

Resolution 96-1077 was adopted as follows:

BY COUNCILOR WHEELER:

RESOLVED, that the proper city officers are hereby authorized to execute Amendment No. 4 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. 96-1216-12.

Resolution 96-1077 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 1997, at a cost to the city of \$98,870, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 96-1027 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Approved December 16, 1996
GARY L. DOTY, Mayor

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Resolution 96-1028, by Councilor Rapaich, authorizing a contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1997, at a cost to the city of \$67,319, was introduced for discussion.

Councilor Hales questioned the expenditure of the funds and the cost to individuals for this service.

Steve Dettinger, director, noted that this is the same budget request as last year. He further noted that there is no charge to individuals for outreach program services, but treatment programs do have charges associated with them.

Councilor Hales felt that this expenditure might not be the best use of the dollars and that other programs might be funded instead of this one.

To councilor questions, Mr. Nollenberger and City Attorney Dinan reviewed what can be taken out of the proceeds of the casino funds and how those funds can be spent.

Resolution 96-1028 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that the city is hereby authorized to contract with Gamblers Intervention Services for the operation of an outreach gambling program during 1997, at a cost to the city of \$67,319, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 96-1028 was adopted upon the following vote:

Yeas: Councilors Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 7

Nays: Councilors Bohlmann and Hales -- 2

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 for a one year period beginning January 1, 1997, to December 31, 1997, at an estimated annual cost of \$50,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 96-1033 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 equipment beginning January 1, 1997, through December 31, 1997, at an estimated annual cost of approximately \$70,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 96-1034 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized to execute a one year software maintenance agreement for software support services with Geographic Software Specialists, Inc., at an annual estimated cost of \$11,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309.

Resolution 96-1035 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing approximately 435,000 gallons of fuel for a one year period for the various departments/divisions in accordance with specifications on its low specification bid of approximately \$404,300, terms net 30, FOB job site, payable out of various fund, dept./agency various, organization various, object various.

Resolution 96-1053 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering a motor grader for the street maintenance division in accordance with specifications on its low specification bid of \$182,140.98, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2007, Object V703.

Resolution 96-1054 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proper city officers are hereby authorized a contract with Hewlett Packard Company for a renewal of a hardware and software maintenance agreement at a cost of approximately \$11,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5309.

Resolution 96-1055 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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 data processing division, at a rate of \$50 per hour at a total annual cost of approximately \$25,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 96-1056 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Performance Computer Forms, Inc., be and hereby is awarded a bid for furnishing and delivering approximately 1,000 cartons of computer printer paper for the data processing division in accordance with specifications on its low specification bid of approximately \$25,000, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5203.

Resolution 96-1060 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Twin Ports Mailing be and hereby is awarded a contract for furnishing mailing services for the city clerk's division in accordance with specifications on its low specification bid of \$5,500, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 1512, Object 5322.

Resolution 96-1066 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Chromatek be and hereby is awarded a contract for furnishing and installing a traffic sign graphic computer system for the traffic operations division in accordance with specifications on its low specification bid of \$21,827.18, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2100, Object B661.

Resolution 96-1067 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Motorola Communication and Electronics be and hereby is awarded a contract for furnishing and delivering 14 portable radios and accessories for the fire department in accordance with specifications on its low specification bid of \$9,799.30, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2090, Object 5441.

Resolution 96-1070 was unanimously adopted.
Approved December 16, 1996
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:

ALCOHOLIC BEVERAGE BOARD

Rosemary Christensen and Arnold C. Johnson for terms expiring October 31, 1999.

Resolution 96-1023 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

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

NEIGHBORHOOD ADVISORY COUNCIL

Elmer E. Harvey (East Hillside/Endion) for a term expiring March 1, 1997, replacing Joan Hackner Barrett who resigned.

Resolution 96-1024 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR BOHLMANN:

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

PARK AND RECREATION BOARD

Walter E. Cressman for a term expiring February 13, 1999.

Resolution 96-1025 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

DEFERRED COMPENSATION PLAN COMMISSION

Larry Jeneson (treasurer) and Martin Mehling (fire) for terms expiring December 31, 2000.

Resolution 96-1032 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

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

COMMISSION ON DISABILITIES

Laurie B. Berner, Gerald A. Camelon, D. D. Davison, Janet Evans and Diane Garasha for terms expiring November 1, 1999.

Resolution 96-1042 was unanimously adopted.

Approved December 16, 1996

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

D. Edward Fitzgerald for a term expiring April 30, 1999, replacing Jay Seiler.

Resolution 96-1044 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR BOHLMANN:

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

PARK AND RECREATION BOARD

Sandra Robinson for a term expiring February 13, 2000, replacing Craig Smith who resigned.

Resolution 96-1048 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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Resolution 96-1049, by Councilor Bohlmann, confirming appointment of Thomas Shefchik replacing Jane Gilbert, Robert Baeumler replacing Patricia Patronas and reappointment of Beth Brown to the planning commission, was introduced for discussion.

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

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BY COUNCILOR BOHLMANN:

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

WATER AND GAS SERVICE HEARING BOARD

Larry Bubacz for a term expiring September 1, 1999, replacing Warren Czaia.

Resolution 96-1050 was unanimously adopted.

Approved December 16, 1996

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 chief water plant operator which were approved by the civil service board on April 4, 1995, and which are filed with the city clerk as Public Document No. 96-1216-13, are approved. This classification remains represented by the basic unit and will be compensated at Range 34, \$3,265 to \$3,893 per month.

Resolution 96-1061 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed specifications for the civil service classification of prosecution assistant which were approved by the civil service board on August 6, 1996, and which are filed with the city clerk as Public Document No. 96-1216-14 are approved. This classification will be represented by the basic unit and compensated at Range 131, \$2,535 to \$2,998 per month.

Resolution 96-1062 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

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 September 3, 1996, and which are filed with the city clerk as Public Document No. 96-1216-15, are approved;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees; the pay range and rate shall remain unchanged, Pay Range 22, \$1,890 to \$2,226 per month.

Resolution 96-1063 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of building official which were approved by the civil service board on November 12, 1996, and which are filed with the city clerk as Public Document No. 96-1216-16, are approved; said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and that the pay range and rate shall remain unchanged, Pay Range 1135, \$4,370 to \$5,329 per month.

Resolution 96-1064 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR BOHLMANN:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of gas and energy coordinator which were approved by the civil service board on December 3, 1996, and which are filed with the city clerk as Public Document No. 96-1216-17, 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 and rate shall remain unchanged, Pay Range 32, \$2,869 to \$3,411 per month.

Resolution 96-1065 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city of Duluth, Minnesota (city), entered into an agreement with North Star Community Development Corporation (NSCDC), Inc., Duluth, Minnesota, as authorized by Resolution 93-0800, adopted October 4, 1993, 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, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute Amendment No. 3, on file in the office of the city clerk as Public Document No. 96-1216-18 to the HUD funded NSCDC revolving loan fund program agreement deleting the requirement that 100 percent of borrowers reside within the city of Duluth, and adding a provision which would allow loans to be made to qualified firms with at least 50 percent Duluth resident ownership and ensuring that qualified firms which are owned in entirety by Duluth residents will be given first priority.

Resolution 96-0949 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0962 adopted on November 6, 1995, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services, Inc., Duluth, Minnesota (NHS), in which NHS agreed to operate the Central Hillside residential parking project (the agreement), payable from the 1994 Federal Program Fund 263 - community development - Central Hillside Residential Parking Project Account 6261; and

WHEREAS, both parties desire to amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 96-1216-19, to the agreement with NHS which revises the project operating guidelines and extends the term of the agreement to December 31, 1997, with no change in compensation under terms of the agreement.

Resolution 96-1029 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0449 adopted on May 22, 1995, the city of Duluth (the city), entered into an agreement with Neighborhood Housing Services, Inc., Duluth, Minnesota (NHS), in which NHS agreed to operate the Central Hillside homeownership project (the agreement), payable from the 1994 Federal Program Fund 263 - community development - Central Hillside Homeownership Project Account 6256; and

WHEREAS, Amendment No. 1 to the agreement was authorized by Resolution 95-0648, adopted on July 24, 1995; and

WHEREAS, parties desire to further amend the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 2, a copy of which is on file in the office of the city clerk as Public Document No. 96-1216-20, to the agreement with NHS which revises the project operating guidelines and extends the term of the agreement to December 31, 1997, with no change in compensation under terms of the agreement.

Resolution 96-1030 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city of Duluth (city), pursuant to Resolution No. 96-0506, adopted on June 10, 1996, entered into an agreement (City Contract No. 1650) with Neighborhood Housing Services of Duluth, Inc. (NHS), under which NHS agreed to establish and operate a revolving loan fund to carry out a coordinated program of housing rehabilitation and neighborhood preservation; and,

WHEREAS, both parties desire to amend the agreement in order to incorporate updated program guidelines and policies and procedures, and further to incorporate prior year revolving loan fund assets into the year (1996) agreement.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute Amendment No. 1, substantially in the form of the copy which is on file in the office of the city clerk as Public Document No. 96-1216-21, to the agreement with NHS.

Resolution 96-1031 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy on file in the office of the city auditor as Contract No. 17311, with Leonard, Street and Deinard, P.A., extending the term of the agreement, increasing the amount payable thereunder by an additional \$12,000, increasing the rates for services performed after December 31, 1996, and changing the supplemental funding source for payment of tax credit administrative services from 1995 CDBG Fund 263, program administration to Fund 100, Agency 020, other professional services.

Resolution 96-1043 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

RESOLVED, that the proper city officers are authorized and directed to execute that certain agreement, filed as Public Document No. 96-1216-22, 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 \$134,650 to be paid from General Fund 100-015-2050-5541.

Resolution 96-1047 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY PRESIDENT PRETTNER SOLON:

WHEREAS, the city council of the city of Duluth, Minnesota (the council) has determined that there is a need and opportunity for the development of property at Duluth International Airport to encourage aircraft-related industry in the city; 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 December 18, 1995, the council 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 by its Resolution 95-1074; and

WHEREAS, on September 17, 1996, the Duluth economic development authority approved the second amendment to development program for Development District No. 17 and tax

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

increment financing plan for Tax Increment Financing District No. 18, Cirrus Development Corporation, Phase II (the plan) by its Resolution No. 96D-66; and

WHEREAS, said plan proposes the creation of a new tax increment district adjacent to the geographical area of Tax Increment Financing District No. 15 currently occupied and used by Cirrus Development Corporation for the development of light aircraft and a financing plan for the new district to accommodate the construction of light aircraft at Duluth International Airport as part of Phase II of the Cirrus development at the airport; and

WHEREAS, the amended development program for Development District No. 17 and tax increment financing plan for Tax Increment Financing District No. 18, Cirrus Development Corporation Phase II, 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 amenities and other attractive planning features, thereby further encouraging industrial development in the area and providing jobs and economic development in Duluth; and

WHEREAS, the proposed development, 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 project and the city could not completely finance the costs without the use of tax increment to assist with financing of the project; and

WHEREAS, the site of the project is not located with an existing tax increment financing district and therefore Tax Increment Financing District No. 18 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 September 26, 1995, said boards have been notified that the amended plan was to be considered at a public hearing on the date hereof and both boards have waived the statutory notice period provided for in Minnesota Statutes 469.175, subd. 2; and

WHEREAS, notice of such public hearing was published in a newspaper of general circulation in the city of Duluth on October 5, 1996, and the council held such public hearing on the date hereof regarding the approval and adoption of the plan; and

WHEREAS, members of the council have determined that the 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 plan; and

WHEREAS, the city has at all time intended to make a qualifying contribution with regard to Tax Increment District No. 18 in conformance with the provisions of Minnesota Statutes Section 273.1399 subd.6; and

WHEREAS, on October 15, 1996, the council adopted Resolution No. 96-0926 approving the plan; and

WHEREAS, said Resolution 96-0926 inadvertently omitted the specific election to make such a qualifying contribution; and

WHEREAS, the council wishes to clarify the intent of the city to make a qualifying contribution under Minnesota Statutes Section 273.1399 subd.6 with regard to Tax Increment District No. 18.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the information presented to council, the information included in the plan, and the information provided at public hearing, the council hereby finds:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

- (a) That the adoption of the plan is in the public interest and to the benefit of the health, safety and welfare of the city of Duluth;
- (b) That the plan conforms to the general plan for the development of the city of Duluth as a whole;
- (c) That Tax Increment Financing District No. 18 is an economic development district as described in Minnesota Statutes section 469.174 subdivision 12;
- (d) That the proposed site for the expanded project would not be available for development without the tax increment sought;
- (e) That the plan will afford maximum opportunity consistent with the needs of the locality as a whole, for redevelopment by private enterprise;
- (f) That the plan conforms to the general plan for the development of the locality as a whole; and
- (g) That the project, would not, in the opinion of the council, reasonably be expected to occur within the reasonably foreseeable future solely through private investment and 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 subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan.

FURTHER RESOLVED, that the 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. 96-1015-24, as of this date.

FURTHER RESOLVED, that the city of Duluth does hereby elect to make a qualifying local contribution with regard to Tax Increment District No. 18 in conformance with the provisions of Minnesota Statutes Section 273.1399 subd.6 during the entire life of the district.

FURTHER RESOLVED, that the form of the contribution will be determined by the city at the time of the contribution provided that it shall conform at all times to the requirements of the Statute.

FURTHER RESOLVED, that Resolution No. 96-0926 is hereby amended and replaced in its entirety by this resolution and the terms of this resolution, to the extent that they are inconsistent with Resolution No. 96-0926, shall be deemed to be controlling.

FURTHER RESOLVED, that the city of Duluth requests that the county auditor certify Tax Increment District No. 18 in conformance with the provisions of this resolution.

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 plan.

Resolution 96-1074 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized to execute that certain agreement filed as Public Document No. 96-1216-23 with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at Zoo Year's Eve on December 31, 1996.

Resolution 96-1075 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept Ordean Foundation funding in the amount of \$20,000. This money will be used to help pay for staff salaries and benefits for the growth and achievement program (G.A.P.). This funding is available from January 1, 1997, through January 1, 1998. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 96-1216-24.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund No. 269, Budget Item No. 6294.

Resolution 96-1022 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept Northland Foundation funding in the amount of \$10,000. This money will be used to provide supportive services and to help pay for staff salaries and benefits for the growth and achievement program (G.A.P.). This funding is available from December 1, 1996, through November 31, 1997. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 96-1216-25.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund No. 269, Budget Item No. 294.

Resolution 96-1076 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 100,000 gallons of caustic soda (50 percent) for the water and gas department in accordance with specifications on its low specification bid of \$89,700, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5238.

Resolution 96-1036 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that LaRoche Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 pounds of anhydrous ammonia for the water and gas department in accordance with specifications on its low specification bid of \$13,600, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5234.

Resolution 96-1037 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Cytec Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,600 pounds of magnifloc 985N flocculent for the water and gas

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

department in accordance with specifications on its low specification bid of \$14,520, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5239.

Resolution 96-1038 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that General Chemical Corporation be and hereby is awarded a contract for furnishing and delivering approximately 150,000 gallons of 50 percent liquid aluminum sulfate for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$49,410, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5237.

Resolution 96-1039 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 55 tons of 50 percent liquid chlorine for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$21,780, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5235.

Resolution 96-1057 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HOGG:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 190 tons of 25 percent hydrofluosilicic acid for the water and gas department in accordance with specifications on its low specification bid of \$33,858, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5236.

Resolution 96-1058 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR TALARICO:

RESOLVED, that Voyageur Bus Company be and hereby is awarded a contract for the Waterfront tram service for the property management division in accordance with specifications on its low specification bid of \$8,027, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

Resolution 96-1020 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0575 to L.H.B. Engineers and Architects for furnishing design engineering services required for 1997 street improvement program for the lower Hunters Park-2 project, be amended to increase the amount by \$90,940 for a new total of \$116,607, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9704, Object 5530.

Resolution 96-1040 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

- - -

BY COUNCILOR TALARICO:

RESOLVED, that Resolution 96-0575 to R.R.E.M., Inc., for furnishing design engineering services required for 1997 street improvement program for the Lower Lester Park-2 project, be amended to increase the amount by \$69,860 for a new total of \$100,214, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9705, Object 5530.

Resolution 96-1041 was unanimously adopted.
Approved December 16, 1996
GARY L. DOTY, Mayor

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Resolution 96-1068, by Councilor Talarico, amending Resolution 96-0257 to increase Contract No. C17247-96 awarded to Strgar-Roscoe-Fausch, Inc., for providing additional professional traffic engineering services for additional traffic studies and plan revisions for intersection improvements on Woodland Avenue between Fourth Street and St. Marie Street, to increase the amount by \$41,700 for a new total of \$107,450, was introduced for discussion.

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

Alex Livadaros expressed concern over the issue of the safety for the children versus the aspect of the traffic movement. He felt that stressing the traffic movement aspect adversely affects the safety of youth. He requested signs for slower speeds around the school.

Steve Running noted his concern for the use of left turn lanes at the intersection of Woodland Avenue and Clover Street and how that will affect the safety for youth while trying to increase efficiency.

Heidi Lobyad expressed concern about the lack of information about this project before it was started. She noted that federal regulations state that the public needs to be involved in the development of plans. She asked if less drastic changes, such as new signal lights with left turn arrows, lower speed limit in a school zone, flashing warnings for a school zone or having three lanes were considered before deciding on this proposal.

Kristen Monson reviewed a letter recently sent out by the engineering department regarding their recommendations for the changes on Woodland Avenue, noting that it appears that the concerns of the neighbors were not heard. Ms. Monson stated that left turn arrows would save a large amount of dollars and work adequately.

Jeff Brown, teacher at Chester Park School and involved in the safe walk program, felt the city has failed to involve the neighbors in developing their recommendations. Mr. Brown felt the use of left turn lanes will only increase the speed. He encouraged the use of public participation models that have been used in other areas with great success.

Councilor Hogg felt that the city has put more emphasis and importance on vehicular traffic than on pedestrians and the people who live in the neighborhood.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Councilor Wheeler supported the need to have further meetings with input from UMD, Chester Park School, Woodland Junior High and the neighbors.

Councilor Hardesty supported the comments from councilors Wheeler and Hogg, and in addition, requested the need to study the aspect of overall traffic routes in this area and the city in general.

Councilor Talarico moved to table the resolution 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 engineering services to design repair work to the Aerial Lift Bridge; and

WHEREAS, the city desires to hire a professional engineering firm to provide the engineering services required for a design replacement trunnion shaft and bushing for the Aerial Lift Bridge counterweight sheave assemblies; and

WHEREAS, Hardesty and Hanover, LLP, 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 Hardesty and Hanover, LLP, to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$30,000, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303. To be reimbursed from municipal state aid funding (MSA).

Resolution 96-1069 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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Resolution 96-1072, by Councilor Talarico, authorizing proper city officials to enter into a parking space rental agreement with Washington Studios Cooperative for rental of ten parking spaces, was introduced for discussion.

Councilors Hales and Hogg expressed concern over costs the city has already paid for this project at this location and now the need to purchase parking spaces.

Mr. Nollenberger stated that the Washington Center has satisfied the needs for parking for the residents and that this specific parking is needed for public parking for anyone utilizing the facilities in the center.

Resolution 96-1072 was adopted as follows:

BY COUNCILOR TALARICO:

RESOLVED, that proper city officials are authorized to enter into a parking space rental agreement, Public Document No. 96-1216-26, with Washington Studios Cooperative for the rental of ten parking spaces at the parking lot adjacent to the building known as Washington Center and Washington Studios located at 315 North Lake Avenue, payment to be made from City Fund 100-500-1950-5411.

Resolution 96-1072 was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking from 2:00 a.m. to 6:00 a.m. on alternate days zone is hereby established: Lake Avenue from Third Street to Fourth Street.

FURTHER RESOLVED, that the no parking restriction now in effect on the east side is hereby rescinded.

Resolution 96-0867 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Gold Cross Ambulance Service be and hereby is awarded a contract for furnishing 12 months of emergency medical training (EMT-A) refresher course for fire fighters for the fire department in accordance with their proposal of \$17,292, terms net 30, FOB fire halls, payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5319.

Resolution 96-0985 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that United Development Achievement Center (UDAC) be and hereby is awarded a contract for the 1997 annual requirements for vehicles washing and cleaning services for the police department in accordance with specifications on its low specification bid of \$5,998.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5409.

Resolution 96-0986 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to pay the county of St. Louis \$40,000, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5445, for the boarding at the St. Louis County Jail during 1997 of persons charged with violations of the Duluth City Code, 1959, as amended; said boarding fees to be paid in four equal quarterly installments on March 31, June 30, September 30 and December 31.

Resolution 96-1000 was unanimously adopted.

Approved December 16, 1996

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR KEENAN

96-043 (9323) - AN ORDINANCE PERTAINING TO THE STORAGE OF ABANDONED PROPERTY AND INOPERATIVE VEHICLES IN THE CITY OF DULUTH; CHANGING REGULATIONS PERTAINING TO SUCH STORAGE; AMENDING CHAPTER 30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Jim Van Dell felt this is an invasion of citizens privacy and that only a small percentage of property owners are a problem. He expressed concern over the increased costs for administering this ordinance and noted problems with the ordinance such as: building inspectors not being knowledgeable of what constitutes junk versus a valuable possession; complainants who can be anonymous; abuse, such as harassment to individuals; the additional expense required for more inspectors and that it discriminates against the economically disadvantaged.

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At this time 10:55 p.m., Councilor Hogg moved to suspend the rules to extend the adjournment time until 11:30 p.m., which motion was seconded and unanimously carried.

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Allen Kehr expressed concern that statements made in the ordinance are radical in that it states a rationale of how property values are adversely affected by junked vehicles in neighboring properties. Mr. Kehr requested that the ordinance either be defeated or tabled.

Terry and Linda Blotti expressed concern that the city is planning to take action with regard to their property, and they spoke of the time, expense and efforts they have spent to try to fix up their property. Linda Blotti noted that not all people have the same opportunity to keep up their property financially.

William Drake felt that the council is tampering with something that is very important with a lot of citizens and that the citizens should have the opportunity to vote on this issue as provided for in the constitution with regard to property rights.

Councilor Wheeler said he didn't see this as an invasion of personal property rights, but if a person feels that a decision isn't right, then there is an appeal process.

Councilor Hogg questioned if the existing ordinance could be enforced better or whether certain language in the proposed ordinance is not enforceable.

Councilor Hales questioned the urgency for this ordinance and suggested that further time and thought be given to examining the issues raised here to create an improved ordinance.

Councilor Hardesty felt that a longer period of time to respond to notices is necessary because it may not be financially possible for some individuals to react on such short notice.

Councilor Hardesty moved to amend the ordinance in Section 30-3, the fourth paragraph, changing the word "seven" to "30," which motion was seconded and discussed.

Councilor Keenan noted that if the individual is not able to take care of the matter in time, all they need to do is to put a tarp over it and they have 180 days.

Councilor Hardesty's amendment failed upon the following vote:

Yeas: Councilors Hales, Hardesty, Hogg and Talarico -- 4

Nays: Councilors Bohlmann, Keenan, Rapaich, Wheeler and President Prettner Solon -- 5

Councilor Rapaich moved to amend the proposed ordinance, Section 30-3, in the fourth paragraph, by changing the word "seven" to "14," which motion was seconded and unanimously carried.

Councilor Bohlmann stated that she cannot support this ordinance because it is too vague and broad, and that more time should be taken to rewrite it. Councilor Bohlmann moved to table the ordinance for further review, which motion was seconded and failed upon the following vote:

Yeas: Councilors Bohlmann, Hales and Hogg -- 3

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

Councilor Keenan moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9323

BY COUNCILOR KEENAN:

AN ORDINANCE PERTAINING TO THE STORAGE OF ABANDONED PROPERTY AND INOPERATIVE VEHICLES IN THE CITY OF DULUTH; CHANGING REGULATIONS PERTAINING TO SUCH STORAGE; AMENDING CHAPTER 30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 30 of the Duluth City Code, 1959, as amended, be retitled and amended to read as follows:

CHAPTER 30.

ABANDONED PROPERTY AND ABANDONED OR INOPERATIVE VEHICLES.

Article I. Abandoned Property.

Sec. 30-1. Definitions.

As used in this Article, the following terms shall mean as follows:

(a) Abandoned property. Wrecked or derelict property having no value other than nominal salvage value, if any, and which has been left unprotected from the elements and shall include wrecked, inoperative, or partially dismantled trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, and any other similar article which has no value other than nominal salvage value, if any, and which has been left unprotected from the elements. "Abandoned property" does not mean or include an abandoned motor vehicle;

(b) Public property. Lands and improvements owned by the United States government, the state of Minnesota, the county of St. Louis, or the city of Duluth, lying within said city, and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property;

(c) Enforcement officer. The building official of the city of Duluth or any member or members of his staff authorized by the said building official to enforce the provisions of this Chapter.

Sec. 30-2. Unlawful storage of abandoned property.

No person shall place or leave or cause to be placed or left any abandoned property on public property within the city, or to place, leave, keep or store or cause or permit to be placed, left, kept or stored any abandoned property on private property within the city except as permitted by Chapter 50 of this Code.

Sec. 30-3. Procedure for removal of abandoned property from public property.

Whenever the enforcement officer shall ascertain that an article or articles of abandoned property is present on public property within the city, he shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to-wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within seven days from the date of this notice, otherwise it shall be presumed to be abandoned property and will be removed and destroyed by order of the city of Duluth. Dated this: (setting forth date of posting of notice). Signed: (setting forth name, title, address and telephone number of enforcement officer).

Such notice shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the enforcement officer shall make reasonable effort to ascertain the name and address of the owner of the property, and if such is reasonably available to the enforcement officer, he shall mail a copy of such notice to the owner on or before the date of posting.

If at the end of seven days after posting such notice the owner or any person interested in the abandoned article or articles described in such notice has not removed the article or articles from public property or shown reasonable cause for failure to do so, the enforcement officer may cause the article or articles of abandoned property to be removed and destroyed, and the salvage value, if any, of such article or articles shall be retained by the city of Duluth to be applied against the cost of removal and destruction thereof.

Sec. 30-4. Procedure for removal of abandoned property from private property.

Whenever the enforcement officer shall ascertain that an article or articles of abandoned property are present on private property within the city in violation of Section 30-3, the enforcement officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to-wit: (setting forth brief description) located at (setting forth brief description of location) is improperly stored and is in violation of (setting forth Section violated) and must be removed within seven days from date of this notice, otherwise it shall be presumed to be abandoned property and will be removed and destroyed by order of the city of Duluth. Dated this: (setting forth date of posting of notice). Signed: (setting forth name, title, address and telephone number of enforcement officer).

Such notice shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the enforcement officer shall mail a copy of the notice to the owner of the real property upon which the abandoned articles are located as shown by the real estate tax records on or before the date of posting of such notice.

If at the end of seven days after posting such notice the owner or any person interested in the abandoned article or articles described in such notice has not removed the article or articles and complied with the regulation cited in the notice, the enforcement officer may cause the article or articles of abandoned property to be removed or destroyed, and the salvage value, if any, of such article or articles shall be retained by the city of Duluth to be applied against the cost of removal and destruction thereof.

Article II. Abandoned and Inoperative Vehicles.

Sec. 30-5. Declaration of public nuisance.

The presence, accumulation, or improper storage of abandoned motor vehicles on real property and the public streets and highways of this city is hereby found to create an unsightly condition tending to reduce the value of real property, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and outside storage of such motor vehicles is further found to promote blight and deterioration in the community and may violate the zoning regulations of the city in many instances. It is further found that such abandoned motor vehicles are often in the nature of rubbish, litter, and unsightly debris. Therefore, the accumulation and storage of such motor vehicles on real property, except as hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in this or other ordinances of this city or by state law.

Sec. 30-6. Definitions.

The following words and terms when used in this Article, shall have the following meanings:

Abandoned vehicle. Any motor vehicle which is determined by the enforcement officer to be inoperative or to which the last registered owner of record has relinquished dominion and control or which does not have attached to it current license plates or tabs as required by state law, and which is not stored in accordance with this Code.

Enforcement officer. The building official or the building official's designee or any police officer of the city.

Inoperative vehicle. Any motor vehicle which cannot be driven or propelled under its own power in its existing condition or which cannot be driven or propelled under its own power in a safe manner because of its wrecked, junked, or partially dismantled condition.

Motor vehicle. A motor vehicle, as defined in Section 33-1 of this Code.

Real property. Any land within the city which is not a public street, highway, or right-of-way.

Sec. 30-7. Open storage of abandoned vehicles.

No person shall park, store, or leave or permit the parking, storing or leaving of any abandoned vehicle upon any real property, including private property, within the city for a period of fourteen successive days, unless such vehicle is completely enclosed in a building or unless such vehicle is so stored or parked on private property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles is necessary to the operation of the business or commercial enterprise.

Sec. 30-8. Notice to remove.

(a) Whenever the enforcement officer ascertains that an abandoned vehicle is present on real property within the city, he shall cause notice to be placed upon such abandoned vehicle using substantially the following words:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED MOTOR VEHICLE AND TO THE OWNER OR PERSON(S) IN LAWFUL POSSESSION OR CONTROL OF THIS LAND. This vehicle (setting forth a brief description), located at (setting forth a brief description of the location),

is improperly stored, and its present storage will be in violation of Section 30-8 of the City Code on (setting forth a date fourteen days from the date of this notice) unless such vehicle is removed and stored within a building or opaque screened area pursuant to Section 30-8. Failure to remove and store said vehicle is a misdemeanor. In addition, this vehicle may be removed and disposed of in accordance with the provisions of Minnesota Statutes Chapter 168B.

(b) The notice set forth in subsection (a) of this Section shall not be less than eight inches by ten inches and shall be sufficiently weatherproofed to withstand normal exposure to the elements.

(c) In addition to the posting, the enforcement officers shall mail on the day of posting or on the day immediately following, a copy of the written notice to the last registered owner of said vehicle and to the owner or persons in lawful possession of the real property upon which the vehicle is located.

Sec. 30-9. Failure to remove.

Failure by the owner of the motor vehicle or owner or person in lawful possession of the real property upon which the vehicle is located to remove and store the motor vehicle after notice has been given and the fourteen day period has expired, shall constitute a misdemeanor.

Sec. 30-10. Abatement, removal and disposition.

(a) Abatement and removal by city. If the registered owner of any motor vehicle which is in violation of this Article or if the owner or person in lawful possession or control of the property upon which such vehicle is located shall fail, neglect or refuse to remove or house such vehicle in accordance with the notice, the motor vehicle shall be deemed abandoned and the enforcement officer may remove and dispose of such vehicle.

(b) Removal and disposal of abandoned vehicles. The removal and disposal of said vehicles shall be made in accordance with the provisions set forth in Minnesota Statutes Chapter 168B.

Sec. 30-11. Entry for removal or abatement.

Any person, at the direction of the enforcement officer, is hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this Article. It is unlawful for any person to interfere with or hinder such person so authorized to enter upon private property in the performance of these duties.

Sec. 30-12. Prohibition on streets, highways, or rights-of-way.

It is unlawful for any person to do the following:

(a) Park or leave an inoperative vehicle in the right-of-way of public streets, provided that a reasonable time, not to exceed 24 hours from the time of disability, is permitted for the removal or servicing of a disabled motor vehicle.

(b) Store abandoned property as defined in this Chapter or solid waste as defined in Chapter 24 for more than seven days in a motor vehicle or trailer parked on a street, or on private property, outside of a garage in any district zoned residential or suburban under Chapter 50 of this Code.

Sec. 30-13. Restoration of vehicles.

Notwithstanding provisions of this Chapter to the contrary, one motor vehicle that is being kept for restoration purposes may be stored on each residential parcel of land if:

(a) The motor vehicle is kept under a tarp or is kept behind opaque visual screening; and

(b) Substantial and verifiable progress is made toward the restoration of the vehicle beginning within 180 days after it is parked on the lot and continuing thereafter until the restoration is completed.

Sec. 30-14. Appeals.

Any person aggrieved by a decision of the enforcement officer in the enforcement of this Chapter may appeal the decision to the building appeal board in the manner set forth in Section 10-5 of this Code.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 26, 1997)

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

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

Nays: Councilors Bohlmann, Hales and Hogg -- 3

Passed December 16, 1996

Approved December 16, 1996

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9324

BY COUNCILOR WHEELER:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1997.

The City of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 1997 hereby determined to be the sum of \$8,138,791, which 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 -- 5,097,391

Section 3. For the payment of debt, there will be levied for the general obligation debt service fund the sum of -----1,651,700

Section 4. For the payment of interest and principal on the transit bonds, there will be levied for the transit bond fund the sum of ----- 14,600

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 -----234,400

Section 6. 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 -----
156,100

Section 7. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of -----984,600

Section 8. That this ordinance shall take effect immediately upon passage and approval. (Effective date: December 16, 1996)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

Yeas: Councilors Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettner Solon -- 8

Nays: Councilor Bohlmann -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 16, 1996
Approved December 16, 1996
GARY L. DOTY, Mayor

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ORDINANCE NO. 9325

BY COUNCILOR WHEELER:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1997 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, 1997, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

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

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the 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 \$2,004,000 from the public utility fund to the general fund for administrative services; comprised of \$1,939,000 or seven 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 1997. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

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, and 503 in the golf division and 504 in the zoo 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 1997.

<u>010 - LEGISLATIVE AND EXECUTIVE</u>		
1101	City council - total	\$ 140,500
1102	Mayor's office - total	152,300
1103	Administrative assistant - total	175,600
1104	Attorney's office - total	962,400
	Total legislative and executive	<u>\$ 1,430,800</u>
<u>015 - ADMINISTRATION</u>		
1510	Administrative services - total	\$ 1,074,400
1511	Budget - total	191,800
1512	City clerk - total	581,300
1513	Data/word processing - total	993,200
1514	other functions	750,300
	Total administration department	<u>\$ 3,591,000</u>
<u>020 - PLANNING AND DEVELOPMENT DEPARTMENT</u>		
1200	Planning - total	\$ 402,000
1202	Business development - total	490,600
	Total planning department	<u>\$ 892,600</u>
<u>030 - FINANCE</u>		
1321	Director's office - total	\$ 132,200
1322	City assessor's office - total	608,700
1324	City auditor's office - total	1,295,000
1325	Purchasing office - total	252,200
1327	City treasurer's office - total	352,200
	Total finance and records	<u>\$ 2,640,300</u>
<u>100 - FIRE DEPARTMENT</u>		
1501	Fire administration - total	\$ 326,200
1502	Firefighting operations - total	10,190,100
1503	Fire prevention and training - total	517,500
1504	Building inspection - total	1,092,300
	Total fire department	<u>\$ 12,126,100</u>
<u>200 - POLICE DEPARTMENT</u>		
1610	Administration - total	\$ 1,506,200

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1996

1620	Operations - total	6,428,600
1630	Support services - total	2,755,900
	Total police department	<u>\$ 10,690,700</u>
	<u>300 - LIBRARY</u>	
1701	Director's office - total	\$ 496,900
1702	Library services - total	2,449,500
1703	Buildings and equipment - total	235,000
	Total library	<u>\$ 3,181,400</u>
	<u>400 - PARKS AND RECREATION</u>	
1810	Director's office - total	\$ 309,900
1812	Recreation and senior services - total	930,600
	Total parks and recreation	<u>\$ 1,240,500</u>
	<u>500 - PUBLIC WORKS</u>	
1910	Director's office - total	\$ 292,300
1920	Maintenance - total	5,639,900
1925	Bridges - total	554,500
1930	Engineering services - total	1,632,700
1935	Traffic operations - total	674,800
1950	Property management - total	3,115,100
	Total public works	<u>\$ 11,909,300</u>
	<u>700 - TRANSFERS</u>	
	Total transfers	<u>\$ 6,404,078</u>
	<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	\$ 1,633,000
504	Zoo fund - total	1,638,700
	<u>PUBLIC UTILITIES</u>	
510	Water fund - total	\$ 9,248,300
520	Gas fund - total	26,447,900
530	Sewer fund - total	14,706,200
540	Steam fund - total	3,458,960

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, 1997. (Effective date: January 1, 1997)

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

Yeas: Councilors Bohlmann, Hales, Hardesty, Hogg, Keenan, Rapaich, Talarico, Wheeler and President Prettnner Solon -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 16, 1996
Approved December 16, 1996
GARY L. DOTY, Mayor

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