



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
1998**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 5, 1998, 6:00 p.m. in the Lake Superior Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0105-01 North Shore Bank of Commerce submitting petition for vacation of air rights along public right-of-way at 125 West Superior Street. -- Assessor

98-0105-02 Duluth Family Practice Center submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9350 on October 27, 1997. -- Received

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REPORTS OF OFFICERS

98-0105-03 Assessor submitting affidavit of mailing of notice of public hearing by the special assesment board on January 13, 1998, at 4:00 p.m., regarding reassessments of: (a) Buildings removed by demolition, Contract No. 4949; (b) Permanent street, sanitary sewer, water and gas mains in Woodridge First Addition, Contract Nos. 4950, 1188051 and 1188052. -- Clerk

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REPORTS OF BOARDS AND COMMISSIONS

98-0105-04 Board of directors of trusts for Miller-Dwan Medical Center minutes of November 20, 1997, meeting. -- Received

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REPORTS OF COUNCILORS

Judge Martin administered oaths of office to newly elected councilors Edwards, Gilbert and Swapinski and re-elected President Hardesty.

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President Hardesty announced that the election of officers for 1998 would now take place. Councilor Hogg was elected president upon a unanimous vote. Councilor Prettner Solon was elected vice president upon a unanimous vote.

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Councilor Hardesty spoke of the accomplishments of the council during the past year. She introduced councilors and President Hogg.

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

Mayor Doty presented the 1998 State of the City Address (Public Document No. 98-0105-08).

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MOTIONS AND RESOLUTIONS

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, 1998, subject to departmental approvals and the payment of sales and property taxes:

Copasetic, Inc. (Kozy Bar), 129 East First Street, transferred from Ja-Mo, Inc. (Kozy Bar), same address, with Paul King, sole owner.

Resolution 98-0027 was unanimously adopted.

Approved January 5, 1998

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 off sale nonintoxicating malt liquor license for the period ending April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Speedway/Superamerica LLC (Superamerica), 3301 Arrowhead Road and 2432 London Road, transferred from Superamerica GDA, Inc. (Superamerica), same address.

Resolution 98-0028 was unanimously adopted.

Approved January 5, 1998

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 1998

Licensee

West Duluth Moose Lodge #1478 one day off site February 21, 1998
Resolution 98-0029 was unanimously adopted.
Approved January 5, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following additional bar license for the period ending August 31, 1998, subject to departmental approvals:

Grandma's Sport Bar and Grill, Inc. (Bellisio's Italian Restaurant and Wine Bar), 405-425 Lake Avenue South.

Resolution 98-0047 was unanimously adopted.
Approved January 5, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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

ANIMAL HUMANE BOARD

Roger P. Pitts for a term expiring October 31, 1998, replacing Anita Nelson who resigned.
Resolution 98-0003 was unanimously adopted.
Approved January 5, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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

COMMISSION ON DISABILITIES

Bea B. Johnson for a term expiring November 1, 1998, replacing Lesley Pownall who resigned.

Judy Snow for a term expiring November 1, 1999, replacing Keith Gross who resigned.

Alyce J. Hagberg for a term expiring November 1, 2000, replacing Duane Timo.

Resolution 98-0007 was unanimously adopted.

Approved January 5, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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

DULUTH PUBLIC ARTS COMMISISON

Marilyn Bowes for a term expiring September 30, 1999, replacing Martin DeWitt.

Resolution 98-0009 was unanimously adopted.

Approved January 5, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

WOMEN'S COMMISSION

Leanne Ventrella for a term expiring September 17, 1999, replacing Sharon Roseen who resigned.

Resolution 98-0011 was unanimously adopted.

Approved January 5, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of gas dispatch operator II which were approved by the civil service board on February 14, 1997, and which are filed with the city clerk as Public Document No. 98-0105-06, 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 Rate 28, Pay Range \$2,424 to \$2,869 (1996 contract).

Resolution 98-0014 was unanimously adopted.

Approved January 5, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, by Resolutions of Intent numbered 97-0355 (water main), 97-0356 (gas main) and 97-0351 (sewer) approved on May 12, 1997, and April 28, 1997, respectively, the council did request the administration to prepare plans and specifications for the extension of an eight inch water main, two and three inch gas mains and an eight inch sanitary sewer in Arrowhead Road from Arlington Avenue to Swan Lake Road; 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 improvements as described above be made; that the estimated cost of said improvements as estimated by the engineers are \$124,000 (water), \$73,000 (gas) and \$414,000 (sanitary sewer), payable from the public utility funds; 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 No. 98-0105-07, and which description is hereby incorporated herein by reference to said Public Document No. 98-0105-07; 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 98-0031 was unanimously adopted.

Approved January 5, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 zone is hereby established for the west side of Abbotsford Avenue from Lewis Street to end of road, 465 feet northerly.

Resolution 98-0008 was unanimously adopted.

Approved January 5, 1998

GARY L. DOTY, Mayor

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Mayor Doty introduced the 1997 employees of the month and announced the selection of Jeffrey Grams 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 8, 1998, 5:00 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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REPORTS OF OFFICERS

98-0108-01 Finance director submitting official statement pertaining to general obligation tax and aid anticipation certificates of indebtedness of 1998. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 98-0030, by President Hogg, providing for the issuance, sale and delivery of \$9,000,000 general obligation tax and aid anticipation certificates of indebtedness of 1998 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 a speaker on the resolution.

Katherine Kardell, representing Evensen Dodge, Inc., financial consultant on this bond issue, reviewed the results of the bond sale (Public Document No. 98-0108-01).

Resolution 98-0030 was adopted as follows:

BY COUNCILOR HOGG:

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. 97-0985, adopted December 15, 1997, authorized the issuance and provided for the sale of \$9,000,000 General Obligation Tax and Aid Anticipation Certificates of Indebtedness of 1998 (the "Certificates") in anticipation of collection of taxes levied in the year 1997 for collection during the year 1998 and state aids receivable in 1998 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 Norwest Investment Services, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$9,019,710 plus accrued interest on the total principal amount from January 21, 1998, 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 good faith deposit 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 1998

Section 4. The Certificates to be issued hereunder shall be dated January 21, 1998, 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, 1998 (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 3.98 percent per annum. Interest on the Certificates shall be payable on the Maturity Date. Interest shall be computed on the basis of a 365-day year. The Bond Registrar designated below shall make the interest payment with respect to the Certificates by check or draft mailed to the registered owners of the Certificates shown on the bond registration records maintained by the Bond Registrar at the close of business on December 15, 1998, 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 thereafter to the account of Cede & Co. on the Maturity Date at the address indicated in or pursuant to 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

make any transfer or exchange of any Certificates during the 15 days next preceding the Maturity Date.

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 1998

R-1 \$9,000,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	December 31, 1998	January 21, 1998	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: NINE MILLION DOLLARS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 365-day year. Interest on this Certificate shall be payable on the maturity date set forth above. This Certificate is not subject to redemption prior to maturity. Both principal and interest are payable at Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council, in coin or currency of the United States of America, which on the date of payment is legal tender for payment of public and private debts. The Bond Registrar shall make the interest payment with respect to this Certificate directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on December 15, 1998, 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 \$9,000,000, 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 8, 1998 (the "Resolution").

It is hereby certified and recited that a sum of \$26,334,776 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 1997 for collection during the year 1998, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 1998; 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 21st day of January, 1998.

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 1998

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 1998, 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>
1/21/98	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

_____ 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 \$9,000,000, 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 \$9,000,000, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest 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 \$250,000 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 \$2,108,091, based on notices from the Minnesota Department of Revenue, and the State Aids are reasonably expected to be \$24,526,685.

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. 9355, adopted by the City Council on December 15, 1997 (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 1998 (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 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. 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 obligations. 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.

Resolution 98-0030 was unanimously adopted.

Approved January 8, 1998

GARY L. DOTY, Mayor

The meeting was adjourned at 5:05 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 12, 1998, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of the council meeting held on May 27, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0112-11 Minnesota department of revenue submitting letter exempting the city from the provisions of Minnesota Statutes, Section 297a.48, subdivisions 7 and 8, to allow the city to continue to collect and administer its own sales and use tax (97-0862R). -- Received

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REPORTS OF OFFICERS

98-0112-02 Assessor submitting for confirmation the assessment rolls levied to defray the assessable portions of sanitary sewers in Grand Avenue at 84th Avenue West, \$39,954.77 assessable (Contract No. 6296); Oneota Alley at 48th Avenue West, \$26,335.48 assessable (Contract No. 5297). -- Clerk

98-0112-01 Assistant city attorney submitting right of entry for dredge material disposal site for the Duluth-Superior Harbor, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

98-0112-03 Engineering division submitting monthly project status report of December, 1997. -- Received

98-0112-04 Community development and housing division submitting HUD quarterly report (July - September, 1997). -- Received

98-0112-05 Parks and recreation department director submitting Lake Superior zoological society minutes of November 20, 1997, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0112-06 Civil service board minutes of November 4, 1997, meeting. -- Received

98-0112-07 Duluth airport authority: (a) Minutes of: (1) November 18; (2) December 8, 1997, meetings; (b) November 30, 1997, balance sheet. -- Received

98-0112-08 Sanitary sewer board of WLSSD minutes of: (a) December 1; (b) December 15, 1997, meetings. -- Received

98-0112-09 Special assessment board minutes of November 18, 1997, meeting. -- Received

98-0112-10 Tree commission minutes of December 8, 1997, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

John Rathe stated that his opinion, with regard to the proposed privatization of the skywalk in the Holiday Mall, is that a posted code of conduct is a better choice, but noted that it still has not been displayed in the mall for a trial period as was promised.

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RESOLUTIONS TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Swapinski moved to remove Resolution 97-1001, confirming appointment of Robert Reichert to Duluth housing trust fund board replacing Kristine Gentilini; and Resolution 97-1003, confirming appointment of Paul Huston to planning commission replacing James Yeager, from the table, which motion was seconded and unanimously carried.

Resolution 97-1001 was adopted as follows:

BY COUNCILOR SWAPINSKI (Introduced by Councilor Bohlmann):

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

DULUTH HOUSING TRUST FUND BOARD

Robert J. Reichert (at large) for a term expiring September 30, 2000, replacing Kristine Gentilini.

Resolution 97-1001 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

Resolution 97-1003 was adopted as follows:

BY COUNCILOR SWAPINSKI (Introduced by Councilor Bohlmann):

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

PLANNING COMMISSION

Paul R. Huston for a term expiring December 31, 2001, replacing James Yeager.

Resolution 97-1003 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

Resolution 98-0015, by President Hogg, authorizing a payment of \$10,000 to the John Beargrease Sled Dog Marathon, Inc., was introduced for discussion.

Responding to Councilor Keenan, Administrative Assistant Nollenberger stated that the present policy that requires a written agreement when funds are donated by the city only pertains to donations made from the general fund and because this donation is coming from the tourism fund, an agreement is not necessary. He acknowledged that this donation is for a sponsorship and that to be safe, he said the city will follow up with a written contract after the resolution is passed.

Councilor Hales explained that this donation is being approved even though there is not enough snow in Canal Park to accommodate the sled dog marathon this year. She continued that the council made a commitment in April of 1997 to fund this donation so that planning for the event for this year could go forward.

Resolution 98-0015 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the city is hereby authorized to pay \$10,000 to John Beargrease Sled Dog Marathon, Inc., for sponsorship and advertising promotion of the 1998 John Beargrease Sled Dog Marathon, which payment shall be payable from Fund 258 - donations.

Resolution 98-0015 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0043, by President Hogg, donating certain monies to the Canal Park Merchants Association to be used for Canal Park promotional activities, was introduced for discussion.

Responding to Councilor Edwards, Mr. Nollenberger clarified that the ten percent collected from vendors is computed on gross revenues and that the fee is merely a rental charge for the use of open space on public property where their operations take place. He continued that the fee is given to the Canal Park Merchants Association to be used for the promotion of Canal Park activities to assist in offsetting the loss of business created by the unfair competition of outdoor vendors who do not experience the type of costs necessary to maintain their buildings and to pay real estate taxes.

Councilor Edwards stated that because the vendors who do business in Canal Park have to pay for licenses, it is unreasonable for the city to also take ten percent of their very limited revenue. She continued that it is discriminating to provide funds for promotional activities in Canal Park and not for other retail areas. She expressed opposition to the resolution.

Councilor Keenan stated he believes collection of ten percent of vendors' gross revenues as rental is a justifiable business expense and he reminded councilors that the money goes back into promotion for the area which benefits all retailers in Canal Park including the seasonal vendors.

Resolution 98-0043 was adopted as follows:

BY PRESIDENT HOGG:

WHEREAS, the city has permitted certain vendors to set up carts on city property in the Canal Park area during the summer months in exchange for payment to the city of ten percent of their revenues; and

WHEREAS, these vendors provide competition for the Canal Park merchants during the most important months of the business cycle in that area; and

WHEREAS, the Canal Park Merchants Association has requested that the city donate the revenues it derives from the Canal Park vendors who use city property to the association to help fund Canal Park promotional activities such as Winter Red Flannel Days and the Waterfront Festival, which are held during the commercial off-season for this area; and

WHEREAS, the city council believes that it is appropriate to use public funds generated by the Canal Park vendors during the tourist season to help maintain the commercial viability of that area during the remainder of the year;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the donation of the revenues received from the Canal Park vendors during 1997 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 015-11514-2070 - aid to other agencies.

Resolution 98-0043 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Edwards -- 1

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0046, by President Hogg, calling a special municipal election on November 3, 1998, for an advisory referendum on an increase in the property tax levy to provide funding

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

for the continuation of police officer positions that have been funded by federal grants, was introduced for discussion.

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

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BY COUNCILOR RAPAICH:

RESOLVED, that Lake Superior Office Furniture 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 \$8,765.68, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E722.

Resolution 98-0020 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0026, by Councilor Rapaich, approving an agreement for services in the amount of \$14,700 with the Copeland Community Center, was introduced for discussion.

Councilor Hales reviewed that data requested by the council regarding this issue has just been received this evening and she stated she is uncomfortable voting at this time and suggested tabling the resolution until the data can be reviewed. She expressed concern that the housing and redevelopment authority (HRA) has told the council there is a shortage of low income housing in Duluth, yet it is housing University of Minnesota - Duluth (UMD) students at Copeland and requested an explanation.

Responding to Councilor Hales, Mr. Nollenberger reviewed that this project has been jointly funded by the city and St. Louis County in the past and noted that this year St. Louis County has deviated from the original contract agreement and reduced it's allocation to \$10,000. He recommended that the resolution be approved with the agreed upon allocation, but contingent upon St. Louis County contributing its fair share of \$14,700.

Councilor Hales reviewed the history of how this project was developed and funded and noted that the 1996 Tax Report Form 990 that was submitted to the council by Copeland Community Center, indicates that the city contributed \$30,610, while St. Louis County contributed only \$14,700. She stated that this type of funding is not available to other community clubs and is discriminatory. Councilor Hales continued that in 1996 there were concerns raised by local foundations, and in reviewing meeting minutes, that there has been ongoing conflict which has not been resolved and has led to the foundations choosing not to fund Copeland.

Mr. Nollenberger clarified that operational funding for Copeland Community Center for 1996 was \$14,700 and that community development block grant (CDBG) funds were used for certain specific projects which raised the total city contributions in 1996 to the \$30,610. He explained how resolution to the conflicts existing between Copeland, the Resident Management Council and some private funding sources is being negotiated by various entities and that it is hoped that resolve will be reached by early summer. Mr. Nollenberger also explained at great length the background of problems with the management and the residents to resolve their differences. He stated that for monitoring purposes, the allocation will be paid quarterly and he encouraged the council to approve the contract now so that daily operations will not be interrupted while negotiations take place.

Councilor Hales suggested amending the amount of the resolution so that is equal with what the county is paying. She noted that Copeland Community Center is not a function of the city and she believes they should have been independent of public funding by this time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Mr. Nollenberger said he does not favor lowering the amount proposed in the resolution, as the program has been funded at \$14,700 for the past 11 years and, with inflation, the program is a good buy.

Responding to Council Hales, Councilor Swapinski stated that the students being housed at Harborview are being productively utilized in that they are providing tutoring and mentoring services for the children of the residents who live there. He continued by saying that the money being requested for this program is similar to 1/2 of what it takes to incarcerate a juvenile for a year; is similar to that given to the John Beargrease Sled Dog Marathon and Grandma's Marathon; and provides after school programming for children who are obviously at risk. Councilor Swapinski said he would rather invest the money in the future of Duluth's young people.

Councilor Hales moved to amend the resolution to add the words "contingent upon St. Louis County making a similar monetary arrangement with Copeland for 1998," after the words "Copeland Community Center," which motion was seconded and discussed.

Councilor Rapaich stated that this amendment is redundant because the language is already contained in the contract.

Councilor Hales' amendment carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon and President Hogg -- 7

Nays: Councilors Rapaich and Swapinski -- 2

Resolution 98-0026, as amended, was adopted as follows:

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, contingent upon St. Louis County making a similar monetary arrangement with Copeland for 1998, which funds shall be used to assist the center's operations during calendar year 1998, which agreement is on file in the office of the city clerk as Public Document No. 98-0112-17, and under which agreement payments shall be made from the General Fund 015-1514, aid to other agencies.

Resolution 98-0026, as amended, was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Clarey's Safety Equipment be and hereby is awarded a contract for furnishing and delivering one 100-foot aerial platform fire truck under the following terms; Clarey's Safety Equipment will sell our used 100 foot aerial fire truck to East Grand Forks, North Dakota, fire department for \$100,000 and sell our 1980 International pumper to the Ostrander, Minnesota, fire department for \$18,000. The bid price for this new 100 foot aerial platform fire truck is \$563,779, less the trade-in of both used rigs of \$118,000 leaving a purchase price in accordance with specifications and payment terms on its low specification bid of \$445,779, terms net 30, FOB Appleton, Wisconsin, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V801.

Resolution 98-0040 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering seven sand spreader control systems and four portable printers for the street maintenance division in accordance with specifications on its low specification bid of \$15,117.68, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E736.

Resolution 98-0041 was unanimously adopted.

Approved January 12, 1998

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 division in accordance with specifications on its low specification bid, estimated to total of \$60,000, terms net 30, FOB destination, \$55,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0044 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering nine portable radios with accessories for the fire department in accordance with specifications on its low specification bid of \$6,299.55, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 015, Organization 2090, Object 5241.

Resolution 98-0048 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

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 98-0050 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

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

Resolution 98-0051 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

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 1998, estimated to total \$15,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0052 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

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 as needed during 1998, for an estimated total of \$10,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0053 was unanimously adopted.

Approved January 12, 1998
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 for the fleet services division as needed during 1998, for an estimated total of \$24,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0054 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

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 various departments/divisions in accordance with specifications on its low specification bid of \$440,150, terms net 30, FOB job site, payable out of various funds, dept./agencies, organizations, and objects.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0060 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Duluth Clinic/St. Mary's be and hereby is awarded a contract for furnishing medical services and drug testing for the city of Duluth in accordance with specifications on its low specification bid of \$70,000, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations, and objects.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0062 was unanimously adopted.

Approved January 12, 1998

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, BY 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>
Hermantown Amateur Hockey Association	Western Tavern	January 8, 1998

Resolution 98-0067 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

BOARD OF ZONING APPEALS

Ryan E. Mears for terms expiring July 31, 2000.

Resolution 98-0004 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

PARKS AND RECREATION COMMISSION

Bradley Beckman (District 1) for a term expiring February 13, 2001.

Richard Haney (professional) for a term expiring February 13, 2000.

Ronald Weber (community education) for a term expiring February 13, 1999.

Resolution 98-0005 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0006, by Councilor Swapinski, confirming appointments of Koua Vang and Ronald Boshey to citywide citizens advisory committee (CCAC) replacing Kay Slack and Kristine Rhodes, was introduced for discussion.

Councilor Hales stated that because of the controversy among committee members during the past year, she feels it is appropriate to interview new at large appointees for the CCAC.

Councilor Swapinski stated that he knows the individuals proposed for appointment personally and believes they are very qualified and requested the council to waive the interview process for these individuals.

Councilor Keenan stated that the CCAC is a very important committee which makes recommendations for the funding of programs with costs in the millions of dollars. He said he believes interviewing new at large appointees is justified and moved to table the resolution for the purpose of interviewing the proposed candidates, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Hales, Keenan and President Hogg -- 4

Nays: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Resolution 98-0006 was adopted as follows:

BY COUNCILOR SWAPINSKI:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Koua Vang for a term expiring March 1, 1999, replacing Kay Slack who resigned.

Ronald A. Boshey for a term expiring March 1, 2000, replacing Kristine Rhodes who resigned.

Resolution 98-0006 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

HUMAN RIGHTS COMMISSION

John Day and Leslie Gibbs for terms expiring March 1, 2000, replacing Phyllis Pohl and Rick Smith.

Resolution 98-0010 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

William Parra (Endion/East Hillside) for a term expiring March 1, 2000, replacing Roger Johnson who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

William Parra (Endion/East Hillside) for a term expiring March 1, 2000, replacing Roger Johnson who resigned.

Resolution 98-0012 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Resolution No. 97-1013 pertaining to the establishment of a joint powers board with the city of Hermantown pertaining to Miller Creek is hereby amended by deleting Public Document No. 97-1215-29 therefrom and substituting Public Document No. 98-0112-12 therefore.

Resolution 98-0034 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0112-13, to the agreement with Leonard, Street and Deinard, P.A., which extends the term of the agreement through December 31, 1997, with no change in compensation under the terms of the agreement.

Resolution 98-0038 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

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 for the period of January 1, 1998, through December 31, 1998, said agreement filed as Public Document No. 98-0112-14.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6308.

Resolution 98-0002 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Geac Computers, 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 \$45,883, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 300, Organization 1702, Object 5309.

Resolution 98-0037 was unanimously adopted.

Approved January 12, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Lake Superior X-Ray, Inc., be and hereby is awarded a contract for furnishing and delivering one used medical x-ray suite set-up for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$9,052.50, terms net 30, FOB shipping point, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0505, Object 5580.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0056 was unanimously adopted.
Approved January 12, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0025, by Councilor Hardesty, authorizing the execution of an agreement with Western Lake Superior Sanitary District (WLSSD), relating to a remedial investigation and feasibility study for Duluth Dump Site No. 2 and the Rice Lake residue waste disposal facility for a consideration of \$102,355, was introduced for discussion.

Councilor Hardesty reviewed the nature of this resolution and the uncertainty of how it will affect each household in dollar figures. She noted that this resolution allows the district to start the study and authorizes WLSSD to charge a user fee for its portion of the study. With regard to the city's portion of the fee, she explained that the city can recover the costs by charging a user fee, but it will be necessary for the council to approve the fee before it is implemented. Councilor Hardesty moved to amend the first sentence of paragraph 10 of the agreement attached to the resolution to read as follows: "If Duluth requests by a duly enacted city council resolution that the WLSSD collect the past costs and future costs of the project through the solid waste management fee which the WLSSD is authorized by law to collect and administer, the WLSSD shall do so," which motion was seconded for discussion.

Mr. Nollenberger reviewed that it has been determined that the costs per household will total approximately \$9 to \$10 spread out over a ten year period, and of that \$9 to \$10, approximately \$3.50 constitutes the city's share. He continued to explain how legislation that was approved recently allows the city to recover such costs through user fees.

Responding to Councilor Hales, Mr. Nollenberger acknowledged that the figure given in the resolution is just for the study and not for implementation, and that entering into this agreement with WLSSD will not preclude the city from obtaining state or federal funds available for dump clean up if implementation is required.

Responding to Councilor Gilbert, Mr. Nollenberger stated that in the event there is an implementation stage, the city will seek state clean up funding but the city will also be required to contribute local money, which in the past has been obtained from the self insurance fund. He stated that this resolution deals only with the study stage and that if implementation is necessary, passing this resolution does not authorize WLSSD to charge a user fee for implementation.

Councilor Hardesty's amendment was unanimously carried.

Resolution 98-0025, as amended, was adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with WLSSD relating to a joint remedial investigation work plan and feasibility study for Duluth dump site No. 2 and the Rice Lake residue waste disposal facility; said agreement to be in the form of Public Document No. 98-0112-15 on file in the office of the city clerk; the consideration payable thereunder of \$102,355 to be paid from the self insurance fund.

Resolution 98-0025, as amended, was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

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. 98-0112-16, with the Minnesota department of children, families and learning to conduct planning and initial

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

implementation of a local school-to-work system through a local school-to-work partnership and to accept \$64,400 in school-to-work partnership grant funds to conduct said activities during the time period October 10, 1997, through June 30, 1998. Funds received shall be deposited in Fund 269, Budget Item 6282.

Resolution 98-0063 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

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Resolution 98-0013, by Councilor Gilbert, authorizing execution of an agreement with the Duluth Community Action Program, Inc., relating to distribution of emergency energy assistance funds, was introduced for discussion.

Councilor Gilbert moved to table the resolution and stated he is doing so at the administration's request, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Northern Energetics be and hereby is awarded a contract for furnishing energy surveys for city of Duluth residents for 1998 and 1999 for the water and gas department in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB destination, payable out of Home Energy II Fund 555, Dept./Agency 950, Object 5441.

Resolution 98-0018 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 380,000 pounds of liquid hydrofluosilicic acid for the water and gas department in accordance with specifications on its low specification bid of \$33,706, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5236.

Resolution 98-0021 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Thunder Bay Chemicals LTD., be and hereby is awarded a contract for furnishing and delivering approximately 150,000 gallons of aluminum sulfate for the water and gas department in accordance with specifications on its low specification bid of \$46,425, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5237.

Resolution 98-0022 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that General Alum and Chemical Corporation be and hereby is awarded a contract for furnishing and delivering approximately 6,600 pounds of magnifloc 985N nonionic polymer for the water and gas department in accordance with specifications on its low specification

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

bid of \$10,428, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5239.

Resolution 98-0023 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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 \$15,200, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5234.

Resolution 98-0024 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 55 tons of 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 98-0057 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Van Waters and 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 \$99,000, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5238.

Resolution 98-0059 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

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Resolution 98-0033, by Councilor Edwards, awarding contracts to various contractors for potential sidewalk snow removal in accordance with specifications on its low specification bid of \$12,500, was introduced for discussion.

Councilor Edwards reviewed that bids were received and summarized the range of rates to be charged. She explained that the bidder with the lowest hourly rate will be used until he has reached his capacity to provide services and then the bidder with the next lowest rate will be called, and so on.

Councilor Gilbert stated the hourly rates that may be charged is too much of a penalty to impose on someone for not shoveling their sidewalk in 24 hours and since enforcement may be a little arbitrary, and who will be used is arbitrary, it is unfair.

Resolution 98-0033 was adopted as follows:

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that various contractors be and hereby are awarded contracts for potential sidewalk snow removal for the street maintenance division in accordance with specifications on their low specification bid of \$12,500, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5319.

Resolution 98-0033 was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Gilbert -- 1

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 97-0692 to J.R. Jensen and Son, Inc., for reconstruction of a retaining wall in Lincoln Park be amended to increase the amount by \$10,749.80 for a new total of \$45,142.05, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2118, Object 5530.

Resolution 98-0039 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, by application and Permit No. 177, the city engineer granted Letourneau & Sons, Inc., permission to construct a public street and utilities from Minnesota Avenue westerly approximately 600 feet (City Job No. 8962RS96); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 98-0055 was unanimously adopted.

Approved January 12, 1998

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 1998 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 98-0016 was unanimously adopted.

Approved January 12, 1998

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

accordance with its fee structure at an annual cost of \$7,320, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 98-0019 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that St. Louis county department of communications be and hereby is awarded a contract for furnishing 12 months of access to 29 mobile data terminals for the police department in accordance with specifications on its low specification bid of \$13,560, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5441.

Resolution 98-0032 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Stratus Computer be and hereby is awarded a contract for providing 12 months of maintenance covering computer hardware and software for the police department in accordance with specifications on its low specification bid of \$27,984, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 98-0035 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that E/S Support Services be and hereby is awarded a contract for furnishing computer hardware and software maintenance during 1998 for the police department in accordance with specifications on its proposal of \$14,314.95, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5404.

Resolution 98-0036 was unanimously adopted.

Approved January 12, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Cellular One Duluth/Superior be and hereby is awarded a contract for furnishing and delivering cellular air time service and hardware for the police department in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB job sites, General Fund 100, Dept./Agency 200, Organization 1610, and Object 5321.

Resolution 98-0045 was unanimously adopted.

Approved January 12, 1998

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 1998 annual requirements for vehicle 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.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0064 was unanimously adopted.

Approved January 12, 1998

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 HOGG

98-002 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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BY COUNCILOR PRETTNER SOLON

98-001 - AN ORDINANCE PERTAINING TO THE ENVIRONMENTAL COUNCIL; CHANGING THE STATUS OF THE CHAIR OF THE ENVIRONMENTAL ADVISORY COMMITTEE OF THE PLANNING COMMISSION TO A VOTING MEMBER; AMENDING SECTION 2-132 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR PRETTNER SOLON

98-003 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 23, REARRANGEMENT OF HUNTERS' GRASSY POINT ADDITION TO DULUTH, EXCEPT PORTION TAKEN FOR TRAIL PURPOSES, TO DANIEL LATTNER, FOR A CONSIDERATION OF \$28,218, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (608 SOUTH 63RD AVENUE WEST).

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The meeting was adjourned at 9:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, January 27, 1998, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on June 9 and 16, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0127-01 Alan Klapmeier, et al. (four signatures) submitting petition to vacate that portion of Richfield Parkway adjacent to Hartley Estates, First Addition. -- Assessor

98-0127-02 St. Louis County Board of Commissioners submitting Resolution No. 18 appointing two commissioners (Commissioners Dennis Fink and William J. Kron with Commissioner Marilyn A. Krueger as alternate) as their representatives to the Northwest Airlines tax increment financing district board (Duluth) for one year terms which will expire on December 31, 1998. -- Received

98-0127-19 Mr. and Mrs. John Hassenstab submitting communication pertaining to various agenda items. -- Received

98-0127-18 John G. Rathe submitting communication pertaining to the proposed Holiday Center skywalk vacation (97-0819R & 97-0833R). -- Received

98-0127-09 Arthur Wright submitting communication pertaining to the removal of snow from public sidewalks within the city (Ordinance No. 9353). -- Received

98-0127-10 The following submitting communications pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R): (a) American Legion Department of Minnesota (St. Paul, MN); (b) American Legion Post #76 (St. Cloud, MN); (c) Marvin and Donna Beckman (Duluth, MN); (d) Nicholas G. Beckertgis (Sheboygan, WI); (e) Aaron Bolton (Evansville, IN); (f) Robert Brooks, Jr. (Duluth, MN); (g) John Clark (Duluth, MN); (h) Coalition to Stop the Des Moines (Duluth, MN); (i) JoAnn E. Crispo (New Britain, CT); (j) Duluth Area Chamber of Commerce (Duluth, MN); (k) Duluth Art Institute Board of Directors (Duluth, MN); (l) John H. and Bonnie M. Gibson (Duluth, MN); (m) Steve Gilbert (Duluth, MN); (n) Russell E. Gray (Diamond Bar, CA); (o) Hampton Inn Hotel (Duluth, MN); (p) Jaffrey C. Harris (Homer, NY); (q) S. Harnish (Duluth, MN); (r) Gloria Hovland submitting copies of letters from World War II Memorial Campaign (Washington, D.C.); (s) Frank R. Johnson, Jr. (St. Petersburg, FL); (t) Edward Kale (Duluth MN); (u) Tim LaMaster (Duluth, MN); (v) Robert E. Lane (Lake Jackson, TX); (w) Guilford S. Lewis (Duluth, MN); (x) Alden E. Lind (Duluth, MN); (y) Jean McCarthy (Superior, WI); (z) Sr. Mary Charles McGough, O.S.B. (Duluth, MN); (aa) Minnesota department of natural resources, division of parks and recreation (St. Paul, MN); (bb) Robert Louis Muller (Torrington, CT); (cc) John L. O'Neill, Jr. (St. Paul, MN); (dd) David and Jullianne Raimo (Duluth, MN); (ee) Lance Reasor (supported by 139 signatures from various Minnesota cities); (ff) Joshua Sauter (Stacy, MN); (gg) Andrew Serrell (Berlin, MD); (hh) Maris L. Smalley (Duluth, MN); (ii) Dwayne D. Truzinski (St. Cloud, MN); (jj) Dave and Ginger Wheat (Duluth, MN); (kk) Kathleen E. Weimer (supported by 337 signatures from various Minnesota and Wisconsin cities). -- Received

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REPORTS OF OFFICERS

98-0127-03 Assessor submitting:

(a) For confirmation assessment rolls levied to defray the assessable portions of the following contracts: bituminous surface on 38th Avenue West from Second Street to Third Street, Contract No. 5290, \$6,749.44 assessable; Vernon Street from Pacific to Grand (1996 street improvement program), Contract No. 7018, \$36,062.40 assessable; 15th Avenue East from London Road to Fourth Street (1994 street improvement program) Contract No. 7009, \$71,613.52 assessable. -- Clerk

(b) Letter of sufficiency regarding petition to vacate air rights along public right-of-way at 125 West Superior Street. -- Received

98-0127-04 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Minnesota Senior Federation, Northeast Coalition, on May 27, 1998, at Greysolon Plaza Ballroom; (b) Women's Association Duluth Superior Symphony Organization on April 25, 1998, at Duluth Entertainment Convention Center. -- Received

98-0127-08 Community development and housing division submitting HRA housing rehabilitation report for October and November, 1997. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0127-05 Environmental advisory council minutes of December 3, 1997, meeting. -- Received

98-0127-06 Special assessment board minutes of December 16, 1997, meeting. -- Received

98-0127-07 Water and gas service hearing board minutes of January 13, 1998, meeting. -- Received

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REPORTS OF COUNCILORS

Councilor Prettner Solon, speaking as a representative of the Duluth economic development authority (DEDA), reported that a meeting was held this evening, and that with regard to sale of Bayfront property to the state of Minnesota for the purpose of docking the USS Des Moines, DEDA voted four to one to support the decision of an advisory referendum.

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0046, calling a special municipal election on November 3, 1998, for an advisory referendum on an increase in the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants, from the table, which motion was seconded and carried upon a unanimous vote.

President Hogg explained the purpose of the referendum and how the results may affect the community policing program.

Councilor Hales stated she will vote against the resolution. She added that the city has numerous federally funded positions throughout the different departments and she said it would be wise for the city to do an inventory to see how loss of federal funding for those positions will affect the city financially.

Councilor Keenan stated he will not support a referendum. He stated that getting more money from taxpayers for more services is too easy and the city should not resort to that solution every time it needs more funding. He encouraged the city to look at the budget, set priorities and eliminate unnecessary spending to fund the community policing program.

Councilor Hardesty stated that whether or not a referendum is held, she supports increasing revenues to continue the community policing program because of its importance to the community. She added that the referendum is a way to find out how the public feels about this issue and that she will support it. Councilor Hardesty noted that because the city enjoys revenues from city sales tax, it has not been necessary to raise taxes until now. She stated that in the last ten to 12 years the city has only once raised taxes and even though salaries for employees have increased along with the city's costs due to inflation. Councilor Hardesty noted that during this time the city has still managed to build a reserve in funding and in looking to the future, there will always be a need for police officers and she believes it makes sense now to support an increase in the tax levy.

Councilor Gilbert noted that the increase being asked for to continue the community policing program is approximately 3-1/2 percent of the city's total budget, which he believes is significant. He said he is concerned that by approving an increase in the tax levy, a comfort zone for the city with regard to future budgets will be created which makes it easy to spend more money than necessary. Councilor Gilbert agreed that all avenues of using city money most efficiently have not been explored and he encouraged new, innovative ways to increase revenues to pay for new services. He noted that current basic unit city employees have been without a contract for over a year and said he believes that paying special attention to the community policing program sends the wrong message to other employees of the city, and therefore, will not support this issue.

Responding to Councilor Rapaich, Administrative Assistant Nollenberger stated that for a home valued at \$70,000, the tax increase will amount to approximately \$7 per year.

President Hogg stated that as it accumulates over the four years the amount will be \$28 per year.

Councilor Swapinski noted how the community policing program has provided a means for proactive intervention in schools and neighborhoods which has resulted in a higher level of quality of life that can be sold for economic development. He agreed that other avenues to increase revenues need to be explored, however, because federal funding is going to be lost for this program. Councilor Swapinski stated support to allow the citizens the opportunity to decide if this service should continue now.

President Hogg stated he believes it is not appropriate to tell the public that if the referendum fails, the community policing program will not be funded and they will not feel as safe. He said that he believes community policing is a high priority, but if there is a decision to change the level of police protection up to two officers per 1,000, which is a high level compared to other cities of the same size, then the city should look at its budget, prioritize services and programs and eliminate those that are less important.

Councilor Edwards stated community policing is a high priority, however, the administration knew two years ago that the grants were for a limited time and did nothing to prepare for the program's future. She stated that she is uncomfortable raising taxes to be placed in the general fund for this program without spending restrictions. Councilor Edwards added that Duluth residents pay one of the highest property taxes in the state and is unwilling to support raising them.

Mayor Doty noted that this resolution hiring police officers has nothing whatsoever to do with the employees' contract and that it is his intent to proceed immediately to eliminate police officer positions through attrition as they come up.

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

John Rathe stated he opposes a referendum because it is being portrayed to the citizens as a threat that the community policing program will end if it does not pass.

Councilor Hales stated that she also is concerned that the basic unit employees do not have a contract and she moved to table the resolution without intent to revisit the issue until settlement is reached, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty and Swapinski -- 5

Nays: Councilors Keenan, Prettner Solon, Rapaich and President Hogg -- 4

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Councilor Gilbert moved to remove Resolution 98-0013, authorizing execution of an agreement with the Duluth Community Action Program, Inc., relating to distribution of emergency energy assistance funds, from the table, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the sanitary sewer in Grand Avenue at 84th Avenue West (Contract No. 6296, assessable portion \$39,954.77) and sanitary sewer in Oneota Alley at 48th Avenue West (Contract No. 5297, assessable portion \$26,335.48) be and the same is hereby confirmed.

Resolution 98-0065 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement between AFSCME Council 96, Local 66 and the city containing substantially the same terms and conditions and in substantially the same form as that document on file with the city clerk as Public Document No. 98-0127-11.

Resolution 98-0077 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the proper city officials, including the deferred compensation commission, acting through reasonable procedures are authorized to implement or ratify, within the time required by law to the extent allowed by law, any city deferred compensation plan and any agreement to which the city is a party which agreement concerns the operation or administration of a deferred compensation plan, so that it contains substantially the terms and conditions set out in Public Document No. 98-0127-12 on file with the city clerk.

Resolution 98-0068 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that M.T.I. Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. repair parts for Toro industrial turf equipment for the fleet services division in accordance with specifications on its low specification bid of \$7,500, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0070 was unanimously adopted.
Approved January 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Cushman Motor Company, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. repair parts for Cushman, Ransomes, Ryan and Steiner turf equipment for the fleet services division in accordance with specifications on its low specification bid of \$5,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0071 was unanimously adopted.
Approved January 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Rice Industrial Supply, Inc., be and hereby is awarded a contract for furnishing and delivering miscellaneous automotive hydraulic fittings and hoses for the fleet services division 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.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0072 was unanimously adopted.
Approved January 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Amkus, Inc., be and hereby is awarded a contract for furnishing and delivering rescue fire truck tools for the fire department in accordance with specifications on its low specification bid of \$5,302.30, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E723.

Resolution 98-0073 was unanimously adopted.
Approved January 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1998, subject to departmental approvals and the payment of sales and property taxes:

Charlie's Grill and Bar, Inc. (Charlie's Grill and Bar), 610 East Fourth Street, transferred from WBK, Inc. (The Bellows), 2230 London Road, with Charles H. Lemon, 50 percent stockholder and Mary Jean Lemon, 50 percent stockholder.

Resolution 98-0074 was unanimously adopted.
Approved January 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

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

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

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

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

<u>Licensee</u>	<u>Gambling Site</u>	<u>Date Application Filed</u>
1. American Legion Post #71	5814 Grand Avenue	December 8, 1997
2. Second Harvest/Food Bank	Reef Bar	January 8, 1998
3. VFW Post #6320	5103 Ramsey Street	January 6, 1998
	Curly's Bar	January 6, 1998

Resolution 98-0079 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that purchase order Contract No. 97-0836-4923, authorized by Resolution 95-0373 with Ziegler, Inc., for the furnishing of ten leased motor graders for three winter seasons (1995-1996, 1996-1997, 1997-1998), be amended to authorize the purchase of three graders furnished for the 1997-1998 season and to increase the amount of said contract by \$531,942 for a new total of \$657,917, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V809.

Resolution 98-0081 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 \$8,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0082 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Uniform Connection be and hereby is awarded a contract for furnishing and delivering uniforms for the water and gas department, zoo division and library department in accordance with specifications on its low specification bid of \$17,771, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0083 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Minnesota Outdoor Recreation be and hereby is awarded a contract for furnishing and delivering O.E.M. replacement parts and repairs for John Deere lawn care tractors and equipment for the fleet services division in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0084 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that K.U.M.D., University Drive, Duluth, Minnesota, be and hereby is awarded a contract for furnishing radio broadcasts of city council meetings for the Duluth City Council in accordance with specifications on its low specification bid of \$7,200, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 010, Organization 1101, Object 5441.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0085 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 98-0086 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Lakeland Ford, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Ford equipment for the fleet services division as needed during 1998, estimated to total \$10,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0089 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Elgin sweeper and sander equipment for the fleet services division as needed during 1998, for an estimated total of \$24,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0090 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, Rotary Club of Duluth Harbortown, 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 Rotary Club of Duluth Harbortown 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 98-0100 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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Resolution 98-0091, by councilors Edwards and Hales, supporting the efforts to secure a project agreement with the state of Minnesota for the employment of local workers in the event that the proposed veterans memorial state park is approved by the legislature, was introduced for discussion.

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

Bob Woods spoke in support of the resolution because the proposed project will create new jobs for Duluthians.

Craig Olson, representing the Duluth Construction and Trades Council, supported the resolution and explained that the resolution requires that, if built, the veterans memorial state park shall be built by local tradespeople who live in Duluth and the surrounding communities.

Responding to Councilor Hardesty, Mr. Olson stated that the local unions are trying to secure an agreement whereby local tradespeople will be sent to Philadelphia to prepare the USS Des Moines for docking in Duluth. He added that depending on where the USS Des Moines is refurbished, such an agreement may cause conflict with unions on the East Coast.

Joe Sipress stated that while he opposes bringing the USS Des Moines to Duluth, he does support this resolution in that if it is brought here, he believes the work should be done by local tradespeople.

Responding to Councilor Hardesty, Mr. Nollenberger clarified that the governor has proposed that this project be funded from a state surplus instead of the bonding bill.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0091 was adopted as follows:

BY COUNCILORS EDWARDS AND HALES:

WHEREAS, an estimated \$14 million will be spent by the state of Minnesota to build a veterans memorial state park and no state bonding funds are being proposed for such park. The general fund appropriation for the project is in the department of natural resources capital budget and is not in competition with other bonding projects for state parks or the city of Duluth; and

WHEREAS, the cost for ship preparation and movement is estimated to be \$3.8 million and the cost for site cleanup and slip development is estimated to be \$8.4 million; and

WHEREAS, such park will help to rejuvenate the Duluth waterfront; and

WHEREAS, this project will benefit the city of Duluth economically by providing prevailing wage jobs for its citizens and increasing Duluth's quality of life; and

WHEREAS, an estimated 43 jobs will be created to manage and maintain the veterans memorial state park when in full operation. Employment breakdown is 4.8 positions in administration, 21.2 in interpretation, 1.7 in curator and staff, and 15.5 in maintenance. The average hourly wage will be \$16-\$22/hour; and

WHEREAS, without the inclusion of the U.S.S. Des Moines, the number of construction jobs and full-time equivalent employees would significantly decrease which would cause the proposed park initiative to be dismissed by the department of natural resources and the state of Minnesota; and

WHEREAS, there is a request for a project agreement that would ensure the opportunity for local labor to secure prevailing wage jobs made possible through this project; and

WHEREAS, public input is provided in the legislative process which began January 20, 1998. Every citizen has the right to provide input and be heard at the state legislature. Therefore, it must be stated that the veterans memorial state park proposal will be subject to the same public scrutiny and input as every other Minnesota project which requires legislative action.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council supports the efforts of Duluth building trades to secure a project agreement with the state of Minnesota.

Resolution 98-0091 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of planning technician which were approved by the civil service board on January 6, 1998, and which are filed with the city clerk as Public Document No. 98-0127-13 are approved.

Resolution 98-0066 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR 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 Northstar Machine & Tool Company, Inc.; 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 1998

NOW, THEREFORE, BE IT RESOLVED that the city of Duluth supports this application for funding on behalf of Northstar Machine & Tool Company, Inc.

Resolution 98-0061 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the agreement with DEDA, substantially in the form of a copy on file in the office of the city clerk as Public Document No. 98-0127-14, for engineering services relating to Fremont Point Phase III, increasing the amount payable by DEDA thereunder by \$21,662.58, both payable from Fund 865, Agency 860, Org. 7001, Obj. 5303.

Resolution 98-0076 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Lake Superior and Mississippi Railroad operates under lease on the city owned rail bed between Riverside and the Boy Scout Landing; and

WHEREAS, the Lake Superior and Mississippi Railroad maintains the said bed; and

WHEREAS, the ISTE A grant funds have been applied for to upgrade the facility; and

WHEREAS, the Lake Superior and Mississippi Railroad has agreed to provide all necessary local share costs estimated at \$16,771 for compliance with the terms of the grant if it is awarded.

NOW, THEREFORE, BE IT RESOLVED, that the city hereby commits to the financial support of the ISTE A FY 2001/Lake Superior and Mississippi Railroad grant.

Resolution 98-0088 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Demolition Landfill Services, Inc. (Darrin Saari), submitted an application for a special use permit on October 24, 1997, which application was submitted pursuant to the Duluth City Code, Section 50-35 and which application was for a select waste disposal demolition debris landfill in an M-2, manufacturing district on property located in St. Louis County, Minnesota, described as:

The Northeast Quarter of the Southeast Quarter except the northerly 480 feet thereof and the north 100 feet of the Southeast Quarter of the Southeast Quarter and the easterly 111 feet of the south half of the Northwest Quarter of the Southeast Quarter, all in Section 4, Township 48 North, Range 15 West; containing 1,317,128 square feet or 30-24 acres, more or less and located at 1100 Gary Street; and

WHEREAS, pursuant to Duluth City Code, Section 50-32.2, the permit was duly referred by the city clerk to the city planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood and for a public hearing held after notice by publication and mailing to all property owners within 350 feet of the subject property at least one week in advance of the public hearing and the city planning commission conducted a public hearing and considered the application for a special use permit at its regular meeting of November 18, 1997, at which time the city planning

commission considered the materials presented by the applicant in its application, including a report prepared by Wenck Associates, a report prepared by the planning department staff, information and petitions submitted by the applicant and petitions submitted by the residents of the neighborhood and based on the above information available to the city planning commission and on the testimony presented at the public hearing, eight members of the city planning commission being present at the meeting, the city planning commission was unable to reach a recommendation based on a tie vote of 4 to 4; and

WHEREAS, the city council considered Resolution 97-0948, a resolution granting a special use permit to Demolition Landfill Services, Inc., for a select waste disposal demolition debris landfill for property located at 1100 Gary Street (Saari), at its meeting on December 1, 1997, at which time the city council considered the materials presented by the applicant in its application, including a report prepared by Wenck Associates, a report prepared by the planning department staff, information and petitions submitted by the applicant and information and petitions submitted by the residents of the neighborhood and based on the above information available to the city council and on the testimony presented at the city council meeting, nine members of the city council being present at the meeting, the city council voted unanimously by a vote of 0-9 not to approve Resolution 97-0948; and

WHEREAS, the Gary-New Duluth neighborhood plan, adopted by the city planning commission and city council in December, 1980, recommended that this area be improved consistent with suburban density zoning and that a 1990 update of the Gary-New Duluth neighborhood plan recommended that certain zoning changes be made to this property, which zoning changes were not adopted; and

WHEREAS, the city council was unable to support Resolution 97-0948 based on its finding that appropriate safeguards did not exist to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood as required by DCC 50-32 and specifically that the appropriate safeguards and certain circumstances and certain conditions for the granting of a special use permit for a solid waste disposal facility to be granted, as required by DCC 50-35(y), could not be found; and further that the application did not meet the requirements of DCC 50-35(y) in that:

(a) The complete legal description of the property does not include a description of the specific site for the solid waste disposal facility within a 30 acre leased area and the submitted legal description is inconsistent with the use of adjoining properties owned by other entities for access to the applicant's solid waste disposal facility and for the operation of the solid waste disposal facility;

(b) The applicant has not modified the consent decree between the Minnesota Pollution Control Agency and Engineers Realty, Inc., dated May 28, 1991, and modified March 4, 1993, which would need to be modified in order to allow the applicant's proposed use since all solid waste management activities on the 30 acre leased area within the 130 acre site are governed by the terms of the consent decree;

(c) The submitted site plan does not conform to the requirements of DCC 50-1.64;

(d) A landscape plan conforming to the requirements of DCC 50-1.65.7 has not been submitted;

(e) A signage plan as required by DCC 50-35(y)(2)(F) has not been submitted;

(f) The submitted drainage plan shows that surface drainage will flow into an existing basin at the southwest corner of the project area, which basin was designed to handle surface water control needs of the existing landfill but does not include a calculation of the combined storm

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

water control needs of the existing landfill and the proposed solid waste disposal facility and there may be surface water control needs for storm water which would not flow to the existing basin;

(g) No dust control measures are identified in the application as required by DCC 50-35(y)(2)(I);

(h) In an M-2 zoning district the solid waste disposal operation shall be set back from all property lines a minimum of 150 feet as required by DCC 50-35(y)(3)(A) and the proposed project is only 50 feet from the eastern boundary of the property;

(i) The applicant has not obtained an MPCA permit for a demolition debris land disposal facility and has not obtained a permit from the Western Lake Superior Sanitary District as required by DCC 50-35(y)(3)(B);

(j) The application for the special use permit indicates that acceptable wastes include waste that is not classified as demolition debris pursuant to DCC 50-1.16 or construction debris pursuant to DCC 50-1.14;

(k) The application does not provide operational guidelines which require that loads transported by vehicles transporting materials to or from the facility be covered as required by DCC 50-35(y)(3)(J);

(l) The application does not provide for a covered structure for the processing of materials within the legal description of the property in the application as required by DCC 50-35(y)(3)(L);

(m) The application does not provide for compliance funding, including adequate assurances for proper operation, closure and extended monitoring beyond closure as required by DCC-50-35(y)(3)(O);

(n) The owner of the property, Engineers Realty, Inc., has a record of compliance violations of local and state permits and codes and that record of noncompliance may be considered in evaluating the present applicant as a lessee from the owner of the property;

(o) There is a documented history of findings of ground water and surface water contamination in the immediate area of the existing and proposed solid waste disposal facilities and those findings may be considered in evaluating the present application until the source of the contamination is identified and corrected; and

WHEREAS, the city council finds that the proposed special use permit would result in a random pattern of development with little continuity to existing or programmed development causing anticipated negative fiscal or environmental impacts upon the community, which finding is a basis for denial of a permit under DCC 50-32; and

WHEREAS, the staff recommendation of the city planning staff is to deny the request.

NOW, THEREFORE, BE IT RESOLVED, that based on the foregoing, a special use permit application by Demolition Landfill Services, Inc., to allow for the operation of a select waste disposal demolition debris landfill at 1100 Gary Street, is hereby denied.

Resolution 98-0094 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute agreements with the Duluth Airport Authority, the Duluth Entertainment Convention Center and the Duluth Housing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and Redevelopment Authority relating to the participation in the city's health insurance program, which agreements are on file in the office of the city clerk as Public Document No. 98-0127-15.

Resolution 98-0075 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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Resolution 98-0099, by Councilor Keenan, President Hogg and councilors Prettner Solon, Rapaich, Edwards and Hardesty, calling a special municipal election on March 17, 1998, for an advisory referendum on whether the city should support the governor's proposal for development of a Veterans Memorial State Park in Duluth, was introduced for discussion.

President Hogg stated that there are a number of individuals signed up to speak on this resolution as well as Resolution 98-0095, by Councilor Swapinski, which also relates to the USS Des Moines. He requested that speakers direct their comments to each individual resolution as they are considered by the council.

President Hogg stated he will introduce an amendment that will change the date of the referendum from March 17 to March 4. He noted his reason for the change is because he has been told by state legislators that it may make a greater impact for the legislature if it is presented sooner.

Councilor Gilbert suggested allowing everyone wishing to speak on either resolution regarding the USS Des Moines speak now in order to expedite the meeting.

The rules were suspended upon the following vote to hear speakers on the resolution:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Gilbert -- 1

Jack Burklund, Herb Bergson, Tim Velner, John Rathe and Frank Kampa supported holding a referendum to find out what the majority of residents of the city truly want on the waterfront. Mr. Burklund and Mr. Velner requested that two questions be asked on the ballot. They suggested being specific about whether a veterans memorial park should or should not include the USS Des Moines. They stated that if a referendum is held, whatever the results, the legislature will get a true reflection of what Duluthians want and it will give residents the sense that they have had a voice in the process.

Lance Reasor stated that he believes more people support a park with the USS Des Moines in it than those that oppose it. He reminded councilors that they are elected to make tough decisions, and in holding a referendum, are abdicating their responsibility. Mr. Reasor stated that a referendum will cause undue delay and urged councilors to do their duty and make a decision.

Bill Meierhoff opposed holding a referendum and noted that, as was the case with the freeway, people generally resist change even if that change could be in Duluth's best interests economically. He stated that because the state is funding the project in whole, it is not a local issue. Mr. Meierhoff encouraged the council to not hold a referendum, make no recommendation and allow the state legislature to do its job.

President Hogg stated that the reason he supports the referendum is because the issue is so divided that he does not believe the council can accurately reflect what the desire of the citizens is.

Councilor Swapinski opposed calling for a referendum stating that spending taxpayer dollars on an issue that is only advisory, is frivolous and that in the end will be decided in St. Paul. He continued that by the time a referendum is held, legislation prepared for the legislature will have been voted on in committee and will be in its final stages. Councilor Swapinski noted that

it is the duty of city councilors to represent constituents and vote on difficult issues such as this and that calling for a referendum abdicates that responsibility back to the voters.

Councilor Prettner Solon stated that although the council is not required to take a stand or vote on this issue, she believes that Duluth residents wish to have their opinion heard in St. Paul before the legislature makes a final decision. She added that the numerous calls she has received from constituents regarding the issue have been evenly split and it would be impossible for her to accurately represent what residents truly desire.

Councilor Hardesty stated she is reluctant to support a referendum because she has been told that all legislative bills need to be out of committees by February 27 and if the referendum is not held until March 4, it will be too late.

Responding to Councilor Hardesty, President Hogg stated that state legislators understand that a referendum cannot be held earlier than March 4 and that they are interested in what the outcome will be.

Councilor Hardesty stated that if a referendum is held, she needs to know that if the issue moves on to the legislature, DEDA will abide by the wishes of the voters and not sell the land to the state.

Councilor Keenan stated that this is most definitely a local decision and that legislators have indicated that what the citizens of Duluth want matters and that they will be responsive to them. He agreed that it is not clear to the council what the desire of city residents is and the only way to find that out is to hold the advisory referendum.

Councilor Gilbert stated that he believes councilors are elected to make decisions by weighing each issue on its own merits and not necessarily to accurately gauge and vote the way residents want. He agreed that the council should vote on the issue now and more productively spend the next month representing its decision in St. Paul before the issue comes out of committee.

Councilor Hales expressed concern that councilors do not have enough information to feel well informed on the issue, and she noted that councilors, themselves, have not worked closely with the individuals that are putting the project together. She questioned how the public can make an informed decision when the only information they are privy to is what the newspaper decides to print or not print. She suggested that councilors review the bill that was presented on January 20, set up meetings to discuss questions they have and then meet with the people putting the project together. She further stated that if a referendum is held, voters should also be able to decide which projects they agree the city should request to have included in the bonding bill because 50 percent of the costs will be paid for through their property taxes.

Councilor Hardesty questioned how the binding nature of the referendum on the sale of this land will work if this appropriation is available for five years. She noted that DEDA members and their perspective may change from year to year and if the funding is available for five years, she asked how the question being asked in the referendum can be worded to cover the appropriation.

Mr. Nollenberger stated that it is standard governmental budgeting practices in capital improvement funds to make appropriations for a five year period. He said the attorney has a list of things that the mayor and DEDA would like changed and that Councilor Hardesty's request can be added to the list.

Councilor Hales encouraged the administration to invite Mr. Morrissey, from the Minnesota department of natural resources, to an informational meeting to bring councilors and the public up to speed with regard to the veterans memorial park issue. She noted the importance of the council working with the revisor's office to insure that the bill is worded to the satisfaction of councilors and the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon remarked that in the event the legislature decides to draft a different bill in a future year regarding this project, then the council, whoever it is made up of, will have to deal with it as a new issue.

Councilor Hales moved to call the question, which motion was not seconded.

President Hogg moved to amend the resolution to change the date from "March 17, 1998" to "March 4, 1998," which motion was seconded and carried upon a unanimous vote.

Resolution 98-0099, as amended, was adopted as follows:

BY COUNCILOR KEENAN, PRESIDENT HOGG AND COUNCILORS PRETTNER SOLON, RAPAICH, EDWARDS AND HARDESTY:

WHEREAS, Governor Carlson has proposed development of a veterans' memorial state park, with inclusion of the navy cruiser U.S.S. Des Moines, in the bayfront of the Duluth harbor at no cost to the city of Duluth; and

WHEREAS, the Duluth state legislative delegation and other state legislators have asked the city to take an official position on whether such project should be funded by the legislature; and

WHEREAS, the mayor and city council believe that this issue is one in which it is appropriate for the city to seek the advice of the citizens of Duluth through a referendum; and

WHEREAS, the mayor has expressed his intention to abide by results of such referendum and the city council hereby expresses its intention to abide by the results of such referendum.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby calls for an advisory referendum to be held on March 4, 1998, on the question of whether the mayor and city council should support Governor Carlson's proposal for development of a veterans' memorial state park in the bayfront area of the Duluth harbor.

RESOLVED FURTHER, that the city clerk shall place the following proposition on the ballot at such advisory referendum:

Complete the arrow after the word "yes" standing opposite the proposition if you wish to vote for such proposition.

Complete the arrow after the word "no" standing opposite the proposition if you wish to vote against such proposition.

PROPOSITION

Should the mayor and city council support Governor Carlson's proposal to develop a veterans' memorial state park in the bayfront area of the Duluth harbor which includes the navy cruiser U.S.S. Des Moines?

A "yes" vote is a vote in favor of the mayor and city council supporting Governor Carlson's proposal to develop a veterans' memorial state park in the bayfront area of the Duluth harbor which includes the navy cruiser U.S.S. Des Moines.

A "no" vote is a vote in favor of the mayor and city council opposing Governor Carlson's proposal to develop a veterans' memorial state park in the bayfront area of the Duluth harbor which includes the navy cruiser U.S.S. Des Moines.

Resolution 98-0099, as amended, was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Gilbert -- 1

Approved January 27, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR GILBERT:

RESOLVED, that Hydro Supply Company, Inc., be and hereby is awarded a contract for furnishing and delivering water meter repair parts for the water and gas department in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5220.

Resolution 98-0069 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Bachman's, Inc. (\$23,800), Minnesota Valley Wholesale (\$7,532.25) and Schumacher's, Inc. (\$26,626.50), be and hereby are awarded contracts for furnishing and delivering approximately 475 trees of different species for the forestry division in accordance with specifications on its low specification bid of a total \$57,958.75, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organizations 9701, 9702, 9703, 9704, 9705 and 9706, Object 5530.

Resolution 98-0058 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the Arrowhead Regional Development Commission is coordinating a joint Duluth, Two Harbors, St. Louis County and Lake County proposal for a Scenic Byway grant; and

WHEREAS, the grant, if successful, will result in the development of an improvement framework for the North Shore up through Two Harbors which includes Duluth's Congdon Boulevard; and

WHEREAS, each of the jurisdictions are being asked to commit \$4,000 to the project in order to obtain \$64,000 should the grant be successful; and

WHEREAS, the proposed improvement framework will document and prioritize those improvements needed to make the North Shore Scenic Drive attractive and functional and will lay the foundation for obtaining future grant monies through the Scenic Byway and ISTEA programs for needed improvements.

NOW, THEREFORE, BE IT RESOLVED, that the appropriate city officials are hereby authorized to spend \$4,000 for such a grant project to be paid from the permanent improvement Fund 411 and be reimbursed from municipal state aid Fund 252.

Resolution 98-0078 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

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Resolution 98-0095, by Councilor Swapinski, opposing bringing the USS Des Moines to Duluth but supporting the expenditure of state monies to rehabilitate and enhance the city's existing park system, was introduced for discussion.

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

The following individuals opposed docking the USS Des Moines in the Duluth Harbor as a centerpiece for a veterans memorial park: Jack Burklund, Iver Bogen, Robert Gaskill, Peggy Marrin, Tim Velner, Dr. John Sanford, Susan Alexander, Martin DeWitt, Walker Jamar, Jr., John

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Breen, Tim Dawson, Geoff Bowen, Martha Alworth, Keith Brownell, Gail Olson, Mark Gonzalez, Rebecka Larmer, Tim LeMaster, Craig Olson, Frank Kampa, Brooks Anderson and Joe Sipress.

Reasons for objecting to the presence of the USS Des Moines in the Duluth Harbor as a veterans memorial were: all veterans do not support bringing this warship to Duluth; any money spent on the USS Des Moines, whether from reserve funds or otherwise, is still money that has come from taxpayers, is not free and does not enhance the quality of life in Duluth; present and future taxpayers of Duluth should not be foolishly burdened with costly maintenance for this old ship; state funds should be used for projects that are more worthwhile; if the state of Minnesota and the city wish to honor veterans, the enormous amount of money will be better spent if it is used to better educate children, feed the hungry or return the money to those who worked to put it in the coffers; the money should be given to needy residents which will not only provide them with necessities, but also put the money back into the local economy; it is fiscally and environmentally irresponsible to consider this project until costs for operations, getting the ship here and making it environmentally safe for the Duluth Harbor are known; it will place a disproportionate burden on the department of natural resources (DNR); it is an insult to bring this rusty hulk into the city in the name of veterans; there is more support for a veterans memorial park without the USS Des Moines; some veterans recited the horrors of their war experiences noting that the warship does not fit and is an inappropriate memorial to those who fought and gave their lives and should be honored for their memory, valor and courage; the ship will be an anomaly which is aesthetically unpleasing and out of place; the size of the ship has been misstated and it will impose on the Duluth waterfront; state and federal legislators have stated they will abide by the wishes of Duluthians; results of polls taken in the city regarding the issue are inconsistent; the process being used by Governor Carlson to place this ship in Duluth is appalling; councilors should support this resolution so that legislators are aware that Duluthians do not support this project and put a permanent end to the idea of bringing the USS Des Moines to Duluth; Duluthians do not need a warship in the harbor to teach them about war; concern was raised that this warship will become Duluth's new logo; the presence of the USS Des Moines in Duluth will become a symbol of war and violence when Americans should be focused on depicting the message of peaceful conflict resolution through reconciliation; the docking of a boat such as the Woodrush or Sundew, which were built and used in the Duluth Harbor, seems more appropriate because it is more natural to the area; Duluth has carved its identity throughout the world by its involvement in peace making programs and what Duluth is known for honors veterans more than bringing a warship to the harbor ever could; the real intent of this issue is to make the ship a money making, busy tourist attraction with water slides and a carnival atmosphere, which does not fit the definition of a memorial that is a quiet place of solitude and reflection that honors veterans; if the intent is to make this a tourist attraction that will benefit economic development, then the businesses that will benefit from it should pay for it; if the project is not successful, Duluth will be stuck with an old ship.

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At this time, 11:00 p.m., Councilor Hales moved to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

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Letters supporting the placement of the USS Des Moines in Duluth were read as follows: Eighth District American Legion; David Wisted, Zenith City American Legion Post No. 28; Northland Vietnam Veterans' Association; and a letter from former US Senator Robert Dole to Governor Carlson.

Tom Whittaker stated he has been working on this project, which makes the USS Des Moines the centerpiece, with the governor for some time. He noted that reasons Duluth was chosen were it is the only city in Minnesota that can accommodate docking of the ship; it is the only area that can handle 200,000 visitors a year; Bayfront is the only place in the city that it makes sense to put it because of accessibility, proximity to services, proximity to other attractions and economic impact. Mr. Whittaker added that the state preferred to build the park around Slip No. 3, but because of objections, has compromised and is now pursuing Slip No. 4. He stated that the governor has been open to local input and willing to compromise and that the mayor has done everything he can to optimize the park for the city of Duluth. Mr. Whittaker stated that veterans are taxpayers, too, and that if a compelling memorial that pays its own way and provides jobs for local citizens can be created, a win/win situation will have been achieved. He disputed statements that the ship will impose on the harbor and noted at what points within the city that it will be visible. Mr. Whittaker quoted statistics with regard to the number of people that visit the Bayfront area during a year and noted that the number does not include the number of visitors anticipated when the Lake Superior Center opens.

The following individuals spoke against the resolution: Dwight Nelson, Lance Reasor, Ray Klosowski, Earl Rogers, Bob Woods, Gloria Hovland, Bill Meierhoff and John Goldfine, representing the Duluth Convention and Visitors' Bureau.

Reasons for opposition to the resolution were as follows: veterans here tonight to oppose the presence of the USS Des Moines as a memorial are a minuscule number compared to the number of veterans who support it; positive attributes of this project are that it will provide the city with a gift of \$14 million from the state of Minnesota, union workers will be used to restore the ship and it will create 43 new jobs with an average annual wage of \$30,000; environmental concerns that have not been addressed in the past will be addressed now; unused, unsightly property will be purchased from DEDA at a profit and the land will be beautified; it will benefit Duluth economically and environmentally by cleaning up and beautifying the Railroad Street area which is now an eyesore; the project will compliment the waterfront plan; the ship is just as appropriate for Duluth as any of Duluth's other diverse attractions are and will create a win/win situation for the waterfront; it will not only be a memorial to veterans who served, but will also serve as a tool to educate, and, perhaps, interest young people in a military career; the purpose of the ship is to educate the public on what tomorrow will be like when history repeats itself if we do not teach our children to understand about war; it will provide a means for learning history that is no longer believed important enough to be taught in the classroom; the Duluth harbor needs a military ship for historical purposes; the public is ill informed about this project and an effort should be made to make all the facts known before a vote is taken; Duluth should take advantage of this offer to acquire this ship which is in pristine condition; if the USS Des Moines does not meet expectations, neither the state nor the navy will allow it to spoil the waterfront and it will be removed; ownership of the ship will always remain with the US Navy.

David Ross, representing the Duluth Area Chamber of Commerce, stated that the chamber's board of directors voted unanimously to support the project. He noted that reasons for support were that it will add to the community economically; it will provide new jobs, permanent and seasonal; the land will be purchased and improved at no cost to the city; and it gives the chamber an opportunity to work with all classes of workers throughout the city.

Responding to Councilor Gilbert, Mr. Meierhoff stated that if the USS Des Moines is not successful, the navy has agreed to pay for its removal. He said that the worst case scenario is that it could be taken to the scrap yard and scrapped for profit. Mr. Meierhoff added that with

regard to the environmental issues, the Minnesota pollution control agency (MPCA) has already looked at the ship and costs to refurbish it have already been determined.

Mayor Doty emphasized that if the park does not work out, it has been agreed by all parties involved that arrangements for removal of the ship will be part of the development agreement.

Councilor Swapinski stated he does not remember when a veterans memorial has been so divisive, charged admission or been granted special legislation to sell alcoholic beverages. He stated that during his election campaign, he was unequivocally opposed to public expenditure for bringing the USS Des Moines to Duluth and that he intends to represent his constituency as promised.

Councilor Keenan stated that it makes no sense to vote on this resolution because he believes the voters want to decide this issue, and that the council has already approved holding a referendum. He said he feels that he is being forced to vote on the issue, therefore, he will vote no.

Councilor Prettner Solon stated that it is an insult to tell the voters to vote on the issue and then have the council take a stand before the referendum is held. She said she will support tabling the resolution and voting on it after the referendum, otherwise she will be forced to abstain from voting.

Responding to Councilor Hardesty, City Attorney Dinan stated that technically, councilors have a right to abstain from voting on an issue for whatever reason if they so choose, but they should keep in mind that there is an obligation, as city councilors, to fulfill their role as councilors by representing their constituents. He continued that if abstention is for no reason at all, then the role is not being fulfilled.

In response, Councilor Prettner Solon stated that in she normally would not abstain from voting under any circumstance. She added that Councilor Swapinski's resolution was not something the council was required to take a position on, was not forced to vote on and that there was no council obligation at all.

Councilor Edwards stated that she has voted to support the referendum and that she objects to being asked to vote on a resolution that she believes should be amended. She said constituent calls have been equally divided, and that if she voted, she would just be expressing her own personal opinion. Councilor Edwards stated she can not support the resolution because she does not believe it should be voted on.

Councilor Rapaich stated she can not support the resolution because the council has already approved holding a referendum on the issue.

Councilor Hales stated it is hypocritical to vote on this resolution after telling voters they will decide the issue in a referendum. She stated that the information provided in the resolution is not necessarily accurate and that she will not support it.

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

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Gilbert -- 1

Resolution 98-0095 failed upon the following vote (Public Document No. 98-0127-16):

Yeas: Councilors Gilbert, Hardesty and Swapinski -- 3

Nays: Councilors Edwards, Hales, Keenan, Rapaich and President Hogg -- 5

Abstention: Councilor Prettner Solon -- 1

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Resolution 98-0001, by Councilor Hales, accepting grant proceeds of up to \$47,000 for salary and benefit expenses related to the hiring of two civilian personnel under the community oriented policing services - making officer redeployment effective (C.O.P.S. M.O.R.E.) grant program administered by the US department of justice, was introduced for discussion.

Responding to Councilor Hales, Mr. Nollenberger stated that this grant is for the second year of a two year program and will continue the employment of two police officers for another year.

Councilor Hales stated she is confused because the wording in the resolution states that the funding calls for additional new officers to be hired. She moved to table the resolution for more information, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HALES:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering 13 portable radios and accessories for the police department in accordance with specifications on its low specification bid of \$9,099.35, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5241.

Resolution 98-0087 was unanimously adopted.

Approved January 27, 1998

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT HOGG

98-005 - AN ORDINANCE ESTABLISHING A STREET PRESERVATION FUND, ADDING A NEW DIVISION 11 TO ARTICLE II OF CHAPTER 20 OF THE CITY CODE.

- - -

BY COUNCILOR PRETTNER SOLON

98-004 - AN ORDINANCE AUTHORIZING EXECUTION OF AGREEMENT WITH DULUTH BUILDING L.L.C. AUTHORIZING PURCHASE OF CERTAIN LANDS AND CONDITIONAL SALE OF OTHER LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT HOGG

98-002 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

President Hogg introduced the ordinance for discussion.

Councilor Keenan stated he will not support this ordinance because the council has been told numerous times in the past by the administration that it is inappropriate to use the undesignated, unreserved fund balance for operational funding. He said funding for these police officers should come from the current budget with cuts to items that do not have a high priority.

Councilor Swapinski moved to table the ordinance until the city employees contract is resolved, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON

98-001 (9360) - AN ORDINANCE PERTAINING TO THE ENVIRONMENTAL COUNCIL; CHANGING THE STATUS OF THE CHAIR OF THE ENVIRONMENTAL ADVISORY

COMMITTEE OF THE PLANNING COMMISSION TO A VOTING MEMBER; AMENDING SECTION 2-132 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR PRETTNER SOLON

98-003 (9361) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 23, REARRANGEMENT OF HUNTERS' GRASSY POINT ADDITION TO DULUTH, EXCEPT PORTION TAKEN FOR TRAIL PURPOSES, TO DANIEL LATTNER, FOR A CONSIDERATION OF \$28,218, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (608 SOUTH 63RD AVENUE WEST).

Councilor Prettner Solon introduced the ordinance for discussion.

- - -

At this time, 11:45 p.m., Councilor Hales moved to extend the meeting until 12:15 a.m., which motion was seconded and unanimously carried.

- - -

Responding to Councilor Hales, Mr. Nollenberger stated that property necessary to extend the Western Waterfront Trail has been retained, and that the property being sold has been sold without condition with regard to the structure that is presently on it.

Responding to Councilor Rapaich, Mr. Nollenberger stated he is not aware of any recommendation from Spirit Valley Citizens Neighborhood Development Association (SVCNDA) asking for any specific agreements or stating concerns regarding the sale of this property.

President Hogg added that SVCNDA strongly recommended that the property be made available for sale.

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

- - -

The meeting was adjourned at 12:10 a.m.

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

- - -

ORDINANCE NO. 9360

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE PERTAINING TO THE ENVIRONMENTAL COUNCIL; CHANGING THE STATUS OF THE CHAIR OF THE ENVIRONMENTAL ADVISORY COMMITTEE OF THE PLANNING COMMISSION TO A VOTING MEMBER; AMENDING SECTION 2-132 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-132 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 1-132. Membership; terms; vacancies.

The council shall consist of 13 members. There shall be four 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 designee, an appointee of the Western Lake Superior Sanitary District and the director of public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

works of the city or designee. The chair of the environmental committee of the planning commission shall be a voting ex-officio member. 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.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication (Effective date: March 8, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 27, 1998
Approved January 27, 1998
GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9361

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 4 AND 5, BLOCK 23, REARRANGEMENT OF HUNTERS' GRASSY POINT ADDITION TO DULUTH, EXCEPT PORTION TAKEN FOR TRAIL PURPOSES, TO DANIEL LATTNER, FOR A CONSIDERATION OF \$28,218, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (608 SOUTH 63RD AVENUE WEST).

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described, to Daniel Lattner, subject to conditions set forth in Public Document No. 98-0127-17 on file in the office of the city clerk, for consideration of \$28,128, said amount to be deposited in General Fund 100, Agency 700, Org. 1418, Obj. 4640:

Lots 4 and 5, Block 23, Rearrangement of Hunters Grassy Point Addition to Duluth, except portion taken for trail purposes

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication (Effective date: March 8, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:

Passed January 27, 1998
Approved January 27, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 9, 1998, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Absent: Councilor Rapaich -- 1

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The minutes of council meetings held on June 23 and 30, 1997, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0209-01 Robert Rutka, M.D., Mount Royal Medical Center, submitting petition to vacate portions of Elizabeth Avenue and Woodland Avenue right-of-ways on the southeast corner of the intersection adjacent to Lots 21 through 25, Block 18, Motorline Division. -- Assessor

98-0209-02 Center City Housing Corporation and Sammy's Pizza/Terry Perella submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance No. 9358 on December 15, 1997. -- Received

98-0209-27 Brad Skytta submitting communication pertaining to proposed agreement with Duluth Building L.L.C. authorizing purchase of certain lands and conditional sale of other lands in the Lincoln Park business district (98-004-O). -- Received

98-0209-26 The following submitting communications pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R): (a) Richard T. Birnie (Allen Park, MI); (b) William Carlson (Sunnyside, NY); (c) Thomas E. Jakubisyn (Milford, CT); (d) Samuel G. Kelso (St. Charles, IL); (e) Eugene Love (Sugar Grove, IL); (f) J. William Reinhold (Paoli, PA); (g) Mable E. Ridgewell (Duluth, MN); (h) Floyd M. Savitski (Big Bay, MI); (i) Robert Ballou (Duluth, MN). -- Received

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REPORTS OF OFFICERS

98-0209-03 Assessor submitting:

(a) Confirmation of assessment rolls levied to defray the assessable portions of the following contracts: Second Street Alley from 30th Avenue East to Hawthorne Road (Contract No. 5300, \$26,634.69 assessable); demolition of buildings (Contract No. 5306, \$70,852.70 assessable). -- Clerk

(b) Letter of sufficiency pertaining to petition to vacate that portion of Richfield Parkway adjacent to Lots 1, 2, 3 and 4, Block 5, Hartley Estates, First Addition. -- Received

98-0209-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Duluth Missabe & Iron Range Veteran Employee's Association for May 29, 1998. -- Received

98-0209-05 Community development and housing division submitting HRA housing rehabilitation report for December, 1997. -- Received

98-0209-06 Engineering division monthly project status report of January, 1998. -- Received

98-0209-07 Parks and recreation department director submitting Lake Superior zoological society minutes of: (a) December 17, 1997: (1) Annual; (2) Regular; (b) January 14, 1998, meetings. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 98-0209-08 Board of zoning appeals minutes of November 25, 1997, meeting. -- Received
- 98-0209-09 Civil service board minutes of December 2, 1997, meeting. -- Received
- 98-0209-10 Duluth airport authority minutes of December 16, 1997, meeting. -- Received
- 98-0209-11 Housing and redevelopment authority minutes of: (a) October 21; (b) October 24; (c) November 25; (d) December 30, 1997, meetings. -- Received
- 98-0209-12 Lawful gambling commission minutes of: (a) July 8; (b) August 12; (c) September 2; (d) September 9; (e) September 16; (f) October 14; (g) November 12, 1997, meetings. -- Received
- 98-0209-13 Planning commission minutes of: (a) November 18; (b) December 9, 1997, meetings. -- Received
- 98-0209-14 Sanitary sewer board of WLSSD minutes of January 5, 1998, meeting. -- Received
- 98-0209-15 Seaway Port authority of Duluth: (a) Minutes of: (1) October 27; (2) November 20; (3) December 3; (4) December 15, 1997, meetings; (b) Balance sheets of: (1) September 30; (2) October 31; (3) November 30, 1997. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Harry Munger commented on the process used to complete the Environmental Assessment Worksheet (EAW) for the Opus project. He raised concerns about water runoff and stated he believes that the acceptance of the EAW was flawed because the issues were not resolved at the time of the issuance of the EAW. Mr. Munger requested that issues of the water runoff and preservation of the green space be addressed.

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RESOLUTIONS TABLED

Councilor Hales moved to remove Resolution 98-0001, accepting grant proceeds of up to \$47,000 for salary and benefit expenses related to the hiring of two civilian personnel under the community oriented policing services - making officer redeployment effective (C.O.P.S. M.O.R.E.) grant program administered by the U.S. department of justice; grant period is from November 1, 1997, to October 31, 1998, from the table, which motion was seconded and unanimously carried.

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

Resolution 98-0119, by President Hogg, authorizing execution of a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 1998 Grandma's Marathon, was introduced for discussion.

Councilor Keenan stated that because he is the executive director of Grandma's Marathon, he will not discuss or vote on this resolution.

Resolution 98-0119 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 1998 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 98-0209-25, at a cost to the city of \$15,000 plus in kind services, which shall be paid from Fund 258-030-1431-5490.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0119 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Swapinski and President Hogg -- 7

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Absent: Councilor Rapaich -- 1

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering three Dodge Durango vehicles for the police department in accordance with specifications on its low specification bid of \$76,365, terms net 30, FOB destination, \$25,455 payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 2008, Object V802, \$25,455 payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 2008, Object V803, \$25,455 payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 2008, Object V805.

Resolution 98-0102 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Maney International be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Navistar International trucks as needed during 1998 for the fleet services division for an estimated total of \$26,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0103 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Little Falls Machine, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Falls plows and wings as needed during 1998 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 98-0104 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Monroe Truck, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Monroe equipment for the fleet services division as needed during 1998 for an estimated total of \$8,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0108 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 1998, 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. 98-0209-16, on file with the city clerk, at an estimated cost of \$12,926, which shall be paid from the General Fund 100, Agency 700, Org. 1479.

Resolution 98-0111 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to renew its agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during 1998 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.32 per thousand per month, at an estimated cost of \$155,871, which shall be payable from various funds and agencies.

Resolution 98-0112 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance from the Workers' Compensation Reinsurance Association for the period January 1, 1998, to December 31, 1998, at a cost of \$29,441.10, which shall be payable from the self insurance fund.

Resolution 98-0113 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Watson Wyatt & Company, d/b/a Watson Wyatt Worldwide, for actuarial services relating to the city's post-retirement medical and life liability, which agreement is on file in the office of the city clerk as Public Document No. 98-0209-17, at a cost to the city of \$13,500, which shall be payable from the self insurance fund.

Resolution 98-0114 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 \$76,400, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0117 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved February 9, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0121, by Councilor Edwards, designating the Duluth News-Tribune as the official newspaper of the city of Duluth for the year 1998, was introduced for discussion.

Responding to councilors, City Attorney Dinan stated that even though the resolution states that it is a four year contract, the issue of designating an official newspaper must be presented to the council each year.

President Hogg moved to remove the last paragraph from the resolution, which motion was seconded and discussed.

President Hogg noted that the requirements of the City Code regarding consecutive publications could be changed. He noted that a concern of current requirements is that there is only one supplier who knows there will be no competitive bids.

Councilor Keenan stated that it does not make sense to change this to a one year contract since the issue needs to be reviewed each year.

Councilor Prettner Solon opposed the amendment, stating that the four year option may provide an opportunity for the city to save in the area of publication costs and noted that the option of a multiple year contract does not prohibit the council from reviewing the issue in one year.

Responding to Councilor Hardesty, Mr. Dinan stated that the benefit of a four year contract is that rates will be established which will eliminate the need to go through the bidding process each year.

Councilor Hogg's amendment carried upon the following vote:

Yeas: Councilors Edwards, Hales, Gilbert, Hardesty, Swapinski and President Hogg -- 6

Nays: Councilors Keenan and Prettner Solon -- 2

Absent: Councilor Rapaich -- 1

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

Resolution 98-0121, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the Duluth News-Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 1998, 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 \$.2486 per line on the first insertion and \$.27973 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.

The billing is to be on a mutually agreed average inch rate. Terms: net 30 and payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0121, as amended, was unanimously adopted.

Approved February 9, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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

WOMEN'S COMMISSION

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Rebecca J. Skurla for a term expiring September 17, 1999, replacing Barbara Main who resigned.

Resolution 98-0097 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into the first amendment to City Agreement No. 17841, a copy of which is on file in the office of the city clerk as Public Document No. 98-0209-18, with RREM, Inc., modifying their contract for construction engineering services related to the filling of Slip No. 1 in Bayfront and related work to include use of surplus materials from the Railroad Street project, increasing the amount payable thereunder to \$76,090, payable from Fund 450, Agency 015, Org. 1996, Object C602.

Resolution 98-0093 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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. 98-0209-19, to the neighborhood matching grants fund agreement with the Park Point Community Club, extending the term of said agreement for an additional one year period at no change in project cost.

Resolution 98-0098 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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 #</u>	<u>Applicant name</u>	<u>Legal description</u>	<u>Location</u>
97151	Kevin Smalley	Lots 6-9, Block 5, Riverside Second Addition (10-3980-820, 830, 840, 850)	east side of 99th Avenue West between Gogebic and Francis Streets (Spirit Mountain)
98003	St. Louis County land department	Lots 15-17, Block 35, Nortons Fairmont Park Division (10-3510-8510,8520,8530)	lower side of Grand Avenue between Kingsbury Creek and 75th Avenue West (Norton Park)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98010	Kenneth Landwehr	T50N R14W, Section 7, north 1/2 of southwesterly quarter of southeasterly quarter(10-2710-2220)	east of Swan Lake Road and north of Arrowhead Road (Duluth Heights)
98011	St. Louis County land department	Lots 15-20, Block 6, Lyman Park Division (10-3130-1220)	north side of Batavia Street between Ceylon and Anson Avenues (Lincoln Park)
98012	John Anderson	Lots 10-14, Block 2, Hazelwood Division (10-2140-00180)	southeast corner of Carlton Avenue and Seventh Street (West Duluth)
98013	St. Louis County land department	Lots 10-11, Block 21, Clinton Place Addition (10-580-3590)	east side of 67th Avenue West between Polk and Raleigh Streets (Fairmont Park)
98014	St. Louis County land department	Lots 1-6, Block 7, Merchants Park Division (10-3220-1260)	southeast corner of 26th Avenue West and 13th Street (Lincoln Park)
98015	Debbie Ostrom	Lot 28-30, Block 9, Hunter's Grassy Point (10-2320 - 1180, 1190, 1200)	east side of 62nd Avenue West between Redruth and Sherburne Streets (Irving)
98016	Kevin O'Brien	Lots 15-20, except northerly 33 feet, Block 3, Princeton Place Addition (10-3870-610-660)	south side of Glenwood Street between Silcox and Livingston Avenues (Morley Heights)
98017	Lori Haugen	Lot 11, Block 34, Gary First Division (10-1800-8430)	east side of 99th Avenue West between Gary and McGonagle Streets (Gary-New Duluth)
98019	St. Louis County land department	northerly 395.85 feet Lot 10, Block 3, Greysolon Farms First Division (10-2010-670 partial)	east of Vermilion Road between Martin Road and Market Street (Greysolon Farms)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98020	Bernada Saari	Lot 24, Block 12, Gary First Division (10-1800-2140)	west side of 97th Avenue West between Reis and Dickson Streets (Gary-New Duluth)
98021	Michelle Clausen	Lots 14-15, Block 21, rearranged part of East Duluth and First Addition to East Duluth (10-1370-3690, 3700)	west side of 30th Avenue East between Jefferson Street and Branch Street (Congdon Park)
98022	St. Louis County land department	southerly 30 feet Lot 4, Block 7, Harrison's Division (10-2080-680)	midblock between First and Second Streets and 25th and 26th Avenues East (Congdon Park)
98023	Mark Jacobs	Lots 1-2, Block 9, Norton's Steel Plant Division (10-3540-2730, 2740) and Lots 6-10, Block 7, Gary First Division (10-1800-1000, 1020, 1030, 1040)	east side of Commonwealth Avenue between Crestline Court and Reis Street (Gary-New Duluth)

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the St. Louis County Board of Commissioners are strongly encouraged to attach an aviation easement as recommended by the Duluth airport authority to the sale of the property requested in FN 98010, which has the potential to be affected by air traffic noise from the Duluth airport.

Resolution 98-0116 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to apply to the Minnesota housing finance agency for an allocation pursuant to the Minnesota city participation program in the maximum allowable amount permitted, said funds to be loaned to low and moderate income first time homebuyers 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 home buyers in the city, which agreement is substantially in the form of that on file in the office of the city clerk as Public Document No. 98-0209-20.

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 \$30,000, which will be refunded upon sale of the bonds and a check for a nonrefundable

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

processing fee in the amount of \$20 per each \$100,000 in allocation not to exceed \$600, both of said amounts to be payable from General Fund 100, Agency 015, Org. 2020, Obj. 5441.

Resolution 98-0120 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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Resolution 98-0123, by Councilor Prettner Solon, authorizing exercise of options to purchase property from City Wide Storage and Services, Inc., Edward A. Aamodt and Sheryl Aamodt, Joseph H. Kleiman and Rose Kleiman and Andreesse Enterprises, Inc., for the Michigan Street relocation project at a total cost of \$532,000, was introduced for discussion.

Councilor Swapinski raised concerns regarding the rights to the options after the properties are purchased, demolished and transferred. He questioned why there is an urgency to exercise these options now and how much of this property North Star Ford will have as a first option. Councilor Swapinski suggested tabling the resolution until these concerns have been resolved.

Councilors Hales, Prettner Solon and Edwards stated that the concerns they expressed at the agenda session have been addressed and that information has been provided with resolution of the issues.

Councilor Gilbert expressed concern about how this project has changed since it was originally proposed and noted that the improvement will require a bond issue to fund it. He pointed out that without a large paying development in the area, the general public will have to pay for it, which will affect other public needs. Additionally, Councilor Gilbert questioned why there is an urgency for this action now when no revenue producing development has been established.

Administrative Assistant Nollenberger stated that the benefit of purchasing the property now is that it is cheaper than it will be in the future. He stated that initially North Star Ford will use the land that the Baxter building is on to expand its car lot. Mr. Nollenberger continued that the administration has viewed this project as an enhancement for economic development in the Lincoln Park business district and it was not proposed for one specific business.

Responding to Councilor Hales, Mr. Nollenberger noted that the area is not in a tax increment financing (TIF) district so there will be no tax increment financing. He noted what the sources of funds for this project will be.

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Councilor Prettner Solon moved to consider Ordinance 98-004 at this time, which motion was seconded and unanimously carried.

BY COUNCILOR PRETTNER SOLON

98-004 (9362) - AN ORDINANCE AUTHORIZING EXECUTION OF AGREEMENT WITH DULUTH BUILDING L.L.C. AUTHORIZING PURCHASE OF CERTAIN LANDS AND CONDITIONAL SALE OF OTHER LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

Councilor Prettner Solon moved that the agreement contained within the ordinance be amended to include in concept a provision that does not allow the city to sell the Baxter Building site unless it is a part of a sale of the entire North Star site, which motion was seconded and discussed.

Councilor Prettner Solon noted that this amendment will prevent selling the Baxter Building site for the purpose of making a profit and will ensure that the Baxter land will become a part of a larger and more usable site.

Councilor Swapinski moved to add a friendly amendment to the amendment, that the reference to a "market rate" be changed to "appraisal or certified appraisal," which motion was accepted by Councilor Prettner Solon.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon's amendment was unanimously carried.

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

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Gilbert -- 1

Absent: Councilor Rapaich -- 1

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Resolution 98-0123 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to exercise those certain options to purchase real estate, copies of which are on file in the office of the city clerk as Public Document No. 98-0209-21, with City Wide Storage and Service, Inc., Edward A. Aamodt and Sheryl Aamodt, husband and wife, Joseph H. and Rose Kleiman, husband and wife and Andreesse Enterprises, Inc., respectively, for the purchase of the property described in said options at a total cost of not to exceed \$532,000, payable from the P.I. Fund 411, Agency 035, Org. 2165, Object 5510.

Resolution 98-0123, as amended, was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Gilbert -- 1

Absent: Councilor Rapaich -- 1

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a second amendment to City Contract No. 17913 with the firm of Maki and Overom, Chartered, for legal services related to the tax petitions filed by Consolidated Papers, Inc., on behalf of Lake Superior Paper Industries and Superior Recycled Fibers Industries, increasing the amount payable thereunder by \$30,000, payable from Tax Increment Financing District No. 6.

Resolution 98-0127 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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Resolution 98-0128, by Councilor Prettner Solon, authorizing the building official to abate certain nuisances by removal of structural unsound buildings in the city of Duluth, was introduced for discussion.

Councilor Prettner Solon moved that Parcel No. 7 be removed because the property owner has stated that the necessary repairs will be made, which motion was seconded and unanimously carried.

Responding to President Hogg, Mr. Dinan stated he is not aware of any procedural problems with regard to notification to property owners.

President Hogg moved to separate the resolution so that Parcel Nos. 1 and 2 be considered as Resolution 98-0128(a), and Parcel Nos. 3 through 6 be considered as Resolution 98-0128(b), which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon moved to table Resolution 98-0128(a) for more information, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Keenan -- 1

Absent: Councilor Rapaich -- 1

Councilors Keenan, Edwards and Prettner Solon urged the council to reconsider the tabling motion and authorize demolition of the buildings on Parcel Nos. 1 and 2. Discussion ensued on available options regarding these parcels.

Councilor Swapinski moved to remove Resolution 98-0128(a) from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, and Swapinski -- 7

Nays: President Hogg --1

Absent: Councilor Rapaich -- 1

Councilor Hales moved to combine resolutions 98-0128(a) and 98-0128(b) to include Parcel Nos. 1 through 6 into the same resolution, which motion was seconded and discussed.

President Hogg stated there are unanswered questions regarding whether procedures were followed and that it is inappropriate to condemn Parcel Nos. 1 and 2 this evening.

Mr. Dinan noted that the council can go ahead and vote on this matter and that the city will ascertain whether procedures were followed correctly, and if they were not, the issue will be resubmitted to the council for further action.

Councilor Hales' motion to combine resolutions 98-0128(a) and 98-0128(b) into one resolution was carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon and Swapinski -- 7

Nays: President Hogg -- 1

Absent: Councilor Rapaich -- 1

Resolution 98-0128, as amended, was adopted as follows:

BY COUNCILOR 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, lacking the elements of human habitation and a menace to the neighborhood; and

WHEREAS, notices of condemnation were served as follows:

Parcel 1 - 1115 East Third Street, also known as ELY ½ of Lot 8 and all of Lot 9, Block 78, Portland Division, Town of Duluth, by certified mail on Ronald Hendrickson, RLH Investments, 1718 West First Street, Duluth, Minnesota, 55806, signed by M. Love on December 15, 1997; and

Parcel 2 - 316 North 60th Avenue West, also known as Lots 9 and 10, Block 130, West Duluth Fifth Division, Town of Duluth, by certified mail on Scott Occhino, land staff appraiser, 607 Government Services Building, 320 West Second Street, Duluth, Minnesota, 55802, signed by Lynn Kamphandel on March 20, 1997; and by certified mail on Jule M. Garatz, 316 North 60th Avenue West, Duluth, Minnesota, 55807, signed by Jule Garatz on March 24, 1997; and by certified mail on Rod Garatz, 1927 East Superior Street, Duluth, Minnesota, 55812, signed by Ronald W. Garatz on March 20, 1997; and by certified mail on Deborah Goldman, social worker, 503 Government Services Building, 320 West Second Street, Duluth, Minnesota, 55802, signed by Lynn Kamphandel on March 20, 1997; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Parcel 3 - 115 North 64th Avenue West, also known as Lots 7 and 8, Block 23, MacFarlanes Grassy Point Addition to Town of Duluth, by certified mail on Jeff Fechner, 115 North 64th Avenue West, Duluth, Minnesota, 55807, returned marked unclaimed and by legal notice in the Duluth News-Tribune to Jeff Fechner, Leonard Carlson, Peggy Cummings and Ken Fechner, address unknown, on May 1, 1997, and May 2, 1997; and

Parcel 4 - 126 North 11th Avenue West, also known as all of Lot 177, Block 66 except that part described as follows: all that part of Lot 177, Block 66, lying east of a line drawn from a point in the north line of said lot, 25 feet from the east line to a point in the easterly line of Summit Avenue, which is 65 feet from the southeast corner of said lot, Duluth Proper Second Division, by certified mail on Michael C. Skadsberg, 126 North 11th Avenue West, Duluth, Minnesota, 55806, signed by Michael Skadsberg on January 2, 1997; and

Parcel 5 - 1112½ East Third Street, also known as southerly 55 feet of Lot 6, Block 61, Portland Division, Town of Duluth, by certified mail on Shahram Mirhashem, P.O. Box 265, Duluth, Minnesota, 55801-0265, signed by S. Mirhashem on April 7, 1997; and

Parcel 6 - 421 East Ninth Street, also known as west 1/2 of Lot 73, Block 125, Duluth Proper Third Division of Duluth, by certified mail on Horst H. Schneeweis, 1411 North 16th Street, Superior, Wisconsin, 54880, signed by Horst Schneeweis on December 18, 1996; and

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 98-0128 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon and Swapinski -- 7

Nays: President Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved February 9, 1998

GARY L. DOTY, Mayor

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Resolution 98-0130, by Councilor Prettner Solon, authorizing agreement with GME Consultants, Inc., for environmental investigation of properties for the Michigan Street relocation project in the amount of \$15,190, was introduced for discussion.

President Hogg moved change the word "WHEREAS" in the first paragraph to "RESOLVED," which motion was seconded and unanimously carried.

Resolution 98-0130, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 98-0209-22, with GME Consultants, Inc., for the conduct of Phase I and possible Phase II environmental investigation of property to be acquired for the Michigan Street relocation project in the amount of not to exceed \$15,190, payable from the P.I. Fund 411, Agency 035, Org. 2165, Object 5510.

Resolution 98-0130, as amended, was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Stringer Business Systems, Inc., be and hereby is awarded a contract for furnishing and delivering one Lanier 6745 photocopier. Photocopier is capable of 45 copies/minute with reversing automatic document feeder, sorter and stapler. The monthly lease fee of \$439 includes the following service and supplies: all servicing, labor, parts, drums, developer and toner. Existing parks and recreation department Lanier 6540 photocopier (SN 110183) to be used as a trade-in. Monthly lease cost without trade-in is \$494.

Resolution 98-0110 was unanimously adopted.
 Approved February 9, 1998
 GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the Western Lake Superior Sanitary District be and hereby is awarded a contract for furnishing ash and refuse disposal as required during 1998 for the Steam District No. 1 and the police animal shelter in accordance with current approved WLSSD's disposal rates, annual expenditures to total approximately \$90,400, terms net 30, FOB disposal sites, \$90,000 payable out of Steam District No. 1 Fund 540, Dept./Agency 920, Organization 1440, Object 5388 and \$400 payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5384.

Resolution 98-0105 was unanimously adopted.
 Approved February 9, 1998
 GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, effective with the natural gas readings after February 28, 1998, all large volume residential 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 large volume residential schedule of rates established by this resolution as follows:

Customer Rate Schedule Based Upon Monthly Metered Volume

Firm sales service		
Effective date	Fixed monthly charge per service	Usage \$/CCF
March 1, 1998	\$200	\$0.375
January 1, 1997	\$ 6	\$0.513

Availability: This rate class is available to single applicants who may aggregate the annual consumption of up to ten residential class services to meet the minimum threshold requirement of 17,000 CCF per year to qualify for the large volume residential rate.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED FURTHER, any prior rate resolutions inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 98-0124 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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 \$6,390, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5404.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject budget allocations and the agreement of both parties.

Resolution 98-0109 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 98-0209-23, between the city of Duluth and Central Village, L.L.C., for the replacement of a storm sewer on Lot 13, Block 5, Central Acres Second Division, at a cost to the city of \$5,000, to be paid from Fund 411, Agency 035, Org. 2118.

Resolution 98-0129 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of economic security for expenditures related to the juvenile alcohol/curfew offender program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police and job training departments. All reimbursements to be deposited in Fund 268, Agency 031, Org. 6225, Revenue Source 4230.

Resolution 98-0101 was unanimously adopted.

Approved February 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that St. Luke's Hospital be and hereby is awarded a contract for furnishing physical exams for safety officers for the police department and fire department in accordance with specifications on its low specification bid of \$15,000, terms net 30, \$10,000 payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5305 and \$5,000 payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5305.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject to budget allocations and the agreement of both parties.

Resolution 98-0106 was unanimously adopted.
Approved February 9, 1998
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 rescinded:

- front of 2427 West Fourth Street
- front of 1608 East Superior Street
- side of 31 East Fifth Street
- front of 8917 Idaho Street
- front of 3137 Restormel Street
- front of 1008 East Second Street.

Resolution 98-0125 was unanimously adopted.
Approved February 9, 1998
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 HOGG

98-005 - AN ORDINANCE ESTABLISHING A STREET PRESERVATION FUND, ADDING A NEW DIVISION 11 TO ARTICLE II OF CHAPTER 20 OF THE CITY CODE.

President Hogg moved to refer the ordinance back to the administration, as requested, which motion was seconded and unanimously carried.

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The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9362

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING EXECUTION OF AGREEMENT WITH DULUTH BUILDING L.L.C. AUTHORIZING PURCHASE OF CERTAIN LANDS AND CONDITIONAL SALE OF OTHER LANDS IN THE LINCOLN PARK BUSINESS DISTRICT.

The city of Duluth does ordain:

Section 1.

(a) 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. 98-0209-24, with Duluth Building L.L.C., for the redevelopment of certain lands in the Lincoln Park business district in conjunction with the relocation and reconstruction of West Michigan Street;

(b) That the proper city officials are hereby authorized to sell and convey certain properties described in said agreement in said Public Document No. 98-0209-24 to Duluth Building L.L.C., under the terms and conditions described in said agreement;

(c) That the city council finds that any benefits derived by Duluth Building L.L.C., pursuant to the agreement and conveyance of lands authorized by this ordinance do not constitute local

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

government assistance for economic development or job growth purposes within the meaning of Minnesota Statutes 116 J. 991.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication: (Effective date: March 29, 1998)

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

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Gilbert -- 1

Absent: Councilor Rapaich -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 9, 1998
Approved February 9, 1998
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 23, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0223-01 George Hovland submitting petition to extend the sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots 1 through six of Boulevard Terrace Addition. -- Assessor

98-0223-13 Lincoln Park Neighborhood Coalition submitting letter pertaining to proposed increase in the property tax levy to provide funding for the continuation of police officer positions (98-0046R). -- Received

98-0223 -02 The following submitted letters pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R): (a) Kathleen Anderson (Brimson, MN); (b) Edward William Kale (Duluth, MN); (c) Glenn R. Kessel (Minneapolis, MN); (d) Leonard R. Mozey, Jr. (St. Francis, MN); (e) Lawrence H. Runser (San Diego, CA); (f) William H. Schander (Riverview, FL); (g) Keith L. Stoner (Worthington, IN). -- Received

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REPORTS OF OFFICERS

98-0223-03 Assessor submitting:

(a) Letter of sufficiency regarding petition to vacate portions of Elizabeth Avenue and Woodland Avenue right-of-ways on the southeast corner of that intersection adjacent to Lots 21 through 25, Block 18, Motor Line Division. -- Received

(b) Confirmation of assessment rolls levied to defray the assessable portion of Contract No. 5287, sanitary sewer in Willow Street and Blackman Avenue (total assessable \$110,101.73) and Contract Nos. 1197011 and 1197012, water and gas mains at 65th Avenue West and Roosevelt Street (total assessable \$17,132.24). -- Clerk

98-0223-04 Building official submitting appeal of the board of zoning appeals' denial of a request on behalf of Voyaguer Lakewalk Inn to allow an accessory building to be erected on property located on the lower side of East First Street between Third and Fourth Avenues East (Economy Garages). -- Committee 2 (planning)

98-0223-05 Purchasing agent submitting emergency purchase orders for: (a) Library shelving awarded to Jones Library Sales; (b) 24 month lease of four 4-wheel drive sport utility vehicles for the gang strike force. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0223-06 Human rights commission minutes of January 12, 1998, meeting. -- Received

98-0223-07 Lawful gambling commission minutes of: (a) December 9, 1997; (b) January 9; (c) January 13; (d) January 23, 1998, meetings. -- Received

98-0223-08 Planning commission minutes of: (a) January 13; (b) January 28, 1998, meetings. -- Received

98-0223-09 Sanitary sewer board of WLSSD minutes of January 26, 1998, meeting. -- Received

98-0223-10 Special assessment board: (a) Minutes of January 13, 1998, meeting; (b) Report for proposed reinstatement of costs on buildings removed by demolition, Contract No. 4929. -- Received

98-0223-11 Tree commission minutes of January 12, 1998, meeting. -- Received

98-0223-12 Water and gas service hearing board minutes of February 11, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

President Hogg stated that the council will take no action on tabled resolutions 97-0819 and 97-0833 regarding vacation of skywalk easements and an agreement with Lyric Block Development Corporation and J.J.M. Partnership related to the contract premises in the Holiday Mall. He noted, however, that individuals are signed up to speak on the issue.

Deb Anderson stated that as a citizen and taxpayer, she is offended that the council is considering this issue again when it is clear the owners of the mall have failed to make a good faith effort to work with youth and other citizens on it. She added that the mall management and city have failed to post signage that was agreed to in December and is indicative of a deliberate sabotage attempt of any plan, other than that of the mall owners and some city employees and their desire to privatize a public space. Ms. Anderson suggested that if the city provided appropriate programming opportunities and adequate parks and recreational facilities within the community, young people would have somewhere other than Downtown to hang out with their peers.

Nick Deluca stated that he has observed security guards at the Holiday Mall unfairly stereotype and single out certain groups of individuals because of the way they look and dress.

Kelly Howard stated that the Downtown Duluth Transit Authority Center is not just for adults. She noted that young people are the hope and future of Duluth and have a right to stand up for what they believe in. She encouraged councilors and the city try to work in concert with them to address and resolve the problems that business owners in the Holiday Mall are concerned about.

Andrew Pastor disagreed with statements made previously by councilors that privatization of the Holiday Mall is the only available solution to existing problems. He noted that not everyone is aware of what rules need to be adhered to because a code of conduct, which was supposed to be posted in the Holiday Mall on January 4, was never displayed. Mr. Pastor supported waiting 60 days after the posting of the code of conduct to study the results. He challenged the city to provide places and activities for young people to gather and enrich their minds.

John Rathe, representing Young Duluthians Care, stated that letters he has received from young Duluthians indicate that most young people looking for fun at Canal Park, Downtown, Miller Hill Mall, pool halls, swimming beaches and playgrounds do nothing wrong. He stated that throughout the years he has observed the deterioration of recreation centers, swimming beaches and playgrounds that were intended for use by young people. Mr. Rathe added that contrary to what has been said in the past, the issue is focused on the young people, that his group has been informed by the American Civil Liberties Union (ACLU) that privatization of this easement may be illegal and, if approved, will be challenged. He noted that in not posting the code of conduct, the Holiday Mall indicates its unwillingness to work with others or accept anything less than what it wants. Mr. Rathe urged the council to remove the resolutions from the table and vote them down.

Michael Conlan, representing the Greater Downtown Council, emphasized that the issue is not to take away the rights of young people. He said the issue was raised because of drunks and vagrants who frequent the Holiday Center. Mr. Conlan stated that privatization of easements will provide merchants with a tool to eliminate the problem with people whose behavior is not illegal, but is offensive to those wishing to shop and do business in the mall. He said the code of conduct is important to the Greater Downtown Council and he will work with Holiday Mall personnel to get it posted by the end of the week and see to it that it is enforced.

Barbara Perrella, representing Labovitz Enterprises and merchants leasing property in the Holiday Center, reminded councilors of the importance of commerce in Downtown and stated that consumers have a right to feel comfortable when shopping and conducting their business. She requested council assistance in resolving the matter.

Clayton Hanks, representing the Adolescent Power Union Movement, stated that the actual offenders should be dealt with instead of setting standards that establish automatic prejudice to certain groups of people.

Anna Devich urged the council to think about and study carefully just who it is that these resolutions are trying to accommodate. She encouraged everyone to work together to resolve this issue so that all are accommodated.

Polly Hassenstab urged councilors to remove the resolutions from the table and vote them down. She noted that the task force established to consider the issue included the Greater Downtown Council, the chamber of commerce and many business groups, but the kids were left out. Ms. Hassenstab urged the enforcement of present laws to eliminate the offenders, the posting of a code of conduct and the involvement of qualified, willing youth to help with enforcement so that the public easements can remain public and the youth can be left alone.

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Ron DeGrio, representing the Arrowhead Youth Soccer Association, spoke about the process used to complete youth soccer fields on Arlington Avenue and Jean Duluth Road. He presented a plaque from the association to express thanks and appreciation for council support of the project.

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At this time, 8:00 p.m., President Hogg announced that the public hearing regarding the proposed modification to tax increment financing (TIF) plans for TIF Districts 1, 2 and 3 would begin (Public Document No. 98-0223-30).

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At this time, 8:10 p.m., President Hogg closed the public hearing and the regular order of business was resumed.

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RESOLUTIONS TABLED

President Hogg stated that it is not his intent to remove Resolution 98-0046, calling a special municipal election on November 3, 1998, for an advisory referendum on an increase in the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants; or Ordinance 98-002 (9363), to amend the budget of the city of Duluth for the year 1998 increasing the budget using undesignated, unreserved fund balance and appropriating monies for the payment of such increase, from the table this evening. He stated that if such a motion is made, he will vote against it.

Councilor Hardesty moved to remove Resolution 98-0046 and Ordinance 98-002, from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Prettnner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

Councilor Hardesty stated that she has requested that this resolution and ordinance be considered because of concerns raised by constituents in numerous conversations and communications she has received. She said that having the question asked on the ballot in November is a viable way of finding out where the community stands with regard to increasing the tax levy to sustain community policing as it is presently funded by federal grants. Councilor Hardesty noted that the police department is funded by the general fund, that those funds have not been increased, and in order to keep step with the needs of the community policing effort, an increase in property tax levy may be appropriate.

Councilor Swapinski stated that it is his understanding that this is the only available vehicle that will enable the community policing efforts to be continually funded at its present level. He continued by saying that during budget meetings the council needs to consider the merits of funding for various departments so that a tax increase will not carry over into future years. Councilor Swapinski said he would like to see this issue resolved and he understands that the only viable way via the City Charter is to let the citizens decide by referendum. He added that the administration has agreed to fund the community policing program through excess funding reserves until this issue is resolved.

Councilor Keenan stated that it is the council's duty to represent constituents in determining budgetary matters and, because this issue is clearly a financial one, he opposes holding a referendum. He noted that the police department already consumes 20 percent of the city's \$55 million budget and believes that if the city decides to provide more police services, then other services with a lower priority should be eliminated instead of raising taxes to pay for them.

Councilor Hales reminded councilors that when the budget was set last fall, the council chose not to have a referendum or increase the budget and directed the administration to find the funding somewhere else through prioritization. She continued by saying that even though she and her constituents support the community policing effort, she has been encouraged not to support a tax increase for this program. Councilor Hales stated that her constituents believe there are enough police officers out there, that all they want is to have the laws enforced and for the administration to say that the program will be terminated if the tax levy is not increased is wrong. She defined community policing as a program that educates neighborhoods, through police liaisons, in improving neighborhood safety via community watches and neighborhood cooperation and not necessarily increasing the number of police officers. Councilor Hales discouraged the administration from accepting federal money to temporarily fund new programs that will require taxpayers to pay for them in the future.

President Hogg stated that the administration is trying to convince the community that the only way the community police program can be made available is to raise taxes which is not true. He continued by saying that the council said no to the issue last year and the administration has come back again asking for the same thing. President Hogg said that if the city is not able to keep the officers, it is because of the priorities that the administration chose. He added that the council will set a precedent for any future program the administration proposes by submitting to an increase in the budget or allowing a referendum for residents to decide this issue.

Councilor Swapinski stated that he and his constituents want the community policing program in his district, as well as police liaisons in the schools.

Responding to councilors, Administrative Assistant Nollenberger stated that the actual cost of the program is approximately \$1.4 million and that taxes for the combined first two years would be increased by about \$14 per average homeowner, and then in each of the following three years would be increased by approximately \$5 so that by the year 2002 the tax increase would total \$28.

He acknowledged that the reserve fund, from which \$355,000 is proposed to be used for the first year of the program, totals approximately \$5.5 million.

Councilor Keenan stated that the city needs to concentrate its efforts on building the reserve fund up because other types of income, such as sales tax, is leveling off. He added that the city has diverse sources of income which need to be increased without reaching into taxpayers' pockets.

Councilor Hardesty reminded councilors that taxes in Duluth have only been raised once in the past eight years and that, in her perspective, the administration has stated by requesting this funding, that retention of this program is an emergency. She continued that it is appropriate that funding for this program come from the general fund and that raising taxes to pay for it seems an acceptable means to do it.

Councilor Edwards opposed holding a referendum and stated that councilors are elected to oversee the budget process for constituents, and allowing a referendum on this expenditure sets a precedent for all future controversial expenditures.

Councilor Prettner Solon stated she supports the referendum, noting there will be no expense to taxpayers to put the question on the ballot while giving them an opportunity to express their opinion on the issue. She stated that the council has been frugal in the past, that the budgets have been lean and she does not support cutting other programs to fund this one.

Mr. Nollenberger commented that he thinks the viewpoints and discussion that has taken place on the tax and fiscal philosophy is a legitimate public policy debate and deserves the discussion and debate that is taking place. He stated that the issue is whether, in police staffing, the department has enough personnel to be proactive instead of reactive. Mr. Nollenberger defined community policing as having the ability to be proactive to do community oriented policing and stated that that is the reason the administration has made this recommendation in terms of prioritization. He said that while he and Councilor Keenan share a very conservative fiscal approach, he believes that instead of saying that fund balances should never be used for operations, he suggests that it should never be used for ongoing operations and that one time types of operational expenses are a legitimate use of fund balances.

Resolution 98-0046 was adopted as follows:

BY PRESIDENT HOGG:

WHEREAS, the city has for a number of years received federal grants which have enabled the implementation of a community policing program and enhanced street patrols during high crime periods through the employment and training of additional police officers; and

WHEREAS, it appears that federal funding for these purposes will not be available in future years; and

WHEREAS, the mayor and city council believe that these programs have had a very beneficial effect on our city and would like to continue such programs with local funding if there is community support for doing so; and

WHEREAS, continuation of such programs will require an increase in the city's property tax levy of \$596,760 in 1999 and an increase in such levy of approximately \$200,000 in years 2000, 2001 and 2002.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby calls a special municipal election on November 3, 1998, for an advisory referendum on the question of increasing the city's property tax levy to support continuation of community policing programs and enhanced police street patrols presently funded by federal grants.

RESOLVED FURTHER, that the city clerk shall place the following proposition on the ballot at such special municipal election:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Complete the arrow after the word "YES" standing opposite the proposition if you wish to vote for such proposition.

Complete the arrow after the word "NO" standing opposite the proposition if you wish to vote against such proposition.

PROPOSITION

Should the city property tax levy be increased in 1999 and future years to provide monies for continuation of police programs presently funded by federal grants?

A "YES" vote is a vote in favor of increasing the property tax levy by \$596,760 in 1999 and increasing such levy by approximately \$200,000 in years 2000, 2001 and 2002 to provide monies to continue the community policing program and enhanced police street patrols presently funded by federal grants.

A "NO" vote is a vote against increasing the property tax levy for such purposes.

Resolution 98-0046 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

Approved February 23, 1998

GARY L. DOTY, Mayor

[Resolution 98-0046 was reconsidered and tabled on March 2, 1998.]

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

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

[Ordinance No. 9363 was reconsidered and tabled on March 2, 1998; passed April 13, 1998.]

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Councilor Prettner Solon moved to remove Resolution 97-0819, vacating easements in the Holiday Center (Lyric Block); and Resolution 97-0833, authorizing use agreement with Lyric Block Development Corporation and J.J.M. Partnership related to the contract premises in the Holiday Mall, from the table for the purpose of referring it back to the administration, which motion was seconded and unanimously carried.

Councilor Prettner Solon stated that by referring the resolutions back to the administration, it will give everyone involved an opportunity to give the posted code of conduct in the Holiday Mall a chance to work and so that everyone understands that the issue cannot be removed from the table to be voted on without notice. She moved to refer resolutions 97-0819 and 97-0833 back to the administration, which motion was seconded and unanimously carried.

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At this time, 9:10 p.m., Councilor Hales left her seat.

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of the bituminous surface on 38th Avenue West from Second Street to Third Street (Contract No. 5290, assessable \$6,749.44); Vernon Street from Pacific to Grand, 1996 street improvement program

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(Contract No. 7018, assessable \$15,463.20) and Seventh Street from 37th to 39th Avenues West, 1996 street improvement program (Contract No. 7019, assessable \$36,062.40) be and the same are hereby confirmed.

Resolution 98-0092 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract No. 5300, Second Street Alley from 30th Avenue East to Hawthorne Road (total assessable \$33,175.97) and Contract No. 5306, demolition of buildings (total assessable \$70,852.70) be and the same are hereby confirmed.

Resolution 98-0132 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the city is hereby authorized to pay \$7,500 to North Shore Inline Marathon for sponsoring and advertising promotion of the 1998 North Shore Inline Marathon, which payment shall be made from Fund 258-030-1431-5490.

Resolution 98-0160 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0154, by President Hogg, stating that the council will not act upon any resolution or ordinance which authorizes expenditure of funds, encumbers funds for future use, or expresses city council intent to authorize future expenditures unless such resolution or ordinance states the exact or estimated cost of such expenditure including the cost of any in-kind services to be provided by the city of Duluth, was introduced for discussion.

President Hogg stated that because of concerns expressed by the administration that it is difficult to place a dollar value on in-kind services and that it is too open ended, he proposes to amend the title of the resolution. President Hogg moved to amend the title of Resolution 98-0154 by striking the words "including the cost of any in-kind services to be provided by the city of Duluth," which motion was seconded and carried upon a unanimous vote.

Councilor Prettner Solon stated that, for consistency, the resolution needs to be amended further, and moved to amend the seventh paragraph by striking the words "including the cost of any in-kind services to be provided by the city of Duluth," which motion was seconded and carried upon a unanimous vote.

Resolution 98-0154, as amended, was adopted as follows:

BY PRESIDENT HOGG:

WHEREAS, the citizens and taxpayers of the city of Duluth have the right to full disclosure of city expenditures; and

WHEREAS, both elected and appointed city officials have a duty to provide such full disclosure in the most clear and easily discovered manner; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, citizens who attend city council meetings or watch on television or listen on radio almost never have access to the full text of resolutions and ordinances under consideration; and

WHEREAS, the full title of each resolution and ordinance is reproduced in the printed city council meeting agenda which is available to the public and the news media both before and during city council meetings; and

WHEREAS, the title of each resolution and ordinance is required to be read in full when such resolution or ordinance is introduced; and

WHEREAS, disclosure of pertinent information in the title of resolutions and ordinances gives most citizens attending council meetings or watching on television or listening on radio the greatest opportunity to be fully informed of the actions of their city government.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby states that it will not act upon any proposed resolution or ordinance which authorizes expenditure of funds, encumbers funds for future use or expresses city council intent to authorize future expenditures unless the title of such resolution or ordinance states the exact or estimated cost of such expenditure.

RESOLVED FURTHER, that the city council will not act on any resolution or ordinance where disclosures required by this resolution have not been printed in the city council meeting agenda provided for the information of the public.

Resolution 98-0154, as amended, was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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At this time, 9:25 p.m., Councilor Hales returned to her seat.

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BY PRESIDENT HOGG:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota, as follows:

(a) 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:

(1) General Obligation Improvement Refunding Bonds, Series 1998A, in the approximate amount of \$2,660,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the principal portions of the City's General Obligation Improvement Bonds dated October 1, 1991, maturing on and after August 1, 2000, and the City's General Obligation Improvement Bonds of 1992 dated November 1, 1992, maturing on and after February 1, 2002; and

(2) General Obligation Water and Sewer Refunding Bonds, Series 1998B, in the approximate amount of \$2,495,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the principal portion of the City's General Obligation Water Utility Bonds of 1992 dated November 1, 1992, maturing on and after February 1, 2002, and the City's General Obligation Sewer Utility Revenue Bonds dated October 1, 1991, maturing on and after August 1, 2000; (collectively referred to as the "Bonds").

(b) Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sales of each individual series thereof are set forth in the Official Terms of Offering, which are attached hereto as Exhibits A and 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds.

(c) 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).

(d) 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 98-0177 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Cushman Motor Co. be and hereby is awarded a contract for furnishing and delivering one three-wheel ballfield groomer with attachments for the parks and recreation department in accordance with specifications on its low specification bid of \$7,497.60, terms net 30, FOB Duluth, payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 2008, Object v810.

Resolution 98-0107 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 1998, which agreement shall be substantially in the form of Public Document No. 98-0223-15, on file in the office of the city clerk, at a cost to the city of \$10,800, which shall be payable from the group health fund - administration account.

Resolution 98-0115 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Ericsson/GE c/o Jayen, Inc., be and hereby is awarded a contract for furnishing and delivering radio equipment updates and replacements for the public works and parks and recreation in accordance with specifications on its low specification bid of \$13,112.28, terms N30, FOB shipping point, payable out of Fund 450, Dept./Agency 015, Organization 2108, Object E825.

Resolution 98-0118 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0156, authorizing the proper city officers to execute an agreement with Patch for the furnishing of premises to be used in the old Armory building; and Resolution 98-0157, authorizing the proper city officers to execute an agreement with Weed and Seed for the furnishing of premises to be used in the old Armory building, by Councilor Edwards, were introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Edwards moved to amend the resolution to specify that monies received from these two programs be deposited in the park fund and designated for the enhancement of the city's public parks, which motion was seconded for discussion.

Responding to Councilor Edwards, Mr. Nollenberger stated that all funding for the parks and recreation department comes from the general fund, therefore, no legal way is available to designate these specific funds for that purpose. He suggested amending the resolutions to show the council's intent that these funds are to be used for that specific purpose.

Councilor Edwards moved to add the following paragraph at the end of both resolutions:

"RESOLVED FURTHER, that the council requests that the income from this agreement be directed towards the beautification and improvement of neighborhood parks," which motion was seconded and discussed.

Councilor Hales noted that both the Patch and Weed and Seed programs are neighborhood generated programs, therefore, her constituents have requested that these revenues be reprogrammed back into the neighborhood that the money is coming from. She expressed her disappointment that the police department has chosen the location of the Armory, which includes rental costs, when she is aware that more appropriate quarters were offered at no cost.

Councilor Edwards' amendment passed upon a unanimous vote.

Resolution 98-0156, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 98-0223-16 with the city clerk, with Patch for the furnishing of premises in the old Armory building at 1305 London Road to be used for an East Hillside community program. Monthly rental of \$500 to be deposited in the General Fund 100-500-1950-4612.

RESOLVED FURTHER, that the council requests that the income from this agreement be directed towards the beautification and improvement of neighborhood parks.

Resolution 98-0156, as amended, was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0157, as amended, was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 98-0223-17 with the city clerk, with Weed and Seed for the furnishing of premises in the old Armory Building at 1305 London Road to be used for social and economic revitalization in the neighborhood. Monthly rental of \$500 to be deposited in the General Fund 100-500-1950-4612.

RESOLVED FURTHER, that the council requests that the income from this agreement be directed towards the beautification and improvement of neighborhood parks.

Resolution 98-0157, as amended, was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 premise 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 Heights Hockey	All American Club	February 2, 1998
	Terry's Place	February 2, 1998
2. Moose Lodge #1478	411 North 57th Avenue West	February 5, 1998
3. Epilepsy Foundation of Lake Superior	C.W. Chips	February 10, 1998

Resolution 98-0167 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Duluth Clinic/St. Mary's be and hereby is awarded a contract for furnishing drug and alcohol testing for the city of Duluth in accordance with specifications on its low specification bid of \$20,000, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for four additional years subject budget allocations and the agreement of both parties.

Resolution 98-0168 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering eight patrol cars and accessories for the police department in accordance with specifications on its low specification bid of \$163,132, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V803.

Resolution 98-0169 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0171, authorizing the extension of the existing software license rental agreement with International Business Machines Corporation for the period January 1, 1998, to December 31, 1998, at an estimated cost of \$7,000; Resolution 98-0173, authorizing the extension of a maintenance service agreement with International Business Machines Corporation for certain data processing equipment for the period January 1, 1998, through December 31, 1998, at a cost of approximately \$65,000; and Resolution 98-0174, authorizing a contract with Hewlett Packard Company for a renewal of a hardware and software maintenance agreement at a cost of approximately \$11,000, by Councilor Edwards, were introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Edwards stated that the administration has requested the council to table the resolutions for future discussion. She moved to table the resolutions, which motion was seconded and carried upon a unanimous vote.

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BY COUNCILOR RAPAICH:

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

BOARD OF ZONING APPEALS

Stanley Gershgol (planning commission) for a term expiring July 31, 1998 replacing James Yeager.

Resolution 98-0096 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of painter which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-18, are approved.

Resolution 98-0134 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of HVAC&R inspector which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-19, are approved.

Resolution 98-0135 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of construction inspector which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-20, are approved.

Resolution 98-0136 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of electrical inspector which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-21, are approved.

Resolution 98-0137 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of plumbing inspector which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-22, are approved.

Resolution 98-0138 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of animal shelter leadworker which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-23, are approved.

Resolution 98-0140 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of information technician which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-24, are approved.

Resolution 98-0141 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of finance technician which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0223-25, are approved.

Resolution 98-0142 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

BUILDING APPEAL BOARD

Edward B. Shanblott (residential building construction) and Gwin B. Whitney (building materials supply) for terms expiring February 1, 2001.

Resolution 98-0143 was unanimously adopted.

Approved February 2, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPIACH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Barbara Tusher (at large) for a term expiring March 1, 2001.
Resolution 98-0144 was unanimously adopted.
Approved February 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

COMMISSION ON DISABILITIES

Hollis M. Caldwell and John W. O'Neill for terms expiring November 1, 2000.
Resolution 98-0145 was unanimously adopted.
Approved February 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

HUMAN RIGHTS COMMISSION

Mary I. Hernandez, Robert Jansen, Mary Meierhoff, Donald Ness and Margaret L. Thomas for terms expiring March 1, 2001.
Resolution 98-0146 was unanimously adopted.
Approved February 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Jeffrey Jackson (planning commission) and Darrell Lee Olson (Central Hillside) for terms expiring March 1, 2001.
Resolution 98-0147 was unanimously adopted.
Approved February 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0223-26, with the law firm of Fryberger, Buchanan, Smith & Frederick, P.A., for professional legal services relating to the suballocation of low income housing tax credits in an amount not to exceed \$25,000, payable from fees generated by the low income housing tax program.

Resolution 98-0131 was unanimously adopted.
Approved February 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to the rural development act, local units of government are required

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 ComputerPro, Inc., dba CP Internet; 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 ComputerPro, Inc., dba CP Internet.

Resolution 98-0139 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Richfield Parkway legally described as: Richfield Parkway adjacent to Block 5, Hartley Estates, 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 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Richfield Parkway described above and as more particularly described on Public Document No. 98-0223-27.

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

Resolution 98-0162 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to accept the deed of conveyance, a copy of which is on file in the office of the city clerk as Public Document No. 98-0223-28, and property conveyed thereby located in the vicinity of 26th Avenue East and London Road, from the state of Minnesota by its department of transportation at no cost to the city for use in conjunction with Lakewalk East.

Resolution 98-0166 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on June 24, 1974, the city council of the city of Duluth, Minnesota (the council) created Duluth tax increment District No. 1, Twin Ports Truck Center (District No.1); and

WHEREAS, on October 14, 1975, the council created Duluth tax increment District No. 2, Downtown (District No. 2); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, on April 20, 1981, the council created Duluth tax increment District No. 3, West Duluth-Oneota (District No. 3); and

WHEREAS, on April 24, 1989, the council transferred responsibility for the control and operation of District Nos. 1, 2 and 3 to the Duluth economic development authority (DEDA); and

WHEREAS, on February 17, 1998, the DEDA board of commissioners approved the modification to the tax increment financing plans for tax increment financing District Nos. 1, 2 and 3, a copy of which is on file in the office of the city clerk as Public Document No. 98-0223-29 (the plan); and

WHEREAS, the plan proposes to increase the amount of bonds authorized to be issued under the existing tax increment plans for District Nos. 1, 2 and 3 in order to refund and replace existing outstanding bond obligations and to adjust existing financial calculations; and

WHEREAS, the plan will afford maximum opportunity, consistent with the sound needs of the city of Duluth as a whole, for development by private enterprise by allowing the release of reserves and reducing interest costs making more funds available for project development, thereby further encouraging industrial development in the area and providing jobs and economic development in Duluth; and

WHEREAS, the funding proposed to be made available for funding new development, in the opinion of the city, would not reasonably be expected to occur without this modification within the reasonably foreseeable future and, therefore, the approval of the plan is deemed necessary; and

WHEREAS, a copy of the plan was submitted to the St. Louis County Board of Commissioners and the school board of Independent School District No. 709 on January 22, 1998, and said boards have been notified that the amended plan was to be considered at a public hearing on the date hereof; and

WHEREAS, notice of such public hearing was published in a newspaper of general circulation in the city of Duluth on February 13, 1998, 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 District Nos. 1, 2 and 3 continue to be redevelopment districts as described in Minnesota Statutes Section 469.174, Subdivision 10;

(d) That the plan will afford maximum opportunity consistent with the needs of the locality as a whole for redevelopment by private enterprise;

(e) That the funding proposed to be made available for funding new development, in the opinion of the city, would not reasonably be expected to occur without this modification within the reasonably foreseeable future.

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. 98-0223-29, as of this date.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 98-0181 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Spirit Mountain recreation area authority allowing said authority to participate in the city's group dental plan, which agreement is on file in the office of the city clerk as Public Document No. 98-0223-14.

Resolution 98-0158 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

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 1997, payment of which shall be made from the Tourism Tax Fund 258-030-1431-5490 (1997 monies).

Resolution 98-0161 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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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 \$24,901.83, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0176 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0179, by Councilor Keenan, modifying the fees charged by the parks and recreation department for picnics, amending city council Resolution 93-0180, was introduced for discussion.

Councilor Hales pointed out that a parks and recreation commission has just been established, and even though the commission is not yet complete as far as appointments, they are not aware of this increase in fees. She requested that the resolution be given to the commission to review this proposal.

Mr. Nollenberger stated that he did consider having the commission look at it before submitting it to the council, however, because the picnic season is near, he felt the fees should be increased prior to reservations being made so that the additional revenues will be experienced to cover the additional services being provided. He continued by saying that due to some difficulty the administration is experiencing in getting applicants from specific districts to apply for positions on the commission, it may be some time before the commission is fully operational, therefore, it

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

was his decision to present the resolution at this time. Mr. Nollenberger stated that if the council wishes, the resolution could be tabled until the March 16 council meeting.

Councilor Keenan moved to table the resolution until March 16, which motion was seconded and unanimously carried.

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BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to pay to John Hendrickson the sum of \$8,171.22 in full and final settlement of all claims arising out of a water meter leak at 152 Wren Drive on or about August 4, 1997; payment from self insurance fund.

Resolution 98-0122 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Radix Corporation be and hereby is awarded a contract for furnishing annual maintenance for hand held meter reading equipment and the annual software license for the water and gas department in accordance with specifications on its low specification bid of \$6,032, terms net 30, FOB destination, \$3,016 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5400 and \$3,016 payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5400.

Resolution 98-0172 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Stringer Business Systems, Inc., be and hereby is awarded a contract for furnishing and delivering a 28 copy per minute copier machine and one year's maintenance agreement for the water and gas department in accordance with specifications on its low specification bid of \$5,386.61, terms net 30, FOB destination; \$2,693.31 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$2,693.30 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0175 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0180, by councilors Gilbert and Swapinski, informing the Spirit Mountain authority and Spirit Ridge L.L.C. of the reports, studies and other information that will be required by the city council before it will consider approving any plans or construction permits for the proposed lodging facility and golf course at Spirit Mountain, was introduced for discussion.

The rules were suspended to hear speakers on the resolution upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Nancy Nelson stated that there is a process for environmental review of projects like Spirit Mountain, and that the problem with this project is that the city of Duluth has ignored it. She continued by saying that in the rules for the environmental review program of the environmental quality board, it states that an environmental assessment worksheet (EAW) is mandatory for

projects, including golf courses, resulting in the conversion of 80 or more acres of forest or naturally vegetated land. Ms. Nelson added that since this resolution was drafted, Midway Township has requested an EAW that will include the entire project. She said it is appropriate for the council to request that all of the criteria listed in the resolution be addressed in the EAW.

Councilor Keenan suggested that Mr. Lewis check into what the wetland plans are for the area as they relate to the levels included in the process which are avoidance, minimization and compensation. He said if it is legal, he has no problem supporting a resolution that requests Spirit Mountain to provide an EAW.

Mr. Nollenberger encouraged the council to table the resolution so that discussion can take place when all of the appropriate parties can be present. He stated that as it relates to the lands issue, the specific response that he has received is that the resolution that approved the master plan stated the development will follow the city's wetland requirements, which seems to be contradictory to the resolution being presented. He noted that the corps of engineers wetland requirements are less restrictive than the city's and if this resolution is accepted, will actually allow for lower standards for the project. Mr. Nollenberger stated that there is a recommendation that the city's standards be followed; and as it relates to the EAW, the city of Duluth, Midway Township and Proctor met last week to discuss the issue, and at this time it is unclear whether the project will meet the legislative requirements of a mandatory EAW. He added that the resolution requesting an EAW is not really relevant because the developer of Spirit Ridge has already indicated that a voluntary EAW will be done. Mr. Nollenberger noted that the pressing issue at this time is which governmental authority will be the regulating governmental unit (RGU) and noted that in Duluth, the RGU is the city's planning commission. He stated that Midway Township objects to the Duluth planning commission being the RGU and has proposed that St. Louis County be designated. Mr. Nollenberger said that in the event an agreement between the three governing units cannot be made, the statute requires that the decision be made by the state.

Mr. Brown stated that all the other issues raised in the resolution need to be resolved before the development proceeds any further, and if they are not assessed, it is not fair to the developer or to the people who have to live with the consequences if the project is unsuccessful. For the local residents whose health and property values may be damaged, and to the people of Duluth, who may be trading a unique resource for a facility of uncertain value, he encouraged the council to support the resolution so that the established procedure for a comprehensive assessment of this development is observed.

Tim Bates encouraged support of the resolution to ensure that the proposed area will be kept intact and that its integrity as a natural resource and area of cultural history will be preserved.

Ed Kale stated that not enough information is known about how this project will affect the area. He encouraged the council to pass this resolution which requests further study.

Councilor Hales stated this meeting is not the appropriate forum to discuss this issue, that the two councilors sponsoring the resolution admittedly do not know what the process is and that the results of a meeting held last week between the governmental agencies are not known. She moved to table the resolution until a committee meeting can be held for further information, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Hales and Rapaich -- 3

Nays: Councilors Gilbert, Hardesty, Keenan, Prettnner Solon, Swapinski and President Hogg -- 6

Councilor Gilbert stated he believes this resolution is necessary because the work that needs to be done for this project has not been done, and that the questions residents have asked about the project have not been addressed. He stated that it is unfortunate that the council has

to take this action because he does not believe that this is an issue for the council, however, since the city administration is not listening to the people, the council must see to it that the concerns of the public are heard. Councilor Gilbert stated that the procedure used by the city in the area of development is chaotic and that this resolution will put order in the process, which is in need of change, and will thoroughly look at the issue before it is approved.

Councilor Hardesty stated that what she likes about this resolution is that it is in keeping with one of the tenets of environmental policy, which is the public has a right to know. She continued by saying that there is need for more information to make good decisions about development when weighing it against the cost of the environment. Councilor Hardesty expressed appreciation for having this resolution presented to the council and said she will support it, but she prefers to see the resolution tabled for further discussion and information.

Councilor Keenan stated that the city needs to do everything it can to protect its wetlands. He stated that he supports the resolution, but he also prefers that it be tabled, as his main concern is that the established process to protect the environment be followed.

Councilor Swapinski agreed that some of the conditions contained in the resolution need clarification and stated he supports a committee meeting to address concerns raised and to discuss the issue more thoroughly.

Councilor Hales stated she is not against good process and that the reason she supports the resolution being tabled is so that a committee meeting can be held before this issue is acted on by the council.

Kent Oliver, developer, stated his consent has already been given for preparation of an EAW and that he does not oppose most of the issues included in the resolution.

Councilor Gilbert moved to table the resolution until March 23 for a committee meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR HALES:

BE IT RESOLVED, that the proper city officials are authorized to pay to Scott Conley and his attorney, David Malban, and any holder of a valid perfected lien, the sum of \$18,168 in full settlement of all claims arising from an accident of August 30, 1995, when the claimant was struck by a police car on Canal Park Drive; payment from self insurance fund.

Resolution 98-0159 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0163, by Councilor Hales, accepting grant proceeds of up to \$47,000 for salary and benefit expenses related to the hiring of two civilian personnel under the community oriented policing services making officer redeployment effective (COPS MORE) grant program administered by the U.S. department of justice, was introduced for discussion.

Councilor Hales noted that she will not support this resolution because she voted against raising taxes to fund this program when the grants are no longer available. She pointed out that this grant will fund two new positions as civilian dispatchers and that she was told by Police Chief Lyons that future funding sources will not be considered until it is necessary in two years.

Responding to Councilor Swapinski, Mr. Nollenberger stated that this grant is related to the programs previously considered by the council but that it adds another component that allows for the hiring of civilians instead of police officers to staff the police desk. He noted that other governmental units are practicing this policy and that the city will benefit because civilians can be hired at a lower pay rate than police officers can be. Mr. Nollenberger stated that the city intends

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

to train civilians for these positions whether this resolution is passed or not, but this grant will provide funding for training the individuals. He continued by saying that when this grant is no longer available, the police positions, and not the new positions being created, will be eliminated.

Resolution 98-0163 was adopted as follows:

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's expenditures related to the C.O.P.S. M.O.R.E. program and the hiring of two civilian personnel.

BE IT FURTHER RESOLVED, that the proper city officials 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, Police Department Agency 300, Revenue Source 4210.

Resolution 98-0163 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 7

Nays: Councilor Hales and President Hogg -- 2

Approved February 23, 1998

GARY L. DOTY, Mayor

[Resolution 98-0163 was reconsidered on March 2, 1998.]

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the United States department of justice for expenditures related to the Central Hillside task force program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All reimbursements to be deposited in Duluth police grant programs, Fund 215, Police Department Agency 200, Organization 2441, Revenue Source 4210.

Resolution 98-0164 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, a two hour parking zone, 8:30 a.m. to 5:30 p.m., is hereby established on the east side of 12th Avenue East from First Street Alley to First Street.

FURTHER RESOLVED, that the no parking restriction now in effect on the east side between First Street Alley and First Street is hereby rescinded.

Resolution 98-0165 was unanimously adopted.

Approved February 23, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 10:45 p.m.

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

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ORDINANCE NO. 9363

BY PRESIDENT HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 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 9358 passed and approved December 15, 1997, is hereby amended by appropriating an additional \$355,800 from the general fund's undesignated, unreserved fund balance as follows:

Department 700 - transfers.....\$355,800

Section 2. That this ordinance shall take effect immediately upon its passage.

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

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

Passed February 23, 1998

Approved February 23, 1998

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

[Ordinance No. 9363 was reconsidered and tabled on March 2, 1998; passed April 13, 1998, as Ordinance No. 9364.]

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 2, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich and President Hogg -- 7

Absent: Councilors Prettner Solon and Swapinski -- 2

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The minutes of council meetings held on July 14 and 28, 1997, were approved upon a unanimous vote.

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PRESENTATIONS OF PETITIONS AND OTHER COMMUNICATIONS

98-0302-06 The following submitting letters pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R): (a) John W. DeRosier (Duluth, MN); (b) Elk River-Rogers VFW Post 5518 (Elk River, MN); (c) Charlie Emerson (Duluth, MN); (d) John R. Nelson (Plymouth, MN). -- Received

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REPORTS OF OFFICERS

98-0302-01 Assessor submitting:

(a) Affidavit of mailing of notice of a public hearing by the special assessment board pertaining to the proposed sanitary sewer in Bellis Street from Minneapolis Avenue to 1,000 feet easterly. -- Clerk

(b) Letter of sufficiency pertaining to petition to extend the sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots 1 through 6 of Boulevard Terrace Addition. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0302-02 Alcoholic beverage board minutes of: (a) November 19; (b) December 17; (c) December 30, 1997; (d) January 22, 1998, meetings. -- Received

98-0302-03 Board of zoning appeals minutes of January 27, 1998, meeting. -- Received

98-0302-04 Heritage preservation commission minutes of January 14, 1998, meeting. -- Received

98-0302-05 Technical design advisory committee for DWMX-D minutes of September 16, 1997, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Harry Munger spoke regarding the process used to resolve the Miller Creek issue.

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Tom Paradice, representing FIGHT for Minnesota, spoke about the council process regarding the issue of calling for the referendum on the USS Des Moines and then individual councilor's involvement on either side of the issue.

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Lenora Baeumler, sister city commission president, updated the council on activities of the commission.

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RESOLUTIONS AND ORDINANCE RECONSIDERED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Gilbert moved to reconsider Resolution 98-0046, calling a special municipal election on November 3, 1998, for an advisory referendum on an increase in the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants; and Ordinance 98-002, an ordinance to amend the budget of the city of Duluth for the year 1998 increasing the budget using undesignated, unreserved fund balance and appropriating monies for the payment of such increase, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Hales, Gilbert, Keenan and President Hogg -- 5

Nays: Councilors Hardesty and Rapaich -- 2

Absent: Councilors Prettner Solon and Swapinski -- 2

Councilor Gilbert explained that because of numerous conversations with the public, he believes the city has not done enough to get information out to citizens regarding this issue. He stated the council may have acted too hastily in considering these issues. Councilor Gilbert added that he would like more time to disseminate information so that the public has some time to talk about it and fully understand what the council proposal is with regard to its decision.

Responding to Councilor Rapaich, Administrative Assistant Nollenberger stated that if this is approved, the cost to the average homeowner will be approximately \$28 per year to fund this program.

Councilor Keenan disagreed that the public has not received enough information regarding the issue. He stated he supports the community police program but believes funding should not come from an increase in the tax levy.

Councilor Hales requested the administration to furnish the council with documentation delineating exactly what positions are proposed to be eliminated if the council does not approve an increase in the tax levy to fund it. She stated she perceives that Duluth schools have been told that police liaison positions, which have been in existence long before the community policing program was created, will be eliminated if this increase is turned down. Councilor Hales further requested information showing what funds have been used for the police liaison positions in the past.

Councilor Hardesty noted that information that included a synopsis of how the city budget has changed and why funding cannot be taken from the present budget, that was provided to the council by Mr. Nollenberger during a previous committee meeting, should be made available to assist councilors in trying to make a better, more informed decision on the issue.

Councilor Gilbert moved to table the resolution so that it can be discussed in more detail, which motion was seconded and unanimously carried.

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

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Councilor Edwards moved to reconsider Resolution 98-0163, accepting grant proceeds of up to \$47,000 for salary and benefit expenses related to the hiring of two civilian personnel under the community oriented policing services making officer redeployment effective (C.O.P.S. M.O.R.E.) grant program administered by the U.S. department of justice, which motion was seconded and unanimously carried.

Councilor Edwards stated she has requested reconsidering the resolution because she wants to change her vote. She stated she cannot support accepting grant funds that fund programs temporarily and result in increasing taxes to keep them going. Councilor Edwards

suggested that the administration plan ahead to determine where future funding will be allocated within the budget before becoming involved in new programs.

Councilor Hardesty stated that because two councilors are absent and unaware of this reconsideration, it does not seem fair that this resolution be voted on this evening. Councilor Hardesty moved to table the resolution.

Councilor Keenan stated that he has no problem with accepting grant funds to fund programs. He continued by saying that what he does not support is that after these new programs are implemented, the administration finds that it has not planned for the future and it is necessary to raise taxes to keep the program going; then taxpayers are obligated to pay for life. Councilor Keenan stated he will support accepting these funds.

Councilor Hales stated she has been told that funding to continue this program will not be addressed until after grant funds run out. She added that she cannot support implementing a program that is known to be funded for only two years and has no funding plan for its future.

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At this time, 8:10 p.m., Councilor Swapinski took his seat.

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Councilor Hardesty noted that the resolution's statement of purpose states that this is for the second and third year renewals of this grant and questioned if this is only a two year one time only grant. She suggested that the council schedule a committee meeting to discuss the advantages and disadvantages that exist with regard to setting a policy for utilizing grant funds.

Councilor Hales called the question, which motion was seconded and unanimously carried.

Resolution 98-0163 was adopted as follows:

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's expenditures related to the C.O.P.S. M.O.R.E. program and the hiring of two civilian personnel.

BE IT FURTHER RESOLVED, that the proper city officials 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, Police Department Agency 300, Revenue Source 4210.

Resolution 98-0163 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales and President Hogg -- 3

Absent: Councilor Prettner Solon -- 1

Approved March 2, 1998

GARY L. DOTY, Mayor

- - -

President Hogg noted that he failed to call on a speaker at the beginning of the meeting and moved to suspend the rules, which motion was seconded and unanimously carried.

Clayton Hanks spoke regarding the vacation of Holiday Mall open space. He reported that a code of conduct has been posted in the mall and expressed concern that some of the regulations included in it seem to be discriminatory.

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RESOLUTIONS TABLED

Councilor Edwards moved to remove Resolution 98-0171, authorizing the extension of the existing software license rental agreement with International Business Machines Corporation for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the period January 1, 1998, to December 31, 1998, at an estimated cost of \$7,000, from the table, which motion was seconded and unanimously carried.

Resolution 98-0171 was adopted as follows:

BY COUNCILOR EDWARDS:

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 9221 mainframe for a one year period beginning January 1, 1998, to December 31, 1998, at an estimated annual cost of \$7,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5319.

Resolution 98-0171 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

- - -

Councilor Edwards moved to remove Resolution 98-0173, authorizing the extension of a maintenance service agreement with International Business Machines Corporation for certain data processing equipment for the period January 1, 1998, through December 31, 1998, at a cost of approximately \$65,000, from the table, which motion was seconded and unanimously carried.

Resolution 98-0173 was adopted as follows:

BY COUNCILOR EDWARDS:

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, 1998, through December 31, 1998, at an estimated annual cost of approximately \$65,000, payable out of General Fund 100, Dept./Agency 015, Organization 1513, Object 5404.

Resolution 98-0173 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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Councilor Edwards moved to remove Resolution 98-0174, authorizing a contract with Hewlett Packard Company for renewal of a hardware and software maintenance agreement at a cost of approximately \$11,000, from the table, which motion was seconded and unanimously carried.

Resolution 98-0174 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute a contract with Hewlett Packard Company for 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 98-0174 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the sanitary sewer in Willow Street and Blackman Avenue (Contract No. 5287, total assessable

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$110,101.73) and water and gas mains at 65th Avenue West and Roosevelt Street (Contract Nos. 1197011 and 1197012, total assessable \$17,132.24) be and the same are hereby confirmed.

Resolution 98-0186 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing license for the period ending August 31, 1998, subject to departmental approvals and the payment of sales and property taxes:

Modern Hotel, Inc. (Roby's Bar), 2023 West Superior Street, with Mark Glad, 49 percent stockholder, Lori Glad, 31 percent stockholder and Thomas Lemon, 25 percent stockholder, transferred from Cap of Duluth, Inc. (Roby's Bar and Lounge), same address.

Resolution 98-0185 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Portable John, 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 \$15,200, terms net 30, FOB jobsite, payable out of various funds, dept./agencies, organizations and objects.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for four additional years subject to budget allocations and the agreement of both parties.

Resolution 98-0188 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Seikkula Steel Company be and hereby is awarded a contract for furnishing and delivering miscellaneous steel shapes and sizes for fabrication jobs by the fleet services division in accordance with specifications on its low specification bid of \$10,000, terms net 30, FOB shipping point, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0190 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that P.B.B.S. Equipment Corporation be and hereby is awarded a contract for furnishing labor and material to retube and repair two truck mounted boilers for the street maintenance division in accordance with specifications on its low specification bid of \$6,371.32, terms net 30, FOB shipping point, payable out of Fleet Services Fund 660, Dept./Agency 015, Organization 1560, Object 5404.

Resolution 98-0191 was unanimously adopted.

Approved March 2, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Erickson Chevrolet-Pontiac, Inc., be and hereby is awarded a contract for furnishing and delivering one Chevrolet Astro van for the fleet services division in accordance with specifications on its low specification bid of \$21,010, terms net 30, FOB destination, payable out of Capital Equipment Fund 450, Dept./Agency 015, Organization 2008, Object V805.

Resolution 98-0193 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, Minnesota Deer Hunters Association, Duluth Chapter, has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth City Council has received a copy of said exemption application to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption application; and

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Minnesota Deer Hunters Association, Duluth Chapter, and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 98-0197 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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.

Licensee

Climb, Inc.

Gambling site

Norman's Bar

Date application filed

February 26, 1998

Resolution 98-0204 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Paul Caldwell for a term expiring March 1, 2001, replacing Steven Ratte.

Resolution 98-0148 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Lindberg S. Ekola for a term expiring July 1, 2000, replacing Rilla Opelt who resigned.

Resolution 98-0149 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

ENVIRONMENTAL ADVISORY COUNCIL

Virginia Borden (environmental) for a term expiring January 5, 1999, replacing Thomas Zbaracki who resigned.

Resolution 98-0150 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

JOINT AIRPORT ZONING BOARD

Roberta P. Dwyer for a term expiring January 2, 2001, replacing William Erickson.

Resolution 98-0151 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Shirley Graham for a term expiring March 30, 2000, replacing Kristine Gilley who resigned.

Resolution 98-0152 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

WOMEN'S COMMISSION

Amy Galarowicz for a term expiring September 17, 1999, replacing Elizabeth Bieter who resigned.

Vicki Sanville for a term expiring September 17, 2000, replacing Mary Jones.

Resolution 98-0153 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PARKS AND RECREATION COMMISSION

Suzanna Didier (at large) for a term expiring February 13, 2001, replacing Carol Bailey.

David Robinson (District 2) for a term expiring February 13, 2001, replacing Eric Kaiser.

Duane Fogard (land management) for a term expiring February 13, 2000.

Ken Gilbertson (professional) for a term expiring February 13, 1999.

Denis D. Sauve (District 3) for a term expiring February 13, 1999.

Resolution 98-0155 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements for Round I, 1998 neighborhood matching grants fund, payable from Fund 100, Agency 700, Organization 1417, Object 5490, 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. 98-0302-07, for the following amounts and projects listed:

Tier II Projects (\$3,001 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 5,765.40	Lilliput Park revitalization project	Hillside Business Association
\$ 5,765.40	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 as Tier I grants which are approved by the city inter-departmental team for projects of less than \$3,000, shall not exceed \$5,765.40.

Resolution 98-0183 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 27th Avenue East between Jefferson and Alexander Streets legally described as 27th Avenue East adjacent to Lot 1, Block 43 and Lot 8, Block 44, Harrison Division; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its December 9, 1997, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 27th Avenue East between Jefferson and Alexander Street described above and as more particularly described on Public Document No. 98-0302-08.

BE IT FURTHER RESOLVED, that a 20 foot wide utility and pedestrian easement located ten feet either side of the existing storm sewer line located 15 feet west of the center line of 27th Avenue East be retained.

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

Resolution 98-0184 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Northland Foods, Inc., be and hereby is awarded a contract for furnishing and delivering various fruits and vegetables for zoo animals consumption at the Lake Superior Zoo in accordance with specifications on its low specification bid of approximately \$6,800, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 98-0192 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by application and permit, the city engineer granted permission to construct the following sanitary sewers:

Oakley Street from 44th Avenue East westerly 250 feet, Project No. 7896SA82, Special Permit Application 137;

Michigan Street from Fifth Avenue East easterly 200 feet, Project No. 8028SA84, Special Permit Application 138;

Walnut Street from Ponderosa Avenue easterly 400 feet, Project No. 8224SA87, Special Permit Application 139;

Cliff Avenue at Rice Lake Road, Project No. 8278SA88, Special Permit Application 140;

Decker Road from Providence Road northerly 200 feet, Project No. 8411SA89, Special Permit Application 143;

Grand Avenue Place from 93rd Avenue West easterly 300 feet, Project No. 8415SA89, Special Permit Application 144;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Fremont Street from 59th Avenue West easterly 500 feet, Project No. 8509SA90, Special Permit Application 146;

Woodland Avenue from Minneapolis Avenue westerly 175 feet, Project No. 8747SA92, Special Permit Application 152;

Beaudry Street from 88th Avenue West easterly 190 feet, Project No. 8748SA92, Special Permit Application 155;

Airport Road at Taylor Circle, Project No. 8794MC93, Special Permit Application 157;

Basswood Alley from Central Entrance northerly and Myrtle Alley, Project No. 8856SA94, Special Permit Application 158;

Nashua Street at 62nd Avenue West, Project No. 8892SA94, Special Permit Application 164;

First Alley from 28th Avenue West easterly 300 feet, Project No. 89035SA95, Special Permit Application 166;

Waseca Industrial Park, phase one, Project No. 8943SA96, Special Permit Application 173;

Central Avenue from Redruth Street northerly 250 feet, Project No. 9000SA97, Special Permit Application 178; and

WHEREAS, the city engineer has inspected and approved said improvements to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvements.

Resolution 98-0133 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 2,200 gallons of yellow traffic marking paint and 1,325 gallons of white traffic marking paint for the traffic operations division in accordance with specifications on its low specification bid of \$20,805.13, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 98-0189 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Hallett Dock Company be and hereby is awarded a contract for furnishing and delivering approximately 3,600 tons of Class 5 limestone for the street maintenance division in accordance with specifications on its low specification bid of \$20,155.13, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5224.

Resolution 98-0194 was unanimously adopted.

Approved March 2, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 16, 1998, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on August 7, 11 and 25, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0316-01 Jerry W. Brunfelt, et al. (four signatures) submitting petition to vacate an easement between Lots 24 and 25, Block 1, Lepaks Second Addition to Duluth, St. Louis County. -- Assessor

98-0316-02 Jim Lattner submitting petition for concurrent use permit for easement at 601 North Central Avenue to install awnings over public sidewalk on Cody Street. -- Planning commission

98-0316-03 Lyric Block Development Corporation, by Thomas A. Clure, submitting petition to vacate a 42 square foot portion of the pedestrian easement located in the Holiday Center Mall to create necessary space for a new tenant. -- Assessor

98-0316-15 Pilgrim Congregational Church (supported by 70 signatures) submitting communication pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R). -- Received

98-0316-16 The following submitting communications pertaining to the proposed imposition of additional tax on food and beverage and/or hotel-motels (98-0246(a&b)): (a) Tom Carlson; (b) William G. Edwards; (c) Darrold E. Persson; (d) John Verlooy. -- Received

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REPORTS OF OFFICERS

98-0316-04 Assessor submitting for confirmation assessment rolls levied to defray the assessable portions of the following contracts: Upper Woodland 1 (\$30 Front Foot)(Contract No. 7021, total assessable \$346,428.20); Lower Lester Park (\$30 FF)(Contract No. 7022, total assessable \$224,912.65); Lower Hunters Park (\$30 FF)(Contract No. 7023, total assessable \$263,949); Norton Park East (\$30 FF) (Contract No. 7024, total assessable \$278,599.80); 20th Avenue East (\$30 FF)(Contract No. 7025, total assessable \$70,681.20); Rehabilitation of Owatonna (\$10.30 FF)(Contract No. 7026, total assessable \$16,010.85). -- Clerk

98-0316-05 Clerk submitting: (a) Certification of advisory referendum held on March 4, 1998, pertaining to Governor Carlson's proposal to develop a veterans' memorial state park which would include the navy cruiser USS Des Moines in the Bayfront area of the Duluth Harbor; (b) Application to the Minnesota gambling control board for exemption from lawful gambling license (raffles) from St. Mary's Medical Center for May 1, 1998. -- Received

98-0316-33 Public works department director submitting final report for solid waste and recyclables collection system study. -- Received

98-0316-06 Purchasing agent submitting emergency order awarded to Minncor Industries for furniture for the Mount Royal Library. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- 98-0316-07 Board of zoning appeals minutes of March 5, 1998, meeting. -- Received
- 98-0316-08 Building appeal board minutes of December 10, 1997, meeting. -- Received
- 98-0316-09 Civil service board minutes of January 6, 1998, meeting. -- Received
- 98-0316-10 Duluth airport authority minutes of January 21, 1998, meeting. -- Received
- 98-0316-11 Duluth transit authority minutes of January 28, 1998, meeting. -- Received
- 98-0316-12 Planning commission minutes of February 10, 1998, meeting. -- Received
- 98-0316-13 Sanitary sewer board of WLSSD minutes of February 23, 1998, meeting. -- Received
- 98-0316-14 Special assessment board minutes of February 10, 1998, meeting. -- Received

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RESOLUTION TABLED

Councilor Keenan moved to remove Resolution 98-0179, modifying the fees charged by the parks and recreation department for picnics, amending city council Resolution 93-0180, from the table, which motion was seconded and unanimously carried.

Councilor Keenan stated that the parks and recreation commission has reviewed this resolution and unanimously recommends it for approval.

Resolution 98-0179 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that pursuant to Sections 35-9 and 35-9.1, the rates set for picnic permits in Resolution 93-0180 are amended to read as follows:

II. Picnic permits:

The following fee schedule for picnic permits will be established:

Small picnics of less than 40 persons	No permit necessary
Medium picnics of from 40 to 199 persons	\$35
Large picnics of from 200 to 499 persons	\$70
Picnics exceeding 500 persons	Fee will depend on size of group and necessary accommodations

No security/cleanup deposit will be required, but picnics will be billed for property damage and cleanup costs at the actual cost of cleanup or repair.

RESOLVED FURTHER, that the remainder of Resolution 93-0180 shall remain in full force and effect.

Resolution 98-0179 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

Administrative Assistant Nollenberger requested that Resolutions 98-0246(a) and 98-0246(b) regarding the Duluth Entertainment Convention Center (DECC) expansion be considered at this time to accommodate speakers who were invited to this meeting.

Resolution 98-0246(a), requesting the Minnesota Legislature to adopt legislation authorizing the imposition of either an additional one percent food and beverage tax or an additional three percent hotel-motel tax; and Resolution 98-0246(b), requesting the Minnesota Legislature to adopt legislation authorizing the imposition of an additional tax on certain sales of food and beverages

or an additional tax on the gross receipts from the sale of lodging by hotels and motels, by Councilor Hardesty, were introduced for discussion.

Mayor Doty stated he has concluded that there is a general consensus that there should be an expansion of the DECC. He explained that the state legislative session has a limited amount of time remaining and it is necessary to advise the legislature what means of financing the city will use to raise the required local funding if state funding becomes available.

Responding to President Hogg, Mayor Doty acknowledged that the council needs to commit to a plan that will raise the required local funds and that the proposed plan requires new legislation before the city can collect the additional sales tax.

Responding to Councilor Hales, Mayor Doty acknowledged that the resolutions before the council merely request the legislature to give Duluth authority to collect additional sales tax revenues if and when it is necessary; the request needs to be made now to allow the legislature to take action before the session is adjourned.

Councilor Keenan stated that consideration of these resolutions is premature because the city should know how much funding will be received from the state before determining how much the city needs to raise. He expressed disappointment that more potential alternatives to raise the local share have not been specified in the resolutions. Councilor Keenan stated he supports passing a more generalized resolution that simply states that the city will raise the funds, but not articulate where the funds will come from.

Mayor Doty stated that the amount of funding available from the state will not be made known until the last day of the session and authority to increase sales tax revenues will not be an option if the request is not made now.

Councilor Hardesty stated that she understands the need to request the legislature to give authority to the city to collect more taxes; however, she is concerned that if this legislation is approved, increasing taxes will become the preferred method to raise the funds and discussion on alternative options will not take place.

Councilor Prettner Solon noted increasing taxes to pay for this expansion is unpopular and that if hotel-motel taxes are increased, Duluth may be pricing itself out of the market. She added that if the food and beverage tax is increased, it unfairly burdens all Duluth residents who dine out.

Councilor Swapinski stated that he will support Resolution 98-0246(b) because it is important to the chairpersons of the state house and senate tax committees that the city specifies a means to raise the local share for this project.

Councilor Gilbert expressed concern that there appears to be an assumption that the only way to raise funds for this project is by raising the tax or surcharge. He stated that his philosophy is that taxes are only raised as a last option after all other alternatives have been explored, which he has seen no evidence of. Councilor Gilbert pointed out that the reason given for the need to raise taxes for this project is because the revenues presently received from the food and beverage and hotel-motel taxes are all allocated. He stated that raising taxes is poor business practice and makes Duluth one of the most taxed cities in the state. Councilor Gilbert conveyed the message he has received from small business owners is that they cannot absorb any more taxes. He read the applicable state legislation and commented that it is not specific to the DECC; it could be spent on many uses that the council may not support. Councilor Gilbert said he does not want to jeopardize the project, but will not support asking for the authority to raise taxes because he fears that once that is done, alternative methods to raise funds will not be pursued. He stated that residents and business owners must operate within a balanced budget and the city is expected to do the same.

Councilor Hales stated she will not defend raising taxes, however, she will support requesting authority to raise taxes because if it is not done, the option will be lost.

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

David Ross, Duluth Area Chamber of Commerce, urged support of the resolution which will secure legislation to give the city the authority to raise taxes while not making a final decision to do so.

John Goldfine reported that business people he has spoke to about this issue are not in favor of raising taxes, but are willing to support it if it is the only tool available to get this project done. He encouraged the council to establish a sunset provision so that any additional taxes imposed for this project will cease to be collected when the debt is paid off. Mr. Goldfine added that any alternative resources for funding should be considered so that the debt can be retired early, or as quickly as possible.

Mike Conlan, Greater Downtown Council, emphasized the importance of the DECC expansion project and stated it is the organization's first priority. He urged councilors to be careful to not allow the financial mechanics of this project to blind them of the more important long term financial benefits local business owners and Duluth will receive from this project. Mr. Conlan urged councilors to keep as many financing options as possible available.

President Hogg summed up that the intentions of the resolutions are to maximize available financing opportunities if the state legislature decides to fund this project. He moved to amend the title of Resolution 98-0246(b) to read as follows:

“RESOLUTION REQUESTING THE MINNESOTA LEGISLATURE TO ADOPT LEGISLATION AUTHORIZING THE IMPOSITION OF AN ADDITIONAL 1/2 PERCENT TAX ON CERTAIN SALES OF FOOD AND BEVERAGES, AND AN ADDITIONAL 1/2 PERCENT TAX ON THE GROSS RECEIPTS FROM THE SALE OF LODGING BY HOTELS AND MOTELS, SUBJECT TO CERTAIN RESTRICTIONS,”

and amend the body of the resolution to read as follows:

“RESOLVED, that the Duluth City Council hereby requests the Minnesota Legislature to adopt legislation during its 1998 session authorizing the city of Duluth to impose an additional 1/2 percent tax on the gross receipts from the sale of lodging by hotels and motels, which taxes would be imposed on a citywide basis and would be subject to the following restrictions:

(a) All revenues generated by these taxes must be used to retire bonds issued to finance the expansion of the Duluth Entertainment Convention Center;

(b) These taxes and the legislative authority for them will expire when the Duluth Entertainment Convention Center bonds have been retired,”

which motion was seconded for discussion.

President Hogg explained that the restrictions imposed in subparagraphs (a) and (b) limit the use of any new taxes imposed to paying off the debt service for this project only and that when that debt service is paid off, the sunset provision terminates the legislative authority to continue collecting them.

Councilor Hardesty expressed concern that the options available should offer some flexibility in determining what revenue sources will be used to raise funds for the DECC. She offered a friendly amendment to President Hogg's amendment of the title of the resolution to read as follows:

“RESOLUTION REQUESTING THE MINNESOTA LEGISLATURE TO ADOPT LEGISLATION AUTHORIZING THE IMPOSITION OF UP TO AN ADDITIONAL .75 PERCENT TAX ON CERTAIN SALES OF FOOD AND BEVERAGES, AND UP TO

AN ADDITIONAL .50 PERCENT TAX ON THE GROSS RECEIPTS FROM THE SALE OF LODGING BY HOTELS AND MOTELS, SUBJECT TO CERTAIN RESTRICTIONS.”

Responding to President Hogg, Councilor Hardesty stated that it is not her preference to do so, however, she has proposed the up to an additional .75 percent tax on certain sales of food and beverages so that it is possible to collect enough revenue for the whole project from this source and not increase the tax for hotels and motels at all.

President Hogg stated that because the council is just trying to lay down some framework to collect additional revenue, he will accept Councilor Hardesty’s amendment.

Responding to Councilor Hardesty, President Hogg explained that his amendment requires that all excess revenue derived from the additional sales taxes must be used to pay off the debt for the DECC expansion.

Councilor Hardesty stated that when the DECC expansion is finished and productive, it is reasonable to believe that because of its added functions, growth in the tourism tax base will be generated. She requested that the resolution be further amended to require that in addition to revenues received from the additional tax increase, that all new sales tax revenues be used solely for repayment of the debt.

Administrative Assistant Nollenberger stated he understands the concept of using the additional sales tax revenues generated as a result of the DECC expansion, but noted that taking all of the increased tax base would violate some statutory requirements that are already in place, and it would, in essence, take away the normal increase factor that some of the entities receive. He added that it would be an extremely arduous task to ascertain what specific portion of the increased tax base, as a whole, can be attributed to the DECC expansion.

Councilor Hardesty withdrew her friendly amendment, but stated she is interested in discussing further ways to identify what amount of the new tax base is a result of the DECC expansion.

Councilor Swapinski offered as a friendly amendment to add a slash mark and the word “or” after the word “and” in the title and in the fourth line in the first paragraph of the resolution. He explained that his reason for proposing this is because with the combination of .75 percent and .50 percent, the total exceeds the authority beyond which, hopefully, the local match would be. Councilor Swapinski added that it will also provide for more flexibility.

President Hogg accepted Councilor Swapinski’s friendly amendment.

Councilor Prettner Solon opposed the amendments and stated she cannot recall a time in the past when the legislature has given Duluth authority to increase taxes that Duluth has not chosen to take advantage of it. She continued that she does not trust that Duluth will search for alternative funding sources if this is passed and she questioned if the authority for increasing taxes can be tied to the DECC expansion specifically.

Mr. Nollenberger said he understands the intent, but suggested that it might, in concept, be more appropriately worded to say “to finance the expansion of the Duluth Entertainment Convention Center as co-financed by the state of Minnesota in 1998,” to make it specific to this project only so that years from now Duluth will no longer have the authority.

Councilor Prettner Solon urged the change in wording for the amendment, but stated she still opposes it. She noted that the authority to tax for the Spirit Mountain issue had a sunset clause in it also, however, the decision to make it permanent was made later by a different city council. Councilor Prettner Solon added that she fears that this increase will pay off the DECC expansion debt, but in 20 years, at the time of its sunset, the council at that time will choose to make it permanent. She stated it is her preference to offer an alternative resolution that will

humbly and sincerely acknowledge to the legislature the council's desire to hold the DECC expansion as its top priority and bonding issue for 1998. She said the resolution will further state that because Duluth is a highly taxed area and additional taxes cannot be imposed on residents at this time that in the event it is necessary, the council will find the means through the imposition of a ticket surcharge, or using the increase in the tourism taxes that are a result of the expansion of the DECC, or some other way of economizing in order to pay off the bonds. She suggested that the council also inform the legislature that Duluth does not have the capacity to raise a one-to-one match.

Councilor Hales stated she is uncomfortable with the wording of the sunset clause because it gives authority for the additional tax to remain in effect until the bond obligation, which is spread over 15 years, is retired. She added that when expansion is complete and new revenues are being generated the DECC should apply its new revenues to assist in paying off the bond issue sooner. Councilor Hales stated that at that time a new formula should be created that may include user fees so that it is not necessary to subsidize the DECC any longer with sales tax revenues. She agreed that if the bonds are paid off early, the city will not voluntarily give up its authority to keep charging the additional tax if it does not have to.

President Hogg reminded councilors that this issue will be discussed further when and if authority to tax is received from the legislature.

Councilor Keenan stated he will not support the amendment to increase the tax up to .75 percent because it adds an additional burden to Duluth residents who are already paying taxes that are too high. He stated that passing this resolution is a bad strategy, and if this authority is given, the legislature will expect the city to use this means to pay for the bonds.

President Hogg's amendment failed upon the following vote:

Yeas: Councilors Hardesty, Rapaich, Swapinski and President Hogg -- 4

Nays: Councilors Edwards, Gilbert, Hales, Keenan and Prettner Solon -- 5

Responding to Councilor Prettner Solon, City Attorney Dinan stated that it is not possible to introduce a resolution at this time because of filing requirements. He continued that the council may consider the resolution this evening if the wording on one of the resolutions being considered is amended for discussion.

Councilor Prettner Solon moved to table the resolutions until March 23, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Gilbert, Keenan and Prettner Solon -- 4

Nays: Councilors Hales, Hardesty, Rapaich, Swapinski and President Hogg -- 5

Responding to President Hogg, Mayor Doty stated he is uncertain what effect a delay of consideration of this issue will have on the legislature.

Councilor Hales stated that she requested to have a resolution drafted to specify that the DECC will be responsible for paying its own way through the imposition of a user fee, but she was told it is not necessary to get legislative authority for that. She said she does not believe there is enough council support to request authority to collect an additional tax and asked what other sources are available or acceptable for commitment to this project.

Councilor Prettner Solon supported Councilor Keenan's suggestion to pass a resolution that has unanimous council support of the project, but stated that the council will determine a funding source later.

Mayor Doty stated that the legislature wants a firm commitment as to how the city will pay for its share.

Dan Russell, DECC executive director, stated that he anticipates there will be a variety of funding sources and that the DECC wants to contribute in some way, but with regard to the user

fee, he noted that the present ticket charge raises approximately \$60,000 to \$70,000 a year, depending on the number of events that are held. He supported the user fee being used as part of the funding, but stated it would not be adequate to fund the total expansion and that it would not be acceptable to use it for a firm bond commitment.

Responding to Councilor Prettner Solon regarding the time frame for construction, Mr. Russell noted that planning and accumulation of costs to be paid for out of bond funds have already begun and that he does not recommend delaying action on this issue until next year. He added that the Duluth state convention center administrative board (DECC board) is planning for a year 2000 grand opening and that the planning for the financing mechanics needs to be set in motion now.

Mr. Russell further noted that the DECC has outgrown its parking facility and the DECC board needs to address the council to request financial assistance to construct a parking ramp. He added that it makes sense to include it in this project in order to obtain state funding for it as well. Mr. Russell gave a brief history of how other Minnesota cities have financed the construction of new facilities of this type and emphasized that Duluth will have to come up with a local share.

Responding to Councilor Hales, Mr. Russell stated that it would be foolish to expand the DECC and not also solve its parking dilemma. He continued by saying that the DECC board has equally identified expansion of the DECC and increasing parking capacity as critical issues, and will not pursue one without the other. Mr. Russell commented on the amount of a subsidy the DECC presently receives from the tourism tax and reviewed its history. He stated that the DECC intends to assist in repayment of the bonds through increased revenues, but there needs to be a reliable source committed in order to issue bonds at an acceptable risk rate. Mr. Russell said he believes it will be the end of the project if the council does not send a message to the legislature stating that the city will at least be in a position to help fund it.

Discussion ensued regarding the inception of this project and how it was anticipated that it would be paid for.

Mr. Nollenberger explained that no matter how the council decides to fund this project, it is necessary to have the option of increasing sales tax revenues available to pledge for security in order to sell the bonds.

Councilor Prettner Solon suggested that there are other tools available to pledge for security such as parking revenue bonds or the monies in the waterfront tax increment fund. She encouraged pleading for a smaller local share and waiting to make a commitment for repayment of the bonds.

Councilor Gilbert moved to call the question on Resolution 98-0246(b), which motion was seconded and unanimously carried.

Resolution 98-0246(b) failed upon the following vote (Public Document No. 98-0316-34):

Yeas: Councilors Hardesty, Rapaich and Swapinski -- 3

Nays: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon and President Hogg -- 6

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Resolution 98-0246(a) failed upon a unanimous vote (Public Document No. 98-0316-35).

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Further debate ensued as to whether the council should have a special council meeting on March 19 to consider a resolution of support for the project or if a straw poll should be taken at this time to give Mayor Doty some direction of what to tell the legislature.

Councilor Prettner Solon moved that a straw poll supporting the following language is taken: "At its meeting on March 16, 1998, the Duluth City Council unanimously approved a motion indicating that it fully supports the proposed expansion of the Duluth Entertainment Convention

Center and, while it has not yet identified a specific source of funding to provide the necessary local share for this project, it is committed to providing this local share if the legislature approves funding for this project," which motion was seconded and unanimously carried.

Councilor Hales moved to schedule a special council meeting on March 23 to identify specific sources of revenue that are acceptable to be pledged for the DECC project, which motion was seconded.

Councilor Hardesty stated she is willing to meet and discuss the issue further. However, she is unwilling to vote to determine specific funding because she has not had enough time to study the issue.

Councilor Keenan stated he supports further discussions regarding the issue, but he does not believe it is necessary to come up with a specific strategy to determine what the specific mechanisms of funding will be at this time.

Councilor Swapinski stated that he believes the request for a meeting is well intended, but he reminded councilors that Mayor Doty needs to address the legislature on March 19 to plead a case for a council that cannot seem to enable him to carry a positive message that it supports the expansion of the DECC.

Mr. Dinan instructed councilors that if there is to be a special meeting scheduled, there needs to be an agenda with an item for consideration on it.

Responding to President Hogg, Mr. Dinan stated that the motion on the table, to call a special meeting, can be voted on, however someone will need to request that a resolution be drawn up for consideration so that appropriate notice is given.

Councilor Hales stated that she made the motion to have a special council meeting to consider the resolution of support that Councilor Prettner Solon referred to. She added that if Councilor Prettner Solon does not intend to present a resolution, then a committee meeting is more appropriate.

Councilor Prettner Solon stated that the support that she wanted to convey was accomplished by the straw poll motion that was passed, and that it is not necessary to call a special council meeting. She said that she favors having further committee meetings to discuss the issue.

Councilor Hales withdrew her motion.

Councilor Gilbert withdrew his second.

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Councilor Gilbert stated that there are individuals in the audience waiting to speak on Resolution 98-0222, requesting the city to establish a child care advisory committee to formulate a city child care policy and develop ways to maximize the use of local resources to promote child care. He moved to consider the resolution at this time and also suspend the rules to hear speakers who wish to address the issue.

Councilor Prettner Solon stated that there are speakers waiting to be heard on other resolutions to be considered before Resolution 98-0222. She said it is inappropriate to move the resolution forward at this time.

Councilor Swapinski reminded councilors that the previous resolutions were considered out of order to accommodate speakers. He noted that there are teachers in the audience wishing to address the council who must teach school tomorrow. Councilor Swapinski encouraged consideration of the resolution at this time.

President Hogg agreed that the resolutions regarding the DECC were moved up at the request of the administration to accommodate speakers, and that he supports Councilor Gilbert's motions, which motions were carried upon a unanimous vote.

Debbie Isabell who operates a child care center in her home, and is an advocate for children and families, noted that it has always been necessary for her to have another source of income. She reviewed that the profession requires long hours and provides no benefits; in 1997 her hourly pay rate was approximately \$4.11. Ms. Isabell emphasized that child care is an essential part of the community and local economy; she encouraged councilors to support the strong, qualified and professional early childhood work force in Duluth by establishing a child care committee as a statement that Duluth values its children, families and child care community.

Jonette Zuercher, Minnesota Child Care Resource Center Network work/family development director, stated that the network provides technical assistance to local resource and referral agencies in Minnesota. She reviewed a report containing the results of the outreach effort initiated by the Minnesota Legislature which directed the department of human services to review and make recommendations regarding the regulation of child care programs. Ms. Zuercher stated that the network collaborated with the department of human services to conduct local sessions in 1997 to survey and compile information that is contained in the report. In summary, Ms. Zuercher, noted specific concerns pertaining to child care issues of Duluth area parents, employers and providers.

Responding to councilors Hardesty and Prettner Solon and Mr. Nollenberger, Ms. Zuercher stated that she is uncertain as to what the financial implications of the resolution might mean to child care providers in Duluth, or what role the council and city are being asked to play with regard to child care services. She noted that it would be a very positive step if there were financial supports or subsidies coming from the city. Ms. Zuercher referred to other reports that indicate that more involvement by government entities is being expected by citizens, and that a particular function of government, through the use of tax dollars, is not inappropriate, and is probably something that will be requested more as child care issues become more important on political agendas.

Mr. Nollenberger stated he would like to pursue the issue further and that he endorses child care as a public policy and the activities of government in that particular area. He noted that six years ago St. Louis County met 97 percent of the needs for low and moderate income child care, which was the highest in the state of Minnesota. Mr. Nollenberger added that at that time there were no other cities, including Minneapolis, that were involved in this type of activity. He stated that he is aware that where cities in the country are involved in this activity, the state in which they are located oversees this public policy instead of counties. Mr. Nollenberger stated that because counties oversee this activity in Minnesota, any assistance that may be given by a city may be a duplication of services. He said he understands that some cities in Minnesota have recently become involved in child care activities through use of community development block grant funding, which has become more of a public policy relating to child care and other issues.

Ms. Zuercher stated that her purpose in speaking is to indicate what the needs of the child care industry in the Duluth area are and how they might be addressed. She added that it is appropriate for any branch of government to support the work that providers do with young children. Ms. Zuercher emphasized that young children belong to all of us and suggested that a council decision to assist in providing transportation enhancements, extra training or subsidies to assist providers to stay in the profession or raise their level of income, or any other type of services related to child care, will convey a message to area providers and residents that they are valued.

Councilor Swapinski said that he suspects that the purpose of the resolution is to create an advisory committee that might assist in some joint powers way to promote child care resources

in the city and has no financial obligation on the part of the city at this point. He supported a gesture by the city to join the county in contributing to child care services.

Councilor Hardesty reiterated that it is important for the council to hear how the role of the child care advisory committee would be different in relation to the child care resource and referral network which is operated by St. Louis County.

Councilor Hales clarified to councilors and the public in the audience that the resolution being considered by the council merely establishes a child care advisory committee and does not discuss funding or the role of the city in child care. She continued that if the resolution passes, there will be ample time for public input on the role of the city in child care once a report is received from the committee.

Nancy Weberg stated that she has a degree in early childhood teaching and is licensed to teach children from birth to five years in age. She stated support for the committee for the following reasons: there is a need to insure that the teacher turnover rate dramatically decreases; there is a need for a governing body to oversee and insure that quality centers exist so that parents have a choice as to how their children are cared for; and to insure that children get the quality care that they deserve. Ms. Weberg stated that economic reality of the child care system is that home day care providers and teachers have long been subsidizing the system through low wages and little or no benefits, and that this committee is necessary to insure that quality day care centers are staffed with quality teachers who can count on earning a liveable wage.

Diane Shusta, owner and director of Cornerstone Preschool and Child Care Center, supported the establishment of a child care advisory committee to focus attention on, and awareness to, child care issues. She stated that the role she perceives the committee would have is to find solutions to the crucial problem of retaining quality child care, which is difficult to find because of the high turnover in staff due to low wages and poor benefits. Ms. Shusta quoted statistics relating to low income wages which she believes is the reason she is unable to retain staff for more than 1-1/2 to two years. She further noted other statistics on the negative impact that low quality day care teachers and providers have on young children. She urged support for the advisory committee.

Dorothy Wolden, chairperson of the government connection committee, supported creation of a child care advisory committee to address the problems that families have in finding and paying for quality child care for their children. She discussed the significance that quality child care has on children, families, businesses, the school district and community as a whole.

Fletcher Hinds, St. Louis County supervisor in the area of child care, spoke regarding the many functions administered by the county related to child care. He supported the resolution and stated that the advantage he believes creation of this committee will offer is that it will focus more attention on child care issues that directly affect residents and employers in Duluth.

Responding to Mr. Nollenberger, Mr. Hinds stated that he assumes if this committee is established, St. Louis County will be invited to participate and play a role in providing support in the form of expertise and resources.

JoAnn Dahl-Jokela, Arrowhead Child Care Resource and Referral coordinator, spoke regarding the services it provides, how it is funded, administered and the geographical area that it provides services to. She stated she believes the city can play an important role in seeking solutions to the problems that have been identified with child care and that city involvement makes sense because the most effective and creative solutions usually come from those who are most affected by the problems—in this case, Duluth residents. Ms. Dahl-Jokela noted that the city has access to economic development and community development funding sources that could be potentially matched with other public and private resources to address some of the needs that

exceed existing St. Louis County funding. She said that child care needs to be considered as a component in plans to bring employers and new jobs to the city and that the city's relationship with employers puts the city in a strategic position to facilitate public/private partnerships to address the needs. Ms. Dahl-Jokela quoted statistics regarding the disparity that exists between preschool and school age children because of the way public funding is presently provided.

Responding to Ms. Dahl-Jokela regarding concerns raised about transportation issues, Councilor Edwards stated that the Duluth transit authority (DTA) has agreed to provide transportation for the welfare-to-work program.

Diane Langlee, preschool teacher, adjunct professor at the University of Minnesota–Duluth (UMD) and member of the National, State and Duluth Association for the Education of Young Children, stated that since national leaders rejected the ABC Bill for Child Care, she believes there is a place for government in caring for young children. She spoke about child care enrichment facilities and programs provided in Duluth's sister city, Vaxjo, Sweden. Ms. Langlee gave a description of similar programs and centers which are in existence in the eastern part of the United States.

Councilor Prettner Solon requested that the administration make available to councilors the results of a study that was conducted in 1989 or 1990 regarding a child care facility proposed for the Downtown. She noted that this is a very complex issue and that further information is necessary about how the committee should be structured if it is recommended by the council. Councilor Prettner Solon moved to table the resolution to conduct a committee meeting on the issue, which motion failed upon the following vote:

Yeas: Councilors Keenan, Prettner Solon and Rapaich -- 3

Nays: Councilors Edwards, Gilbert, Hales, Hardesty, Swapinski and President Hogg -- 6

President Hogg expressed frustration that the language in the resolution and what speakers have addressed are different issues. He noted that the resolution calls for the city to provide a leadership role between public and private entities to maximize its own resources and leverage other resources which currently exist or become available. President Hogg said that the city has no money to devote to child care programs. He stated that he will support the resolution if it is leadership and not funding that is being requested.

Councilor Gilbert stated that the intent of the resolution is not to become involved in the child care industry. He said he believes the city has skills, contacts and resources that it can devote to the industry, and that the committee is being proposed to see what is available to the city that it can provide leadership in.

Councilor Hardesty summarized that the points she heard speakers address that she believes the city council can consider and contribute to as a viable activity are to increase child care awareness in Duluth; help develop a recognition of what needs exist in the community for new developments; contribute to local planning; that the city is aware of new employers coming to Duluth, which has an impact on need and demand; and the city has facilities and that there may be some in kind way it can contribute. She stated that these are worthy activities and she can support them.

Councilor Swapinski suggested that Councilor Gilbert clarify the directives for this proposed committee and what role he envisions the city to play.

Councilor Keenan noted he believes the council supports children and youth. He stated he does not have a clear enough vision of exactly what role the city is being asked to play; it needs to be discussed further. Councilor Keenan moved to table the resolution, which motion was seconded carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Nays: Councilors Edwards and Gilbert -- 2

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At this time, 11:00 p.m., Councilor Keenan moved to extend the meeting until 11:30 p.m., if necessary, which motion was seconded and unanimously carried.

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BY PRESIDENT HOGG:

WHEREAS, by Resolution No. 98-0177, the City Council established the official terms of offering for the sale of approximately \$2,260,000 General Obligation Improvement Refunding Bonds, Series 1998A and approximately \$2,495,000 General Obligation Water and Sewer Refunding Bonds, Series 1998B; and

WHEREAS, the City's independent financial advisor, Evensen Dodge, Inc., has indicated that the municipal bond market is such that the anticipated savings from the refundings will not be achieved and therefore recommends postponing such bond sale.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota, as follows:

(a) The sale of the refunding bonds, described in Resolution No. 98-0177, on March 12, 1998, is hereby postponed;

(b) The City administration and Evensen Dodge, Inc. are hereby authorized to reschedule the proposed bond sale through June 30, 1998, and solicit proposals pursuant to Minn. Stat. § 475.60, Subd. 2(9) and the official terms of offering set out in Resolution No. 98-0177;

(c) The form, specifications and provisions for sale and payment of the Refunding Bonds shall be set forth in subsequent resolutions of this City Council.

Resolution 98-0253 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Resolution 98-0256, by President Hogg, allocating \$55,000 from the tourism tax capital projects' reserve to the tourism tax fund for the DECC dock project, was introduced for discussion.

Responding to councilors, Mr. Nollenberger stated that this \$55,000 and a \$35,000 grant will cover the entire project. He explained that the Seaway Port authority has taken on and is donating all of the in kind services, and that no permit will be issued by the Army Corps of Engineers until environmental issues have been addressed. Mr. Nollenberger stated that these are estimates; it is unlikely that additional costs will be incurred due to the project.

Resolution 98-0256 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that \$55,000 from the tourism tax capital projects reserve is hereby allocated to the tourism tax Fund 258-030-1327-5441 for the DECC dock project.

Resolution 98-0256 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Zenith/Kremer Disposal, Inc., be and hereby is awarded a contract for garbage/refuse removal for the various departments and divisions in accordance with specifications on its low specification bid of \$101,700, terms net 30, FOB job sites, payable out

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

of various funds, dept./agencies, organizations and objects.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject to budget allocations and the agreement of both parties.

Resolution 98-0205 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that St. Louis County sheriff's office be and hereby is awarded a contract for furnishing and delivering approximately \$5,500 worth of film and print processing for various departments/divisions such as police department, fire department and assessor division in accordance with specifications on its low specification bid of \$5,500, terms net 30, FOB destination, \$4,000 payable out of General Fund 100, Dept./Agency 200, Organization 1630, Object 5202 and \$1,500 payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5202.

Resolution 98-0206 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Grossman Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering four Chevrolet vehicles for the police department in accordance with specifications on its low specification bid of \$63,163.02, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V804.

Resolution 98-0213 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 98-0118 to Ericsson/GE c/o Jayen, Inc., for furnishing radio equipment updates and replacements be amended to increase the amount by \$5,740.35 for a new total of \$18,852.63, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E825.

Resolution 98-0214 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Resolution 98-0236, by Councilor Edwards, awarding contract to Media Partners for television programs and compilation video in accordance with specifications on its low specification bid of \$11,500, was introduced for discussion.

Responding to Councilor Edwards, Mr. Nollenberger stated that there is no duplication of costs with regard to this resolution and Resolution 98-0223 and that he is uncertain whether the resolutions are related in any way.

Resolution 98-0236 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that Media Partners be and hereby is awarded a contract for furnishing three 30-minute television programs for air on public access community television (PACT) and a ten-minute compilation video of the entire project for the parks and recreation department and senior

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

programs in accordance with specifications on its low specification bid of \$11,500, terms net 30, FOB destination, payable out of Special Projects Fund 210, Dept./Agency 030, Organization 2110, Object 5319.

Resolution 98-0236 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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>
Welch Center	Tappa Keg Inn	October 29, 1997

Resolution 98-0237 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
Duluth Softball Players Association	Player's Sports Bar	March 2, 1998
AAD Temple	Roby's Bar	
	201 East First Street	March 10, 1998
	Round Up Bar & Grill	

Resolution 98-0245 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, Esko/Thomson Fireman's Relief Association has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 Esko/Thomson Fireman's Relief Association 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 98-0255 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

Yvonne Prettner Solon (city councilor) for a term expiring April 27, 2004; subject to Resolution 89-0233.

Resolution 98-0201 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

LAWFUL GAMBLING COMMISSION

David L. Weidt for a term expiring April 30, 2001.

Resolution 98-0202 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Isobel C. Rapaich (city councilor) for a term expiring March 30, 2001, replacing Lynn Hardesty.

Rodger Palmer for a term expiring March 30, 2001.

Resolution 98-0203 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

HUMAN RIGHTS COMMISSION

Rodrick Hill for a term expiring March 1, 2000, replacing Christine Bowlin who resigned. Resolution 98-0207 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Councilor Prettner Solon noted that individuals have been waiting all evening for Resolution 98-0200, granting a bed and breakfast home stay special use permit for property located at 2309 East First Street (Aparicio). She moved to consider the resolution at this time, which motion was seconded and unanimously carried.

Resolution 98-0200 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Ken and Kimberly Aparicio have submitted to the city council a request for a special use permit for a bed and breakfast homestay on property described as Lots 5, 6 and 7 and easterly ten feet of Lot 8 and Lots 11, 12, 13, 14 and 15, Block 4, Longview Addition, located at 2309 East First 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 Ken and Kimberly Aparicio to allow for the operation of a bed and breakfast homestay at 2309 East First Street on the condition that the property be maintained in perpetual compliance with Section 50-35(d) of the Code and the terms of this permit.

BE IT FURTHER RESOLVED, that signage on the property shall not exceed 12 square feet in size and shall be subject to written approval by the planning staff and permitted by the building department.

Resolution 98-0200 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Resolution 98-0196, by Councilor Prettner Solon, reversing the decision of the board of zoning appeals to deny a request to allow any accessory building to be constructed without a principal building on a site located on the lower side of East First Street between Third and Fourth Avenues East, legally described as Portland Division of Town of Duluth, Block 26, Lots 9, 10, 11, 12 and 13, was introduced for discussion.

Councilor Prettner Solon stated that the building inspection staff has recommended that the resolution be approved with the inclusion of specific conditions. She moved to amend the resolution by adding the following language to the end of the second paragraph:

"subject to the following conditions:

(a) It is an expressed condition of this variance that the two parcels of property that are subject of this variance, to-wit: Lots 9, 10, 11, 12 and 13, Block 26, Portland Division of Town of Duluth, which is the site of a proposed garage; and Lot 13, 14, 15 and 16, Block 7, Portland Division of Town of Duluth, which is the site of the motel structure; shall be owned by the same

person or entity at all times when a garage exists on the parcel situated on Block 26, Portland Division of Town of Duluth. To this end, neither parcel shall be sold separately from the other by the applicant, Cary P. McManus, nor his heirs, assigns or successors in interest unless and until the garage structure is razed and removed from the parcel situated on Lots 9, 10, 11, 12 and 13, Block 26, Portland Division of Town of Duluth.

It is also an expressed condition of this variance that before any building permit be issued authorizing construction of any garage structure in above described parcel in Block 26, Portland Division of Town of Duluth, the applicant must furnish proof to the building official that he has recorded copies of this variance with the St. Louis County recorder against both of the parcels of land described above;

(b) That a license to enter real property to demolish building be submitted to and approved by the city attorney," which motion was seconded for discussion.

Responding to Councilor Prettner Solon, Mr. Dinan stated he is uncertain of the intent of the last paragraph of the amendment; it appears that it is desired that the city attorney's office be involved in the event the building is demolished.

President Hogg opposed the amendment, stating that he believes there is confusion with respect to what constitutes contiguous property in that the definition given on a different issue conflicts with the definition being given in this case. He added that he fears that voting on this amendment will expose the council to being charged with making arbitrary and capricious decisions without a legal opinion.

Councilor Hales called the question on the amendment, which motion was seconded and unanimously carried.

Councilor Prettner Solon's amendment carried upon the following vote:

Yeas: Councilors Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Gilbert, Hales and President Hogg -- 4

Resolution 98-0196, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Jamie Bird, Economy Garages, has appealed to the city council the decision of the board of zoning appeals to deny a request to allow the construction of an accessory building without a principal building on a site legally known as Portland Division of Town of Duluth, Block 26, Lots 9, 10, 11, 12 and 13; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting of a variance to allow construction of an 18 foot x 20 foot detached garage on the property without a principal building can be made in this case based upon limits set forth in the zoning ordinance subject to the following conditions:

(a) It is an expressed condition of this variance that the two parcels of property that are subject of this variance, to-wit; Lots 9, 10, 11, 12 and 13, Block 26, Portland Division of Town of Duluth, which is the site of a proposed garage; and Lot 13, 14, 15 and 16, Block 7, Portland Division of Town of Duluth, which is the site of the motel structure; shall be owned by the same person or entity at all times when a garage exists on the parcel situated on Block 26, Portland Division of Town of Duluth. To this end, neither parcel shall be sold separately from the other by the applicant, Cary P. McManus, nor his heirs, assigns or successors in interest unless and until the garage structure is razed and removed from the parcel situated on Lots 9, 10, 11, 12 and 13, Block 26, Portland Division of Town of Duluth.

It is also an expressed condition of this variance that before any building permit be issued authorizing construction of any garage structure in above described parcel in Block 26, Portland Division of Town of Duluth, the applicant must furnish proof to the building official that he has

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

recorded copies of this variance with the St. Louis County recorder against both of the parcels of land described above;

(b) That a license to enter real property to demolish building be submitted to and approved by the city attorney.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of January 27, 1998, is hereby reversed by the city council, and the appeal is granted.

Resolution 98-0196, as amended, was adopted upon the following vote:

Yeas: Councilors Hardesty, Keenan, Prettnner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Gilbert, Hales and President Hogg -- 4

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to purchase that property in St. Louis County, Minnesota, legally described on Exhibit A, a copy of which is on file in the office of the city clerk as Public Document No. 98-0316-17, from the Duluth economic development authority for the amount of \$197,016, payable from the P.I. Fund 411.

Resolution 98-0198 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the public interest in the air rights above the height of 16 feet (elevation 635, USGS datum) above Superior Street, more particularly described as the westerly 12 inches of the West Superior Street right-of-way, adjacent to property described as the southerly 120 feet of Lot 27 and all except the west two and 2/10 feet of Lot 29, Duluth Proper, 1st Division, West Superior Street (approximately 30 feet in length); 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 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the air rights above West Superior Street described above and as more particularly described on Public Document No. 98-0316-18.

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

Resolution 98-0199 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 98-0316-19, with the St. Louis and Lake Counties Regional Railroad Authority for the use of authority property in the vicinity of 26th Avenue East and London Road in conjunction with the Lakewalk East project and accepting reimbursement for improvements to be made which benefit said authority under said license agreement in the amount of not to exceed \$12,000, said sum to be payable to the Capital Fund 450, Agency 015, Org. 1997, Obj.C719.

Resolution 98-0208 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of Elizabeth Street and Woodland Avenue rights-of-way on the southeast corner of that intersection legally described as: That portion of Woodland Avenue and Elizabeth Street in Motor Line Division bounded by the following lines: the northerly and westerly lines of Block 18, Motor Line Division, the southeasterly line of platted Woodland Avenue extended from the northwesterly line of said Block 18 to the northeast to its intersection with the southerly line of platted Elizabeth Street and the southerly line of platted Elizabeth Street extended from the northerly line of said Block 18 to the west to its intersection with the southeasterly line of platted Woodland Avenue; 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 February 25, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Elizabeth Street and Woodland Avenue rights-of-way described above and as more particularly described on Public Document No. 98-0316-20.

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 the street easements being vacated.

Resolution 98-0216 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to purchase property described as Lot 5 and the westerly 30 feet of Lot 6, Block 88, London Addition to Duluth, from Kevin H. and Stacey L. Chelf, husband and wife, for the amount of \$65,000; \$35,000 payable from Fund 450, Agency 015, Org. 1997, Object C701 and \$30,000 payable from Fund 450, Agency 015, Org. 1998, Object C812.

Resolution 98-0232 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to execute a lease agreement for property at 5021 East Superior Street with Kevin H. and Stacey L. Chelf, which lease agreement is on file in the office of the city clerk as Public Document No. 98-0316-21, which lease agreement provides for rental payments of \$400 per month. Said rental payments to be deposited in General Fund 100, Agency 500, Org. 1950, Object 4612-rental of buildings.

Resolution 98-0233 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council, under which the Greater Downtown Council will conduct certain activities in the downtown area, which agreement is on file in the office of the city clerk as Public Document No. 98-0316-22, at a cost to the city of \$87,194, which shall be paid from General Fund 100-015-2030-SP05.

Resolution 98-0240 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into the agreement filed as Public Document No. 98-0316-23, which agreement will provide for the Duluth Entertainment Convention Center to manage events at the Bayfront festival site for 1998, at a cost of \$17,500, payable from Fund 100, Org. 500, Agency 1950, Object 5319.

Resolution 98-0241 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that C. Anderson Demolition, Inc., be and hereby is awarded a contract for demolition of six structures for the building inspection division in accordance with specifications on its low specification bid of \$27,990, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 020, Organization 1201, Object 5453.

Resolution 98-0242 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the week of April 6-12, 1998, has been designated as National Community Development Week; and

WHEREAS, the city of Duluth is a participant in the community development block grant (CDBG) program which funds a myriad of social service, economic development and housing programs within the city; and

WHEREAS, in the city of Duluth and in communities throughout the nation, 21 years of CDBG program funding has developed a strong network of relationships between the city of Duluth, residents of the city and the many nonprofit agencies that provide services under the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

CDBG program and help make possible the city's commitment to CDBG eligible neighborhoods; and

WHEREAS, the city of Duluth recognizes that the CDBG program is a partnership of federal, state and local government, business, nonprofit and community efforts and that the services funded by the CDBG program, administered by local governments and often delivered by local nonprofit organizations, rely heavily on the dedication of and good will of these combined efforts.

NOW, THEREFORE, BE IT RESOLVED, that during National Community Development Week, 1998, the city of Duluth will give special thanks and recognition to all participants whose hard work and devotion to this community and its low and moderate income residents help ensure the quality and effectiveness of the CDBG program.

BE IT FURTHER RESOLVED, that the city of Duluth hereby petitions the U.S. congress and administration to recognize the outstanding work being done locally and nationally by the CDBG program and its vital importance to this community and to the people who live in its lower income neighborhoods.

BE IT FURTHER RESOLVED, that the city of Duluth be added to the role of those committed to the preservation and full funding of the CDBG program and maintenance of its essential features over the course of the next session of congress.

BE IT FURTHER RESOLVED, that city staff is directed to convey copies of this resolution to the appropriate elected and appointed officials of the federal government.

Resolution 98-0244 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Resolution 98-0254, by Councilor Prettner Solon, objecting to passage of the Internet Tax Freedom Act by congress, and supporting alternative legislation proposed by the National League of Cities and National Governors' Association, was introduced for discussion.

President Hogg opposed the resolution stating that it is not yet known how the proposed bill is written and it is premature to take action on it.

Councilor Prettner Solon spoke in favor of the resolution. She stated that the bill could easily be passed by congress without its taking into consideration the impact it will have on state and local governments.

Resolution 98-0254 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, congress is presently considering legislation called the Internet Tax Freedom Act, which is supported by the president; and

WHEREAS, this act would preempt the ability of state and local governments to collect existing, as well as future taxes on internet transactions and on-line services; and

WHEREAS, this legislation would make it more difficult for local merchants to compete effectively with mail order and internet companies; and

WHEREAS, this legislation would deprive cities and states of revenue needed to continue providing services to their citizens; and

WHEREAS, the small cities council of the National League of Cities, which represents more than 75 percent of the membership of the National League of Cities, has taken a strong position in opposition to passage of this legislation.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby strongly urges congress not to adopt the Internet Tax Freedom Act.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED FURTHER, that the city council urges congress to instead adopt legislation sponsored by the National League of Cities and National Governor's Association which would create a simplified system of taxation that would reduce costs and administrative burdens for businesses and consumers and allow states to require out-of-state internet and mail order merchants to collect and remit a single statewide sales tax, which states would then be required to distribute proportionately to cities and towns.

RESOLVED FURTHER, that the city clerk is hereby directed to send copies of this resolution to President Clinton, the members of the Minnesota congressional delegation and the National League of Cities.

Resolution 98-0254 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 7

Nays: Councilor Hales and President Hogg -- 2

Approved March 16, 1998

GARY L. DOTY, Mayor

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At this time, 11:30 p.m., Councilor Hardesty moved to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN:

RESOLVED, that Animal Spectrum, Inc., be and hereby is awarded a contract for furnishing and delivering 776 cases/bags of various zoo animal food for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$16,436.89, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 98-0209 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute a recreation grant agreement with St. Louis County under which the city will receive \$50,000 to be used for property acquisition and construction of a maintenance shed and storage barn for the Lake Superior and Mississippi Railroad, which agreement is on file in the office of the city clerk as Public Document No. 98-0316-24.

RESOLVED FURTHER, that the city is hereby authorized to transfer the funds received under this grant to the Lake Superior and Mississippi Railroad to carry out the purposes of the grant and to take whatever other actions are necessary to carry out the terms of the grant.

Resolution 98-0210 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Anderson Fuel and Lube be and hereby is awarded a contract for furnishing and delivering approximately 7,300 gallons of various chemicals for water control for the Lake Superior Zoo in accordance with specifications on its low specification bid of \$5,042.24,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 98-0230 was unanimously adopted.
Approved March 16, 1998
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 Architects IV for the sum of not to exceed \$18,000 from Capital Fund 450, Ag. 015, Org. 1998, Obj. 1808, for providing certain architectural services to the city of Duluth in connection with the 1998 renovation work at Wade Stadium, 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. 98-0316-25.

Resolution 98-0248 was unanimously adopted.
Approved March 16, 1998
GARY L. DOTY, Mayor

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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 1998 (January 1, 1998, to June 30, 1999). A copy of this update will be on file in the city clerk's office as Public Document No. 98-0316-26.

Resolution 98-0182 was unanimously adopted.
Approved March 16, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute a lease agreement with the Seaway Port Authority of Duluth (authority) which will allow the authority to make certain improvements to the dock on the harbor side of the DECC facility and arrange for the docking of passenger cruise ships at that site, which lease agreement is on file in the office of the city clerk as Public Document No. 98-0316-27.

Resolution 98-0215 was unanimously adopted.
Approved March 16, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Volunteer Center of Greater Duluth to carry out the work plan of the Greater Duluth Area Triad (for which the city is acting as fiscal agent) at a cost of \$17,700, which shall be paid from Fund 210, Agency 030, Org. 2110, Object 5319.

Resolution 98-0223 was unanimously adopted.
Approved March 16, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that proper city officials are hereby authorized to amend City Contract No. 17806 with the Minnesota department of economic security to extend the contract date to June 30, 1998, allowing an extension of time to provide services under the Minnesota new traditions program for the period September 1, 1996, through June 30, 1998, with no change in funding levels. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 98-0316-28.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited in Fund 268, Budget Item 6261.

Resolution 98-0227 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, Article 11 of year of the city legislation from the state of Minnesota established a community resource program for the purpose of developing viable urban communities through the provision of needed services in targeted neighborhoods; and

WHEREAS, the state of Minnesota department of trade and economic development is authorized to make grants to cities of St. Paul, Minneapolis and Duluth to finance a local community resource program approved in accordance with Article 11 of said legislation; and

WHEREAS, the city of Duluth desires to carry out a community resource program.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby makes a finding that expenditures will serve the objectives for assisting the residents of the targeted neighborhoods and that the proper city officers are hereby authorized and directed to make and submit appropriate documentation to the state of Minnesota department of trade and economic development for those projects and corresponding levels as set forth below:

COMMUNITY RESOURCE PROGRAM
1998 - 1999 FUNDING RECOMMENDATIONS

\$114,517	Endion/East Hillside neighborhood youth programming
\$ 57,000	growth and achievement project
\$ 10,000	CRP self-sufficiency fund
\$ 20,000	handicapped disabled youth supported work experience
<u>\$ 35,561</u>	administrative costs
\$237,078	total

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 resource program is carried out in full compliance with the provisions of Article II of the said act.

Resolution 98-0231 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement the agreement between city of Duluth and Fond du Lac Band of Lake Superior Chippewa on file

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

with the city clerk as Public Document No. 98-0316-29, which changes the location of the city office at Fond-du-Luth Casino from the third floor to the basement level.

Resolution 98-0247 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction and installation of approximately 1,370 feet of six inch plastic water main in Oakley Street from 48-1/2 Avenue East to 50th Avenue East and from 51st Avenue East to 53rd Avenue East for the water and gas department in accordance with specifications on its low specification bid of \$98,919.60, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0225 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Hydro Supply Company be and hereby is awarded a contract for furnishing and delivering 962 cold water meters in various sizes for the water and gas department in accordance with specifications on its low specification bid of \$80,250.28, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 98-0243 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with RREM, Inc., for the conduction of a remedial investigation and feasibility study for Duluth Dump Site No. 2; said agreement to be in the form of Public Document No. 98-0316-30 on file in the office of the city clerk; the consideration payable thereunder of \$69,096 to be paid from the self insurance fund.

Resolution 98-0126 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0762 to Cutler-Magner Company for furnishing road salt delivered at a unit cost of \$30.21 per ton, be amended to increase the amount by \$98,000 for a new total of \$279,260, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 98-0170 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, by application and Permit No. 145, the city engineer granted Northland Constructors, Inc., permission to improve Eighth Street Alley between Third Avenue West and Fifth Avenue West and to construct sanitary sewer and storm sewer in Skyline Parkway between Third Avenue West and Fifth Avenue West (City Job No. 8494SA90); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 98-0219 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by application and Permit No. 175, the city engineer granted Nels Nelson & Sons, Inc., permission to construct a storm sewer in Fourth Street Alley between Third Avenue East and Fourth Avenue East and to reconstruct a portion of Fourth Street between Third Avenue East and Fourth Avenue East (City Job No. 8947MC96); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 98-0221 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that housing and redevelopment authority (HRA) be and hereby is awarded a contract for professional right-of-way acquisition services for 1998 S.I.P. Upper Woodland East-2 for the engineering division in accordance with specifications on its proposal of \$66,593.75, terms net 30, FOB job site, payable out of street improvement program Fund 440, Dept./Agency 038, Organization 9805, Object 5530.

Resolution 98-0226 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Hardesty and Hanover, LLP, for the sum of not to exceed \$450,000, payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303, to be reimbursed from the municipal state aid (MSA) fund, for providing professional engineering services to the city of Duluth in connection with the rehabilitation of the Aerial Lift Bridge, 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. 98-0316-31.

Resolution 98-0229 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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Resolution 98-0234, by Councilor Swapinski, authorizing an agreement with American Engineering Testing, Inc., for providing professional services to the city of Duluth in connection

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

with the investigation of property on Garfield Avenue to be acquired for a public works maintenance facility in an amount not to exceed \$15,000, was introduced for discussion.

Councilor Swapinski moved to table the resolution until April 13, which motion was seconded and unanimously carried.

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Greater Downtown Council (GDC) under which GDC will carry out certain activities in the downtown area of Duluth pursuant to a problem-solving partnership grant received by the city from the U.S. department of justice, office of community oriented policing services, which agreement is on file in the office of the city clerk as Public Document No. 98-0316-32, and under which agreement the city will reimburse GDC in an amount not to exceed \$72,661, payable from Fund 215, Agency 200, Org. 2447, Object 5441.

Resolution 98-0211 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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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 zone is hereby established for both sides of Alexander Street from 26th Avenue East to 370 feet easterly.

Resolution 98-0217 was unanimously adopted.

Approved March 16, 1998

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:

front of 723 West Third Street;

front of 2224 West Third Street;

front of 2226 West Fifth Street;

front of 2711 West Second Street;

front of 127 West Quince Street;

front of 1001 South Lake Avenue.

Resolution 98-0218 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, by application and Permit No. 160, the city engineer granted Lakehead Electric permission to construct a traffic control signal system at the intersection of Highway 194 (Miller Trunk Highway) and the entrance of the Stoneridge Mall (City Job No. 8878TR94); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 98-0220 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Duluth Typewriter and Business Furniture Company be and hereby is awarded a contract for furnishing, delivering and installing Steelcase worksurfaces, office panels and file cabinets for the Minnesota gang strike force offices in accordance with specifications on its low specification bid of \$8,470.15, terms net 30, FOB destination, payable out of Police Grant Programs Fund 215, Dept./Agency 200, Organization 2444, Object 5580.

Resolution 98-0228 was unanimously adopted.

Approved March 16, 1998

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

98-007 - AN ORDINANCE REQUIRING EROSION AND SEDIMENT CONTROL IN THE CITY, ADDING A NEW CHAPTER 18 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Prettner Solon moved to table the ordinance until April 27, which motion was seconded and unanimously carried.

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BY COUNCILOR SWAPINSKI

98-006 - AN ORDINANCE ESTABLISHING A STORMWATER UTILITY SYSTEM; ADDING A NEW ARTICLE XI TO CHAPTER 43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Swapinski moved to table the ordinance until April 27, which motion was seconded and unanimously carried.

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The meeting was adjourned at 11:45 p.m.

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

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, March 23, 1998, 6:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Absent: Councilor Rapaich -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0323-02 The following submitting communications pertaining to the proposed DECC expansion (98-0260R): (a) Ronald L. Anderson; (b) Duluth AFL-CIO Central Labor Body; (c) Dwayne Terway; (d) 21st Delight, Inc. -- Received

98-0323-03 The following submitting communications pertaining to the governor's proposal for development of a veterans memorial state park in Duluth (98-0099R): (a) John Hollenback (Carbondale, PA); (b) Tim M. Teynor (Minneapolis, MN). -- Received

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REPORTS OF OFFICERS

98-0323-01 Assessor submitting affidavit of mailing of notice of informational meetings related to street improvements on Tuesday, March 31, 1998, at 4:30 p.m. and 7:00 p.m. and a public hearing on Monday, April 13, 1998, at 8:00 p.m. on the desirability of improving the streets recommended in the 1999 program. -- Clerk

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MOTIONS AND RESOLUTIONS

Resolution 98-0260, by President Hogg and councilors Edwards, Hales, Hardesty and Swapinski, requesting the Minnesota Legislature to adopt legislation authorizing the imposition of up to an additional .5 percent tax on certain sales of food and beverages and/or up to an additional .5 percent tax on the gross receipts from the sale of lodging by hotels and motels subject to certain restrictions and requesting the DECC to contribute certain funds toward the DECC expansion project, was introduced for discussion.

President Hogg read the resolution in its entirety and noted the specific restrictions imposed.

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Resolution 98-0261, by Councilor Prettner Solon, expressing support for the Duluth Entertainment Convention Center [DECC] expansion and committing to provide a local share of up to \$7 million for such project, was introduced for discussion at this time.

Councilor Prettner Solon stated that the reason she initially requested this resolution was to provide the council with an opportunity to discuss the DECC expansion. She then moved to withdraw the resolution from the agenda since there are three other resolutions presented for discussion, which motion was seconded and unanimously carried.

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Resolution 98-0276, by Councilor Prettner Solon, requesting the Duluth Entertainment Convention Center to impose a surcharge on all entrance fees at the DECC to provide funding for the local share of the DECC expansion project and requesting the Duluth economic development authority [DEDA] to pledge tax increment monies as security for bonds issued for such project, was introduced for discussion at this time.

Councilor Prettner Solon stated it is her intention to amend the resolution to specify that tourism tax dollars be pledged as the source of backing for the bonds instead of requesting DEDA

to pledge tax increment financing, and have the DECC pay for the bonds with the revenues of a surcharge. She continued that she supports expansion of the DECC but she does not favor increasing by .5 percent the food and beverage or hotel and motel tax because it places the burden on those people wishing to dine out or find lodging in Duluth for a short period of time who do not necessarily utilize the DECC. Councilor Prettner Solon stated she believes it is fair to collect a surcharge because it places the responsibility for the expansion on those who are most likely to use it. She noted the events for which the DECC currently collects a surcharge and events that she proposes to be exempted from the surcharge. Councilor Prettner Solon stated that if everyone entering the DECC was charged a fee, the amount to be collected from each person to pay the city's share would be \$.31, but if those who park at the DECC were charged also, the fee would only be \$.25. She said she is offering this resolution as an alternative.

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Resolution 98-0275, by Councilor Keenan, requesting the Minnesota Legislature to adopt legislation authorizing the imposition of up to an additional .5 percent tax on the gross receipts from the sale of lodging by hotels and motels subject to certain restrictions, and requesting DEDA and the DECC to contribute certain funds toward the DECC expansion project, was introduced for discussion at this time.

Councilor Keenan highlighted that this resolution requires that all revenues generated by the .5 percent hotel/motel tax must be used to retire the bonds issued to finance the expansion of the DECC; the tax and the legislative authority to collect it will terminate when the bonds have been retired; the DECC will be required to contribute \$120,000 annually for the purpose of reducing the debt service; and that \$440,000 annually will come from the tax increment financing (TIF) district to reduce the debt service. He noted that DEDA has set aside TIF money for the purpose of building either a ramp to expand parking or a skywalk to Canal Park, but he believes it is also appropriate to use the funds for expansion of the DECC. Councilor Keenan stated that his philosophy is that it is better to get two projects done well rather than try to do three projects that are mediocre at best. He added that by using TIF funds, the public that wishes to dine out will not be burdened with an additional .5 percent in taxation.

Councilor Hardesty stated that the concept of a user fee has merit, but before considering it, attention needs to be paid to objections that there may be regarding it. She stated she supports working on the development of the concept and does not want to rule it out as an additional tool that may be useful in raising the local share, however, she cannot support it this evening because so little is known about it. Councilor Hardesty encouraged Councilor Prettner Solon to continue working on the concept and stated she supports expansion of the DECC and that she will support Resolution 98-0260 this evening.

Councilor Hales stated that she believes that tonight the council is being asked to come up with a tool kit to raise enough funding for the city's share should the legislature choose to fund this project. She noted that the council is not being asked to raise taxes or establish user fees at the DECC, or even put a financial package together. Councilor Hales continued that she is more comfortable with this project since the DECC has offered some financial assistance of its own. She said she believes the council is merely being requested to acknowledge whether or not it is willing to commit to an amount of funding for the city's share of the costs, and that there will be ample time later to decide how it will be raised specifically. Councilor Hales added that she will support Resolution 98-0260 tonight, but she believes the option of a user fee will be important in determining what the final mix will be.

Councilor Prettner Solon stated she appreciates councilors' willingness to explore the option of user fees at the DECC for contribution to the city's share of funding for this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Responding to Councilor Prettner Solon, Mayor Doty stated that he cannot speak for the legislature, however he believes that the council is not obligated to use the method of taxation for the city's share if Resolution 98-0260 is approved. He added that he believes the legislature just wants to be sure that the city has a tool to raise the funds before it considers the inclusion of the project in the bonding bill.

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

David Ross, Duluth Chamber of Commerce public affairs committee, stated that a poll of 15 of its 20 committee members has resulted in unanimous support of Resolution 98-0260, with the understanding that the additional taxation will terminate when the bonds are retired. He commended councilors for their discipline in keeping taxation at a minimum.

Craig Olson, Duluth Building Trades Council, stated that this project will provide the equivalent of 206 full time construction jobs for approximately one year, and that it is important that a clear message of support for this project is sent to the legislature.

President Hogg stated that for the purpose of seeking unanimity for Resolution 98-0260, resolutions 98-0275 and 98-0276 will be considered subsequently.

Councilor Edwards suggested tabling resolutions 98-0275 and 98-0276 until such time as the council is requested to establish a total funding package.

Councilor Keenan stated he would like to see Resolution 98-0275 voted on to establish that it is appropriate and the intent of the council to use TIF funds for the project.

Resolution 98-0275 failed upon the following vote (Public Document No. 98-0323-04):

Yeas: Councilor Keenan -- 1

Nays: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Swapinski and President Hogg -- 7

Absent: Councilor Rapaich -- 1

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Councilor Prettner Solon stated that she hopes that the option to charge a user fee will be considered at the actual time the funding occurs and moved to withdraw Resolution 98-0276, which motion was seconded and unanimously carried.

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Councilor Keenan stated that he does not believe it is appropriate to raise the entire share through taxation, but for the sake of unanimity and with the understanding that there will be more discussion when more is known about the project, he will support Resolution 98-0260.

Councilor Swapinski commended councilors Prettner Solon and Keenan for offering alternative options to raise funding for the local match and expressed his pleasure that a unanimous message of support for this project is being conveyed to the legislature.

Councilor Gilbert stated that he supports the project and that it is important that the council send a unanimous message of support to the legislature, therefore, he will support Resolution 98-0260. He noted, however, that he believes the project is going forward without adequate thought and planning for how it will be paid or if the city can afford it. Councilor Gilbert continued by stating that taxpayers rightly expect that the council is making well thought out, informed decisions, and he stated his disappointment that it is not and in his belief that it is terrible. He stated that it is imperative that more discussion on this issue takes place in the future.

Resolution 98-0260 was adopted as follows:

BY PRESIDENT HOGG AND COUNCILORS EDWARDS, HALES, HARDESTY AND SWAPINSKI:

RESOLVED, that the Duluth city council hereby requests the Minnesota legislature to adopt legislation during its 1998 session authorizing the city of Duluth to impose up to an additional .5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

percent tax on certain sales of food and beverages and/or up to an additional .5 percent tax on the gross receipts from the sale of lodging by hotels and motels, which taxes would be imposed on a city-wide basis and would be subject to the following restrictions:

(a) All revenues generated by these taxes must be used to retire bonds issued to finance the expansion of the Duluth Entertainment Convention Center being proposed in the 1998 legislative session;

(b) These taxes and legislative authority for them will expire when the Duluth Entertainment Convention Center bonds have been retired.

RESOLVED FURTHER, that the city council hereby requests the Duluth Entertainment Convention Center to commit \$120,000 annually towards payment of the debt service on city bonds issued to provide the local share of the cost of the proposed expansion of the DECC, which monies will be used to reduce the term of such bonds and allow for an earlier termination of the taxes referred to above.

Resolution 98-0260 was unanimously adopted.

Approved March 23, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:15 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, March 30, 1998, 6:15 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 98-0262, by Councilor Prettner Solon, of intent to fund certain costs related to the technology village project and to support actions necessary for the project, was introduced for discussion.

Councilor Prettner Solon explained that this resolution of intent supports the concept of developing a technology village in the Old Downtown area and declares the city's support of the action necessary to further the project, which includes the acquisition of parcels for the technology village and a parking facility on First Street; design and construction of a parking facility for up to 600 cars and skywalk connections; the acquisition of parcels for the operation of Soft Center Duluth within the village; and then states multiple funding sources, including private and public funding, which would include the Duluth economic development authority (DEDA) and the city.

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

Tom Cotruvo, business development division manager, reviewed that DEDA has approved the development agreement with DMR Consulting, Inc., authorized a letter of intent with the developer of the technology village and a resolution of intent for funding of the project costs for the technology village. He also reviewed that this resolution states that the public funding is subject to the availability of private funding and the successful negotiations of a development agreement.

Dr. Kjell Knutson, representing the University of Minnesota–Duluth (UMD), assured councilors that the students and the faculty at UMD are very excited about the technology village and the soft center. He continued by saying that he and Chancellor Martin have met with the other higher education institutions in the region to develop a curriculum to meet the demands of the companies that will be moving into the technology village. Dr. Knutson informed the council that he, along with the developers and others, will be going to Sweden to see how their development works and to learn from them.

Mike McNamara, interim director of the soft center, stated that there are three critical issues—the work force development, the help that Duluth will be getting from Sweden and moving slowly on the project working with one company at a time.

Councilor Keenan expressed his enthusiasm for this project, but questioned the use of community development block grant (CDBG) money and whether this will create jobs for low income citizens. He also questioned the use of Minnesota state aid (MSA) money instead of using it for the streets in Duluth. Councilor Keenan felt that these are policy issues that the administration and council needs to decide.

Councilor Gilbert stated support for the concept of the technology center, but questioned the city's role in the project. He reviewed that Soft Center Duluth, a nonprofit organization, will run the technology center and the city's administrative assistant will be a member of that board. Councilor Gilbert questioned whether the city would be overseeing or participating in the project. He felt that it is a question of divided loyalty to the taxpayers or to the developer. Councilor Gilbert

stated that while the package for this deal seems good, the council needs to slow down the process.

Assistant City Attorney Cynthia Albright stated that if the resolution of intent is approved, the city will be documenting the relationship between all the parties involved in this project. She reviewed that Soft Center Duluth will be a nonprofit entity that will run a portion of the building that the private developer will be constructing and that this will be a partnership with DEDA and the city. Ms. Albright continued by saying that Soft Center Duluth will be coming to DEDA and the city requesting funds for the operational aspect of the project for at least the first three years of operation. She went on to say that after that time it is hoped that it would operate from the proceeds of surcharges on some of the activities and rental charges or fees charged to those businesses locating in the technology village. Ms. Albright stated that accountability will be an issue, but with the administrative assistant being a member of the Soft Center Duluth board, DEDA and the council will receive the information they need to make sure the money is being wisely spent.

Councilor Prettner Solon stated that there has been a technology center for a long time in Duluth and there has been a board of directors for that which has included every one of the Team Duluth executive board. She continued by saying that a smaller board is being recommended for the soft center, this board will be a transition board only during the development stage and a new board will be developed once the project is done.

To Councilor Hardesty's questioning, Monte Ollenburger, administrative services department director, stated that the funding sources for the project will be coming back to the council for approval.

In response to Councilor Swapinski's question, Mayor Doty replied that there will be several hours of city staff time spent on this project, and if the council is not in favor of this project, there would be no use for the staff to work on the project. He continued by saying that the developer also has spent a lot of time and money and needs to know that there is support for this project from the council.

Resolution 98-0262 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council of the city of Duluth (the city) recognizes the importance which businesses in the area of software development and other technology-related fields can provide to the growth and vitality of the tax base of the city, including the opportunity to create new businesses, expand existing businesses and attract businesses from outside the city; and the importance of these businesses in the ability of the city to continue to provide employment opportunities for the citizens of the community, and especially for those persons qualified with skills and educational training in the area of software development and technology-based businesses; and

WHEREAS, the city has been presented by various entities, including the city administration, the Duluth economic development authority, the University of Minnesota–Duluth and other institutions of higher education, and a private developer and various businesses interested in constructing and locating their businesses in such a project, with an exciting proposal for a project to be called the Technology Village, which project will be located in an area which the city has identified as an area which is in need of redevelopment, the Old Downtown area of the city of Duluth, specifically in the block bounded by Lake Avenue, Superior Street, East First Street and First Avenue East; and

WHEREAS, the Technology Village project includes certain actions which would be required by the city council in order for the project to proceed, including:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(a) The acquisition of parcels on First Street for a multi-level Technology Village parking facility which would serve the Technology Village project as well as provide parking capacity for additional development in the Old Downtown area, which parcels are located between the existing Building for Women and the corner of Lake Avenue and First Street, and the demolition of existing building and grading and site preparation for the construction of the parking facility, and the costs associated with acquisition of such parcels;

(b) The design and construction of a multi-level Technology Village parking facility for up to 600 cars on the property to be acquired on First Street;

(c) The design and construction of skywalk connections between the Technology Village project and adjoining properties, including a skywalk connection from the redeveloped Pastoret-Stenson Building to the existing Old Downtown parking ramp and across Lake Avenue from the existing skywalk on the upper side of Superior Street to the proposed Technology Village project;

(d) The acquisition of parcels on Superior Street for a development parcel for the private developer for the construction of a Technology Village;

(e) The operation of an entity to be known as Soft Center Duluth within the proposed Technology Village; and

WHEREAS, it is anticipated that there are potential sources of funding available to the city of Duluth, the Duluth economic development authority, and a private developer who will undertake the development of the project, which might be used to finance the actions required for the proposed Technology Village project, including:

(a) Funds remaining in the city's construction account for the Northwest Airlines maintenance base project, which project was able to be completed under the anticipated budget, in the amount of approximately \$600,000;

(b) Proceeds of a revenue bond to be issued by the city and backed by the revenues of the proposed Technology Village parking facility, in the amount of approximately \$2,000,000;

(c) Proceeds of parking revenue generated by city parking facilities in the Downtown area, including the reallocation of funding from the proposed expansion of the Old Downtown parking ramp to the proposed Technology Village parking facility;

(d) Funds available in future program years to the city through the community development block grant program, in the amount of approximately \$1,000,000;

(e) Funds made available by the state of Minnesota for the improvement of the Minnesota state aid highway system, in the amount of approximately \$1,000,000;

(f) Application for and receipt by the city of a grant by the United States department of commerce, economic development authority, in the amount of approximately \$6,000,000;

(g) Financing by the Duluth economic development authority through various sources, including proceeds available in Tax Increment Financing District No. 2 and through the refinancing of funds issued in Tax Increment District Nos. 1, 2, 3 and 5;

(h) Financing by a private developer through conventional financing of the private development project;

(i) A legislative appropriation from the state of Minnesota to support the operation of partnership between Soft Center Duluth and other partners, including Soft Center Ronneby.

NOW, THEREFORE, BE IT RESOLVED, that based on the foregoing, the Duluth City Council hereby approves the concept of developing a Technology Village in the Old Downtown area of the city of Duluth and declares its intent to support the actions necessary to further the project for the Technology Village, including those public actions which will be required to finance the project, subject to the availability of funding from various noncity funding sources and the successful negotiation of a development agreement with a private developer.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0262 was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Gilbert -- 1

Approved March 30, 1998

GARY L. DOTY, Mayor

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Resolution 98-0263, by Councilor Prettner Solon, authorizing agreement with HRA [Housing and Redevelopment Authority of Duluth] pertaining to acquisition of properties for the technology village parking ramp at a cost of \$306,000, was introduced for discussion.

Councilor Hales stated that there is someone with a business on First Street who read in the paper that their business will be relocated because of the parking lot that is being proposed to be built. She said that this business owner supports the project, but is unhappy that the city has not contacted them about the possible relocation that may take place. Councilor Hales questioned if there is another location in Old Downtown that can be used for the project that does not have as many businesses to relocate.

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

Responding to Councilor Hales' question, John Miller, Housing and Redevelopment Authority of Duluth, replied that the fees being paid for the relocation of businesses and residences are set by law.

Resolution 98-0263 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, that the Duluth City Council hereby authorizes the proper city officials to enter into an agreement with the Duluth Housing and Redevelopment Authority to acquire certain property located on East First Street between Lake Avenue and First Avenue East, at a cost of \$306,000, said cost to be paid out of Fund 425, Technology Village project fund.

Resolution 98-0263 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Approved March 30, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 7:45 p.m.

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

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, April 13, 1998, 6:15 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0413-01s Evensen Dodge, Inc., financial consultants, submitting: (a) Official statement; (b) Sale results, pertaining to the sale of \$2,600,000 general obligation improvement refunding bonds, Series 1998A, and \$2,495,000 general obligation water and sewer refunding bonds, Series 1998B. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 98-0238, providing for the issuance, sale and delivery of \$2,600,000 general obligation improvement refunding bonds, Series 1998A, establishing the terms and form thereof, creating a debt service fund therefor, and awarding the sale thereof; and 98-0239, providing for the issuance, sale and delivery of \$2,495,000 general obligation water and sewer refunding bonds, series 1998B, establishing the terms and form thereof; creating a debt service fund therefor, and awarding the sale thereof, by President Hogg, were introduced for discussion.

Todd Torvinen, finance department director, noted that these bond sales were originally scheduled for March, but because market conditions deteriorated, it was not in the city's best interests to proceed until now.

Kathy Kardell, Evensen Dodge, Inc., vice president, reviewed a letter (Public Document No. 98-0413-01s(b)) regarding the outcome of the bids on these issues.

Resolution 98-0238 was adopted as follows:

BY PRESIDENT HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Pursuant to the City Charter and Minnesota Statutes, Chapter 475 (the "Act"), the City previously issued \$3,245,000 General Obligation Improvement Bonds, dated October 1, 1991 (the "1991 Bonds") and \$2,995,000 General Obligation Improvement Bonds of 1992, dated November 1, 1992 (the "1992 Bonds").

1.02 Under and pursuant to the provisions of the Act and, specifically, Section 475.67, Subdivisions 1 through 3 and 13 of the Act, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1991 Bonds and the 1992 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$2,660,000 General Obligation Improvement Refunding Bonds, Series 1998A (the "Bonds"), to refund the principal portion of the 1991 Bonds maturing on and after August 1, 2000, of which \$1,040,000 in principal amount is prepayable on August 1, 1999 (the "1991 Refunded Bonds"), and to refund the principal

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

portion of the 1992 Bonds maturing on and after February 1, 2002, of which \$1,555,000 in principal amount is prepayable on February 1, 2001 (the "1992 Refunded Bonds") (the 1991 Refunded Bonds and the 1992 Refunded Bonds are collectively referred to herein as the "Refunded Bonds"), in order to reduce debt service cost to the City. (August 1, 1999 is herein referred to as the "1991 Bonds Redemption Date" and February 1, 2001 is herein referred to as the "1992 Bonds Redemption Date." The 1991 Bonds Redemption Date and the 1992 Bonds Redemption Date are collectively referred to as the "Redemption Dates.")

1.04 The City Council has solicited proposals for the sale of the Bonds and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of U.S. Bancorp Investments, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,638,964.90, plus accrued interest on the total principal amount from May 1, 1998, 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 the Bonds.

2.01 A. The Bonds shall be dated May 1, 1998, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall bear interest at the annual rates indicated on Exhibit A attached hereto and shall mature on February 1 in the following respective years and amounts:

Year	Amount	Interest Rate
2000	\$ 5,000	See Exhibit A
2001	140,000	
2002	380,000	
2003	390,000	
2004	400,000	
2005	410,000	
2006	405,000	
2007	405,000	
2008	125,000	

B. For purposes of complying with Section 475.54 of the Act, the maturities of the Bonds are combined with the outstanding maturities of the 1991 Bonds and the 1992 Bonds.

2.02 The Bonds are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on February 1, 1999. 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 appointed 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 on 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 Clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The Clerk is authorized 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 or facsimile signature of the Clerk in substantially the form set forth in Section 3.01, but only if the opinion is not manually executed. The 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, of 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 3.01 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 executed Authentication Certificate 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 bondholders and payments on the Bonds are set forth in the Representation Letter.

2.07 A. The City shall cause to be kept at the principal corporate office of 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 names(s) of the designated transferee(s), one or more new bonds of a like aggregate principal amount, as requested by the transferor.

B. If a Bond becomes mutilated or is destroyed, stolen or lost, the Bond Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Bond Registrar and the City in connection therewith, including the cost of printing new Bonds; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Bond Registrar and the City of evidence satisfactory to them that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Bond Registrar and the City of an appropriate bond or indemnity in form, substance and amount satisfactory to them and as provided by law, in which both the City and the Bond Registrar must be named as obligees. Bonds so surrendered to the Bond Registrar will be canceled by the Bond Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms, it is not necessary to issue a new Bond prior to payment.

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

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND,
SERIES 1998A

R-_____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, _____	May 1, 1998	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

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 May 1, 1998, 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 interest 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, 1999. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Norwest Bank Minnesota, National Association of 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. 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 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 \$2,660,000, all of like original issue date and tenor, except as to number, maturity date, redemption privilege, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 3 and 13 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on April 13, 1998 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of certain general obligation bonds of the City. That portion of the Bonds issued to refund the City's General Obligation Improvement Bonds dated October 1, 1991, maturing on and after August 1, 2000, are payable through August 1, 1999, solely out of the Escrow Account in the City's 1998 Improvement Refunding Bonds Debt Service Account within the Special Assessment Debt Service Fund and after August 1, 1999, in part from special assessments levied upon benefitted property and in part from ad valorem taxes levied upon all of the taxable property within the territory of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. That portion of the Bonds issued to refund the City's General Obligation Improvement Bonds of 1992 dated November 1, 1992, maturing on and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

after February 1, 2002, are payable through February 1, 2001, solely out of the Escrow Account in the City's 1998 Improvement Refunding Bonds Debt Service Account within the Special Assessment Debt Service Fund and after February 1, 2001, in part from special assessments levied upon benefitted property and in part from ad valorem taxes levied upon all of the taxable property within the territory of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds are not subject to redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate 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.

IT IS CERTIFIED AND RECITED that all acts and conditions required by 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 or statutory 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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the Clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

maturity date 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

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, of Minneapolis, Minnesota, 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 Norwest Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
5/_/98	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

Bond Counsel Opinion

I certify that the attached 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 Bonds.

Clerk

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
Identifying Number of Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 to 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. Escrow Agreement; Escrow Agent.

4.01 Norwest Bank Minnesota, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the Clerk. The execution and delivery of the Escrow Agreement by the Mayor and the Clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the Mayor and the Clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, Revenues, Accounts and Tax Levies.

5.01 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a special fund to be designated the 1998 Improvement Refunding Bonds Debt Service Account ("Debt Service Fund") within the Special Assessment Debt Service Fund to be administered and maintained by the Treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner

herein specified until all of the Bonds and interest thereon have been fully paid. There shall be maintained in the Debt Service Fund two separate accounts, to be designated the Escrow Account and the Debt Service Account. The allocations of the Bonds, and debt service therefor, for the refunding of the 1991 Bonds (the "1991 Portion of the Bonds") and the 1992 Bonds (the "1992 Portion of the Bonds") are set forth on Exhibits A-1 and A-2.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) any balance remaining on the Redemption Dates in the Debt Service Fund created in the City's resolutions authorizing the issuance and sale of the 1991 Bonds (Resolution No. 91-0753) and the 1992 Bonds (Resolution No. 92-0848) (the "Prior Resolutions") after payment of principal and interest on the Refunded Bonds on the Redemption Dates; (iii) any collections of ad valorem taxes hereafter levied for the payment of the Bonds and interest thereon; (iv) all investment earnings on funds in the Debt Service Account; (v) accrued interest, if any, received from the Purchaser upon delivery of the Bonds to the extent not required to fund the Escrow Account (the "Accrued Interest"); (vi) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the "Additional Interest"), to the extent not required to fund the Escrow Account; (vii) all taxes pledged to repayment of the Refunded Bonds in the Prior Resolutions collected after the Redemption Dates pursuant to levies made in the Prior Resolutions which levies shall not be cancelled except as permitted by Section 475.61, Subdivision 3 of the Act; (viii) all special assessments levied for the projects listed in the Prior Resolutions and collected after the Redemption Dates; and (ix) any and all other monies which are properly available and are appropriated by the City to the Debt Service Account including taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

C. Escrow Account.

(i) To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Account or are not to be used for payment of costs of issuance of the Bonds; (b) Accrued Interest; (c) Additional Interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the "Proceeds"]; (d) funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and the payment of interest due on the 1992 Portion of the Bonds through the 1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8 of the Act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, Subdivision 5, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the payment of interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and the payment of interest due on the 1992 Portion of the Bonds through the

1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

(iii) From the Escrow Account there shall be paid: (a) all interest paid or to be paid on the 1991 Portion of the Bonds to and including the 1991 Bonds Redemption Date; (b) the principal of the 1991 Refunded Bonds due by reason of redemption on the 1991 Bonds Redemption Date; (c) all interest paid or to be paid on the 1992 Portion of the Bonds to and including the 1992 Bonds Redemption Date; and (d) the principal of the 1992 Refunded Bonds due by reason of redemption on the 1992 Bonds Redemption Date.

(iv) The Escrow Account is irrevocably appropriated to (a) the payment of the interest on the 1991 Portion of the Bonds to and including the 1991 Bonds Redemption Date and to prepayment of the 1991 Refunded Bonds and (b) the payment of the interest on the 1992 Portion of the Bonds to and including the 1992 Bonds Redemption Date and to prepayment of the 1992 Refunded Bonds. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Account.

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The Mayor and Clerk or their designee are authorized and directed to purchase such securities.

D. The construction funds created for the Refunded Bonds have previously been terminated and all bond proceeds therein have been expended.

5.02 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 together with the estimated collections of investment earnings and, prior to the Redemption Dates, amounts available from the Escrow Account, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

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 (following the Redemption Dates) from the projects described in the Prior Resolutions upon benefitted properties, and (ii) to the extent of an irrevocable appropriation to the 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 (following the Redemption Dates) and said taxes are hereby appropriated and shall be paid when collected into the Debt Service Account. If the balances in the Debt Service 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 Debt Service Account when the balances therein are sufficient.

Section 6. Refunding; Findings; Redemption of Refunded Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

6.01 A. It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the Redemption Dates, the issuance of the Bonds will result in a reduction of debt service cost to the City on the Refunded Bonds. In accordance with Section 475.67 of the Act, as of the Redemption Dates, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates.

B. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay the interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and to pay the interest due on the 1992 Portion of the Bonds through the 1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for Redemption attached hereto as Exhibits B-1 and B-2, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or the designee thereof is hereby authorized and directed to publish the Notices of Call for Redemption in a publication qualified under Section 475.54 of the Act if required by law, and in all cases to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the Refunded Bonds in accordance with their terms.

Section 7. Defeasance.

7.01 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of the Act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of Proceedings.

8.01 The Clerk is directed to file with the County Auditors a certified copy of this Resolution and such other information as the County Auditors may require, and to obtain from the County Auditors certificates stating that the Bonds have been duly entered on their register.

8.02 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 relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested 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 otherwise known to them. All of 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.

8.03 The Mayor and 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 of the date of the Official Statement.

Section 9. Tax Covenants.

9.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to 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.

9.02 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 or minor portion made available under the federal arbitrage regulations.

B. 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.

Section 10. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0238 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0239 was adopted as follows:

BY PRESIDENT HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Pursuant to the City Charter and Minnesota Statutes, Chapter 475 (the "Act"), the City previously issued \$810,000 General Obligation Sewer Utility Revenue Bonds, dated October 1, 1991 (the "1991 Bonds") and \$3,610,000 General Obligation Water Utility Bonds of 1992, dated November 1, 1992 (the "1992 Bonds").

1.02 Under and pursuant to the provisions of the Act and, specifically, Section 475.67, Subdivisions 1 through 3 and 13 of the Act, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1991 Bonds and the 1992 Bonds in advance of their scheduled maturities, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$2,485,000 General Obligation Water and Sewer Refunding Bonds, Series 1998B (the "Bonds"), to refund the principal portion of the 1991 Bonds maturing on and after August 1, 2000, of which \$520,000 in principal amount is prepayable on August 1, 1999 (the "1991 Refunded Bonds"), and to refund the principal portion of the 1992 Bonds maturing on and after February 1, 2002, of which \$1,910,000 in principal amount is prepayable on February 1, 2001 (the "1992 Refunded Bonds") (the 1991 Refunded Bonds and the 1992 Refunded Bonds are collectively referred to herein as the "Refunded Bonds"), in order to reduce debt service cost to the City. (August 1, 1999 is herein referred to as the "1991 Bonds Redemption Date" and February 1, 2001 is herein referred to as the "1992 Bonds Redemption Date." The 1991 Bonds Redemption Date and the 1992 Bonds Redemption Date are collectively referred to as the "Redemption Dates.")

1.04 A. The City has heretofore issued and sold General Obligation Sewer Utility Revenue Bonds dated October 1, 1991, now outstanding in the amount of \$95,000, and dated June 1, 1995, now outstanding in the amount of \$1,795,000, and General Obligation Sewer Utility Revenue Refunding Bonds, dated June 1, 1995, now outstanding in the amount of \$1,770,000, and dated December 1, 1995, now outstanding in the amount of \$725,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated October 1, 1991, June 1, 1995, and December 1, 1995.

B. The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

1.05 A. The City has heretofore issued and sold General Obligation Water Utility Revenue Bonds dated June 1, 1980, now outstanding in the amount of \$75,000, dated November 1, 1992, now outstanding in the amount of \$750,000, and dated June 1, 1995, now outstanding in the amount of \$900,000, and General Obligation Water Utility Revenue Refunding Bonds, dated September 1, 1997, now outstanding in the amount of \$2,425,000. Under the provisions of the ordinances and resolutions authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated June 1, 1980, November 1, 1992, June 1, 1995, and September 1, 1997.

B. The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

1.06 The City Council has solicited proposals for the sale of the Bonds and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of U.S. Bancorp Investments, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,465,120.00, plus accrued interest on the total principal amount from May 1, 1998, 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 the Bonds.

2.01 A. The Bonds shall be dated May 1, 1998, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall bear interest at the annual rates indicated on Exhibit A attached hereto and shall mature on February 1 in the following respective years and amounts:

Year	Amount	Interest Rate
2001	\$ 55,000	See Exhibit A
2002	360,000	
2003	375,000	
2004	385,000	
2005	395,000	
2006	410,000	
2007	430,000	
2008	75,000	

B. For purposes of complying with Section 475.54 of the Act, the maturities of the Bonds are combined with the outstanding maturities of the 1991 Bonds and the 1992 Bonds.

2.02 The Bonds are not subject to redemption and prepayment before maturity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on February 1, 1999. 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 appointed 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 on 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 Clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

B. The Clerk is authorized 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 or facsimile signature of the Clerk in substantially the form set forth in Section 3.01, but only if the opinion is not manually executed. The 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, of 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 3.01 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 executed Authentication Certificate 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 bondholders and payments on the Bonds are set forth in the Representation Letter.

2.07 A. The City shall cause to be kept at the principal corporate office of 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 names(s) of the designated transferee(s), one or more new bonds of a like aggregate principal amount, as requested by the transferor.

B. If a Bond becomes mutilated or is destroyed, stolen or lost, the Bond Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Bond Registrar and the City in connection therewith, including the cost of printing new Bonds; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Bond Registrar and the City of evidence satisfactory to them that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Bond Registrar and the City of an appropriate bond or indemnity in form, substance and amount satisfactory to them and as provided by law, in which both the City and the Bond Registrar must be named as obligees. Bonds so surrendered to the Bond Registrar will be canceled by the Bond Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms, it is not necessary to issue a new Bond prior to payment.

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

Section 3. Form of the Bonds.

3.01 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GENERAL OBLIGATION WATER AND SEWER REFUNDING BOND,
SERIES 1998B

R-_____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, _____	May 1, 1998	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

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 May 1, 1998, 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 interest 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, 1999. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Norwest Bank Minnesota, National Association of 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. 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 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 \$2,485,000, all of like original issue date and tenor, except as to number, maturity date, redemption privilege, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 3 and 13 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on April 13, 1998 (the "Resolution"), for the purpose of providing money to refund in advance of maturity the outstanding principal amount of certain general obligation bonds of the City. That portion of the Bonds issued to refund the City's General Obligation Sewer Utility Revenue Bonds dated October 1, 1991, maturing on and after August 1, 2000

(the "1991 Portion of the Bonds"), are payable through August 1, 1999, solely out of the Escrow Account in the City's 1998 General Obligation Water and Sewer Refunding Bonds Debt Service Account and after August 1, 1999, from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. That portion of the Bonds issued to refund the City's General Obligation Water Utility Bonds of 1992 dated November 1, 1992, maturing on and after February 1, 2002 (the "1992 Portion of the Bonds"), are payable through February 1, 2001, solely out of the Escrow Account in the City's 1998 General Obligation Water and Sewer Refunding Bonds Debt Service Account and after February 1, 2001, from the net revenues to be derived from the operation of the municipal water utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the 1991 Portion of the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the 1991 Portion of the Bonds. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal water utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the 1992 Portion of the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the 1992 Portion of the Bonds.

The Bonds are not subject to redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate 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.

IT IS CERTIFIED AND RECITED that all acts and conditions required by 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 or statutory 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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the Clerk.

ATTEST:

Clerk

Mayor

Date of Authentication: _____

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date 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

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, of Minneapolis, Minnesota, 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 Norwest Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date
5/_/98

Registered Owner
Cede and Co.

Signature of Bond Registrar

c/o The Depository
Trust Company
55 Water Street
New York, NY 10041
Federal Taxpayer I.D.
No.: 13-2555119

BOND COUNSEL OPINION

I certify that the attached 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 Bonds.

Clerk

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 to 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. Escrow Agreement; Escrow Agent.

4.01 Norwest Bank Minnesota, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the Mayor and the Clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the Clerk. The execution and delivery of the Escrow Agreement by the Mayor and the Clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the Mayor and the Clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, Revenues, Accounts and Tax Levies.

5.01 A. Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a special account to be designated the 1998 General Obligation Water and Sewer Refunding Bonds Debt Service Account ("Debt Service Fund") within the City's debt service fund to be administered and maintained by the Treasurer as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. There shall be maintained in the Debt Service Fund two separate accounts, to be designated the Escrow Account and the Debt Service Account. The allocations of the Bonds, and debt service therefor, for the refunding of the 1991 Bonds (the "1991 Portion of the Bonds") and the 1992 Bonds (the "1992 Portion of the Bonds") are set forth on Exhibits A-1 and A-2.

B. Debt Service Account. To the Debt Service Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement; (ii) any balance remaining on the Redemption Dates in the Debt Service Fund created in the City's resolutions authorizing the issuance and sale of the 1991 Bonds (Resolution No. 91-0754) and the 1992 Bonds (Resolution No. 92-0850) (the "Prior Resolutions") after payment of principal and interest on the Refunded Bonds on the Redemption Dates; (iii) all investment earnings on funds in the Debt Service Account; (iv) accrued interest, if any, received from the Purchaser upon delivery of the Bonds to the extent not required to fund the Escrow Account (the "Accrued Interest"); (v) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser (the "Additional Interest"), to the extent not required to fund the Escrow Account; and (vi) any and all other monies which are properly available and are

appropriated by the City to the Debt Service Account including net revenues and taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the Debt Service Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

C. Escrow Account.

(i) To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the Bonds received from the Purchaser which are not appropriated to the Debt Service Account or are not to be used for payment of costs of issuance of the Bonds; (b) Accrued Interest; (c) Additional Interest [amounts referenced in clauses (a), (b) and (c) are herein referred to as the "Proceeds"]; (d) funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and the payment of interest due on the 1992 Portion of the Bonds through the 1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8 of the Act or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of Minnesota Statutes, Section 118A.05, Subdivision 5, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the payment of interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and the payment of interest due on the 1992 Portion of the Bonds through the 1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

(iii) From the Escrow Account there shall be paid: (a) all interest paid or to be paid on the 1991 Portion of the Bonds to and including the 1991 Bonds Redemption Date; (b) the principal of the 1991 Refunded Bonds due by reason of redemption on the 1991 Bonds Redemption Date; (c) all interest paid or to be paid on the 1992 Portion of the Bonds to and including the 1992 Bonds Redemption Date; and (d) the principal of the 1992 Refunded Bonds due by reason of redemption on the 1992 Bonds Redemption Date.

(iv) The Escrow Account is irrevocably appropriated to (a) the payment of the interest on the 1991 Portion of the Bonds to and including the 1991 Bonds Redemption Date and to prepayment of the 1991 Refunded Bonds and (b) the payment of the interest on the 1992 Portion of the Bonds to and including the 1992 Bonds Redemption Date and to prepayment of the 1992 Refunded Bonds. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Account.

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The Mayor and Clerk or their designee are authorized and directed to purchase such securities.

D. The construction funds created for the Refunded Bonds have previously been terminated and all bond proceeds therein have been expended.

5.02 A. (i) The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the 1991 Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due.

The Treasurer shall transfer from the Sewer Utility Operating Account to the Debt Service Account amounts of the net revenues sufficient for the payment of all interest and principal then due on the 1991 Portion of the Bonds, and all charges due to the Bond Registrar after the 1991 Bonds Redemption Date. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council, and in accordance with Exhibit A-1.

Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the operating account and in said Debt Service Account, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

(ii) The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the 1992 Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal water utility in a separate Water Utility Operating Account within the Public Service Water Utility Fund maintained under Section 54 of the City Charter. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal water utility, and to maintain such reasonable reserves for such expenses as the

Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all water utility bonds when due.

The Treasurer shall transfer from the Water Utility Operating Account to the Debt Service Account amounts of the net revenues sufficient for the payment of all interest and principal then due on the 1992 Portion of the Bonds, and all charges due to the Bond Registrar after the 1992 Bonds Redemption Date. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council, and in accordance with Exhibit A-2.

Surplus utility revenues from time to time received in the Operating Account, in excess of payments due from and reserves required to be maintained in the operating account and in said Debt Service Account, may be used for necessary capital expenditures for the improvement of the utility, for the prepayment and redemption of bonds constituting a lien on the utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

B. If the balances in the Debt Service 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 Debt Service Account when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 6. Refunding; Findings; Redemption of Refunded Bonds.

6.01 A. It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the Redemption Dates, the issuance of the Bonds will result in a reduction of debt service cost to the City on the Refunded Bonds. In accordance with Section 475.67 of the Act, as of the Redemption Dates, the present value of the dollar amount of the debt service on the Bonds, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on the Refunded Bonds, exclusive of any premium, computed to their stated maturity dates.

B. It is hereby found and determined that the Proceeds and Funds available and appropriated to the Escrow Account will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay the interest due on the 1991 Portion of the Bonds through the 1991 Bonds Redemption Date and the principal of the 1991 Refunded Bonds on the 1991 Bonds Redemption Date and to pay the interest due on the 1992 Portion of the Bonds through the 1992 Bonds Redemption Date and the principal of the 1992 Refunded Bonds on the 1992 Bonds Redemption Date.

6.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of Notices of Call for

Redemption attached hereto as Exhibits B-1 and B-2, which terms and conditions are hereby approved and incorporated herein by reference. The Clerk or the designee thereof is hereby authorized and directed to publish the Notices of Call for Redemption in a publication qualified under Section 475.54 of the Act if required by law, and in all cases to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the Refunded Bonds in accordance with their terms.

Section 7. Defeasance.

7.01 When all Bonds and all interest thereon have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this Resolution to the holders of the Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds shall remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar designated in Section 2.05 hereof a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit. The City may also at any time discharge and cause defeasance of the Bonds in their entirety by complying with the provisions of Section 475.67 of the Act, except that the funds deposited in escrow in accordance with said provisions may (to the extent permitted by law) but need not be, in whole or in part, proceeds of bonds as therein provided, without the consent of any bondholders.

Section 8. Certificate of Proceedings.

8.01 The Clerk is directed to file with the County Auditors a certified copy of this Resolution and such other information as the County Auditors may require, and to obtain from the County Auditors certificates stating that the Bonds have been duly entered on their register.

8.02 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 relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested 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 otherwise known to them. All of 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.

8.03 The Mayor and 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 of the date of the Official Statement.

Section 9. Tax Covenants.

9.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to 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.

9.02 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 or minor portion made available under the federal arbitrage regulations.

B. 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.

Section 10. 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.

Resolution 98-0239 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 6:30 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 13, 1998, 7:30 p.m. in the Council Chambers, City Hall, Duluth, Minnesota.

Roll Call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on September 4, 8, 15 and 22, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0413-01 Burlington Northern Santa Fe Railway Company submitting petition to vacate that portion of Fremont Street located in the Burlington Northern Santa Fe Railway Company right-of-way in the south 1/2 of Section 13, Township 49 North, Range 15, west of the Fourth Principal Meridian, retaining a pedestrian and utility easement. -- Assessor

98-0413-02 H. David Dalquist submitting petition to vacate 13th Street adjacent to Lots 120 and 122, St. Louis Avenue, Upper Duluth. -- Assessor

98-0413-03 Kenneth B. Stenze, et al. (six signatures) submitting petition to reclassify from R-1-C to C-1 Duluth Heights, Sixth Division, Block 33, Lots 12 through 16 except southerly 20 feet for highway. -- Assessor

98-0413-04 Bresnan Communications submitting 1997 annual financial report, pursuant to Ordinance No. 8778. -- Received

98-0413-21 Duluth AFL-CIO Central Labor Body submitting letter pertaining to securing the state auditor to determine whether DCAP is financially capable to operate programs supplied by public funds (98-0332R). -- Received

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REPORTS OF OFFICERS

98-0413-05 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on April 14, 1998, at 4:30 p.m. regarding the proposed improvement of drainage ditch in Kingston Alley from 51st Avenue East to 52nd Avenue East;

(b) Letter for confirmation of assessment rolls levied to defray the assessable portions of Rice Lake Road sanitary sewer (Contract No. 5257); Bristolwood Phase I (Contract Nos. 5292, 1196121, 1196132); Maple Ridge Phase I (Contract Nos. 5255, 1193011, 119301); demolition of buildings (Contract No. 5307); 29th Avenue East and Jefferson Street sanitary sewer reroute (Contract No. 5295). -- Clerk

(c) Letter of insufficiency pertaining to petition to reclassify from R-1-C to C-1, Duluth Heights Sixth Division, Block 33, Lots 12-16 except the southerly 20 feet;

(d) Letters of sufficiency pertaining to petitions to vacate:
(1) Easement between Lots 24 and 25, Block 1, Lepaks Second Addition to Duluth;

(2) Portion of Fremont Street located in the Burlington Northern Santa Fe Railway Company right-of-way in the south 1/2 of Section 13, Township 49 North, Range 15, west of the Fourth Principal Meridian, retaining a pedestrian and utility easement;

(3) 13th Street adjacent to Lots 120 and 122, St. Louis Avenue, Upper Duluth;

(4) 42 square foot portion of the pedestrian walkway easement located in the Holiday Center Mall to create necessary space for a new tenant. -- Received

98-0413-06 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling license (raffles) from St. James Catholic Church/School on: (a) August 1; (b) November 1, 1998; (c) February 1; (d) May 1, 1999. -- Received

98-0413-07 Community development and housing division submitting HRA housing rehabilitation report for January 1998. -- Received

98-0413-08 Engineering division submitting monthly project status report for March 1998. -- Received

98-0413-09 Parks and recreation department director submitting Lake Superior zoological society minutes of January 29, 1998, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0413-10 Board of zoning appeals minutes of March 5, 1998, meeting. -- Received

98-0413-11 Building appeal board minutes of March 11, 1998, meeting. -- Received

98-0413-19 Civil service board minutes of February 3, 1998, meeting. -- Received

98-0413-12 Duluth transit authority minutes of February 25, 1998, meeting. -- Received

98-0413-13 Environmental advisory council minutes of: (a) February 4; (b) March 4; (c) March 26, 1998, meetings. -- Received

98-0413-14 Heritage preservation commission minutes of February 11, 1998, meeting. -- Received

98-0413-15 Sanitary sewer board of WLSSD minutes of: (a) March 2; (b) March 16, 1998, meetings. -- Received

98-0413-16 Seaway Port authority of Duluth: (a) Minutes of: (1) January 21; (2) February 18, 1998, meetings; (b) Balance sheets for: (1) December 1997; (2) January 1998. -- Received

98-0413-20 Special assessment board: (a) Minutes of March 10, 1998, meeting; (b) Report, findings and recommendations for the proposed construction of a sanitary sewer in Bellis Street from Minneapolis Avenue to 1,000 feet easterly. -- Received

98-0413-17 Technical design advisory committee for DWMX-D minutes of: (a) November 25, 1997; (b) March 3, 1998, meetings. -- Received

98-0413-18 Tree commission minutes of March 9, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Representatives from Bulgaria addressed the council.

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Mayor Doty gave a summary of events that have occurred in the state legislature and actions taken regarding the bonding bill that relate to Duluth.

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Hal Moore and Mryna Matheson, members of Friends of Miller Hill, spoke regarding referendums held regarding development in the Miller Hill area and the USS Des Moines. They stated that their opposition to the two issues does not mean they do not support economic development in Duluth and made note of new projects that they do support.

Responding to Mr. Moore about how the two referendums were different, President Hogg explained that the one relating to development in the Miller Hill area was legally binding and the one held for the USS Des Moines was advisory only.

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Greg Price read a proposed resolution and urged support for action that would include Skyline Parkway in the Veterans Memorial Highway system and request the legislature to designate and incorporate it as part of the Scenic Byway System.

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At this time, 8:02 p.m., President Hogg declared the public hearing regarding the 1999 street improvement program would begin (Public Document No. 98-0413-39).

- - -

At this time, 8:20 p.m., President Hogg adjourned the public hearing and the regular order of business was resumed.

- - -

President Hogg moved that Resolution 98-0307 be considered at this time, which motion was seconded and unanimously carried.

Resolution 98-0307, by Councilor Swapinski, ordering the improvement of the 1999 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$6,500,000, was introduced for discussion.

Responding to councilors, Mr. Winson, city engineer, discussed the process that will be followed over the next year regarding the improvement of 93rd Avenue West. He noted that if the council decides to proceed with the entire package of programs, city engineering, the special assessment board and the city assessor's office staff will work together to explore alternatives for the project. Mr. Winson continued that the council will have opportunities later to pull the 93rd Avenue West project, however, it will only need a simple majority vote. He acknowledged that if the project is pulled next year, engineering costs already spent on the project will be lost. He stated that the suggestion to abandon a portion of 93rd Avenue West, which is sometimes used as a bypass when work on Grand Avenue is taking place, has been made and warrants further study. He acknowledged that if it is abandoned, it will reduce the assessments for some of the abutting property owners.

Responding to Councilor Hales, Administrative Assistant Nollenberger stated that if the council is considering removing the Smithville project from the program it is the administration's desire that the council table this resolution to allow the special assessment board an opportunity to at least explore options regarding the 93rd Avenue West segment.

Councilor Edwards moved to table the resolution, which motion was seconded and unanimously carried.

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RESOLUTION TABLED

Councilor Swapinski moved to remove Resolution 98-0234, authorizing an agreement with American Engineering Testing, Inc., for providing professional services to the city of Duluth in connection with the investigation of property on Garfield Avenue to be acquired for a public works maintenance facility in an amount not to exceed \$15,000, from the table, which motion was seconded and unanimously carried.

Councilor Swapinski reported that a committee meeting was held this evening regarding this resolution and it is his recommendation that it be approved as presented.

Councilor Edwards stated she will not support the resolution because Twin Ports Testing was the lowest bidder and, according to the Charter, it should be awarded this contract.

Councilor Swapinski noted that this contract is being awarded as the result of requests for proposals that were issued, and because it is a proposal and not a bid, it does not fall under the jurisdiction of the City Charter.

Resolution 98-0234 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement with American Engineering Testing, Inc., for the sum of not to exceed \$15,000 from the sewer fund, 530-500-0500-5303, for an investigation of property located on Garfield Avenue between Maple Avenue and Oak Avenue, said property to be acquired by the city for the purpose of building a public works maintenance facility, said agreement on file in the office of the city clerk as Public Document No. 98-0413-22.

Resolution 98-0234 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Edwards -- 1

Approved April 13, 1998

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the 1997 street improvement program including: Upper Woodland 1 (\$30 front foot)(Contract No. 7021, total assessable \$346,428.20); Lower Lester Park (\$30 ff)(Contract No. 7022, total assessable \$224,912.65); Lower Hunters Park(\$30 ff)(Contract No. 7023, total assessable \$263,949); Norton Park East (\$30 ff)(Contract No. 7024, total assessable \$278,599.80); 20th Avenue East (\$30 ff)(Contract No. 7025, total assessable \$70,681.20); rehabilitation of Owatonna (\$10.30 ff)(Contract No. 7026, total assessable \$16,010.85) be and the same are hereby confirmed.

Resolution 98-0212 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Como Philgas Company be and hereby is awarded a contract for distribution of approximately 180,000 gallons of L.P. gas to various city locations for the various departments/divisions in accordance with specifications on its low specification bid of approximately \$11,200, based on \$.08 and \$.04 per gallon, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations, and objects.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for two additional years subject to budget allocations and the agreement of both parties.

Resolution 98-0269 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering one 1998 GMC Sierra 8,600 lb. GVWR 4 x 4 pickup truck with plow for the fire department in accordance with specifications on its low specification bid of \$25,074, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V802.

Resolution 98-0280 was unanimously adopted.

Approved April 13, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1998, subject to departmental approvals:

Grandma's Sports Bar & Grill, Inc. (Grandma's Sports Garden/Bellisio's), 425 Lake Avenue South.

Resolution 98-0282 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale nonintoxicating malt liquor license, subject to departmental approvals:

Hermantown Volunteer Fire Department, Inc., Army National Guard, 4015 Airpark Boulevard, with Dale Reno, manager.

Resolution 98-0283 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the off sale nonintoxicating malt liquor license for the period ending April 30, 1998, subject to departmental approvals and the payment of sales and property taxes:

Holiday Stationstores, Inc. (Holiday Stationstore 100), 1530 Woodland Avenue, transferred from Tuit Corporation (Mount Royal Holiday), same address, with Holiday Stationstores, Inc., 100 percent stockholder.

Resolution 98-0284 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 98-0102 to Falls Automotive, Inc., for furnishing four utility vehicles be amended to increase the amount by \$29,995.66 for a new total of \$106,360.66; \$28,000 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V806 and \$1,995.66 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2006, Object V699.

Resolution 98-0293 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Airtouch Cellular 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 \$24,100, terms net 30, FOB job site, various funds, dept./agencies, organizations and objects.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0310 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Phoenix Computer Associates, Inc., be and hereby is awarded a contract for furnishing and delivering a mainframe computer memory upgrade card for the data processing division in accordance with specifications on its low specification bid of \$6,310.13, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E705.

Resolution 98-0313 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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Resolution 98-0321, by Councilor Edwards, approving the exemption of a raffle license for Northland Motorcycle Riders Association and Holy Family Parish, was introduced for discussion.

Councilor Edwards stated that there are some legal questions that need to be cleared up with respect to the exemption for Northland Motorcycle Riders Association and she moved to separate the resolution to deal with the two applications separately, which motion was seconded and unanimously carried.

Councilor Edwards moved to table Resolution 98-0321(a), approving the exemption of a raffle license for Northland Motorcycle Riders Association, which motion was seconded and unanimously carried.

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Resolution 98-0321(b), approving the exemption of a raffle license for Holy Family Parish, was adopted as follows:

BY COUNCILOR EDWARDS:

WHEREAS, Holy Family Parish 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 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 Holy Family Parish 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 98-0321(b) was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that International Computer Marketing Corporation (I.C.M.) be and hereby is awarded a contract for furnishing and delivering nine ruggedized laptop computers for the police

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

department in accordance with specifications on its low specification bid of \$33,470.82, terms net 30, FOB destination; \$17,688.82 payable out of Duluth police grant programs Fund 215, Dept./Agency 200, Organization 2444, Object 5580; \$7,891 payable out of General Fund 100, Dept./Agency 200, Organization 2439, Object 5580 and \$7,891 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V804.

Resolution 98-0324 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0332, by Councilor Edwards, requesting the Minnesota department of children, families and learning to secure the state auditor to determine whether Duluth Community Action Program Agency [CAP] is financially capable to operate programs supplied by public funds, was introduced for discussion.

Councilor Edwards read the resolution in its entirety.

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

John Forrest, delegate of the Central Labor Body to the CAP board, stated that the Central Labor Body voted to support the resolution. He continued that CAP is still in the transitional state since losing Steve Chadwick as its director and he believes that the state is the entity that can set CAP on the path to restructuring the agency. Mr. Forrest stated that the board needs to know where it is currently with finances, which he believes can best be accomplished through an audit by the state.

Mary Hernandez, vice chairperson of the CAP board, stated that the board unanimously supports the resolution, noting that it was read and fully understood at its most recent meeting. She further noted that there are internal problems within CAP that need to be addressed and that the board is receiving requests for loans that it is reluctant to approve until it understands fully what the financial status of CAP is.

Councilor Hardesty asked for clarification as to why the information from a state audit would be any different than the information that will be forthcoming from an audit that is being prepared by a certified public accountant (CPA).

Responding to Councilor Hardesty, President Hogg stated that the entire board has never voted to approve this resolution.

Mr. Forrest clarified that everyone present at the last meeting supports the resolution, however, there were some members absent because of a boycott, and the resolution was never formally voted on. He continued by saying that the agency has shut down the weatherization program without reasonable response, and that the board has been asked to approve a loan that it does not believe it can make a sound judgement on until an audit by the state has been performed.

Mr. Nollenberger noted that because of conflicting information he has received regarding the board's action, he is uncertain as to the status of the board. He questioned the need for the board to request city council approval to ask for this audit because the board is independent and can ask the state for the audit itself.

Debate ensued between Mr. Nollenberger and Mr. Forrest regarding the request made in the resolution.

Councilor Hales called point of order, stating that it is the council who is being asked to make this request and that it is inappropriate for the administration to argue with those making the request with regard to its need or authority.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Keith Hamre, community development and housing division manager, stated that according to the 1996 audit, CAP was in compliance with federal regulations in their financial procedures for use of federal funds. He added that the audit for 1997 has been completed and a preliminary report is being prepared which has the same findings as the 1996 audit. Mr. Hamre further noted that there are two management comments which find that the agency will incur a \$50,000 deficit as a result of closing the weatherization program; that they had a negative cash flow due to the billing of accounts receivable not being completed in a timely fashion, which has since been taken care of.

Councilor Rapaich stated that since the 1997 audit is almost complete, she cannot support requesting another audit from another entity.

Responding to Councilor Hardesty, Mr. Hamre stated that the 1996 and 1997 audits were done by the same firm, and that the difference between an audit done by a private firm versus the state will depend upon which questions the state is asked to look into. He further noted that the audit done by a private firm is one that is done in accordance with federal regulations which outline the procedures that the agency must follow to utilize federal funds. Mr. Hamre acknowledged that the audit that is being requested would be more specifically directed at the kinds of concerns that have been identified.

Councilor Edwards clarified for Mr. Nollenberger that the initiative for bringing this resolution to the council is a letter she received from the president of the Duluth AFL-CIO Central Labor Body. She continued by saying that after speaking with state officials, she believes questions exist regarding the health of the agency and that it may be at risk. Councilor Edwards emphasized the need for the services that CAP provides to the low and moderate income residents of Duluth, and noted that changes in the directorships and elimination of the weatherization program have caused chaos. She stated that her desire is that the Minnesota state department of families and children and the state auditor assist in the restructuring of the agency to enable it to continue to efficiently and effectively provide services that are so necessary for the low to moderate income residents of Duluth.

Councilor Keenan stated that the board of directors of CAP has a lot of power and he believes it should take action itself and not involve the city council. He continued that it is in its best interests to become functional and operational so that CAP can exist.

Councilor Hales argued that this is a city council issue, noting that because of an investigation in November, CAP was not named the recipient of funds for the weatherization program which is a critical community program.

Responding to Councilor Hales, Mr. Hamre acknowledged that audits that the council receives deal only with the financial process that the agency utilized for the expenditure of funds. He continued by saying that the programmatic portion of the program was dealt with in a report that the council received in January from the state office of families, children and learning that identified programmatic deficiencies. Mr. Hamre stated that whether or not the state agency can assist with some of the managerial problems depends upon what specific questions are directed to the state auditor to investigate. He acknowledged that the city is presently searching for a recipient to operate the weatherization program and he explained the process being conducted by the state agency to obtain requests for proposals and awarding the contract.

Responding to Councilor Swapinski, City Attorney Dinan stated he cannot recall a time when the council has interceded with a private, nonprofit agency and requested an audit.

Responding to Councilor Swapinski, Ms. Hernandez explained that the difficulty the board is having in resolving this issue is due to conflicts among board members and the director of CAP. She noted that although a formal resolution requesting this audit was not presented to or voted

on by the board, a quorum of the board was present when it decided unanimously to request city council assistance to move forward with it.

Councilor Gilbert stated that it is appropriate for the city to get involved in this issue because it is the city that is obligated to insure that the essential services provided by the CAP are not interrupted. He continued by saying that, after meeting with individuals, board members and the directors of CAP, he believes the board is not capable of putting together a formal request for such an audit, or for such remedies that might be able to cure deficiencies that are causing the divisiveness. Councilor Gilbert stated that he believes the board is directing this request to a third party and not to the city or city council, specifically. He noted that the council does share some responsibility in this issue in that three board members who were appointed by the council are not and have not been actively serving in any capacity. Councilor Gilbert added that the council has let CAP down by not providing it with adequate representation and that this request by the board provides the council with an opportunity to help.

President Hogg noted that the decision to close down the weatherization program has been a controversial one within the CAP community. He continued by saying that there is a union that wants to restore the jobs involved; which he believes, is generating the problems that make up this issue. President Hogg stated that it is not the business of the city council to get in the middle of this conflict and that it is inappropriate to be discussing it in public. He urged defeat of the resolution.

Councilor Hardesty stated that at the time the decision was made not to grant CDBG funds to CAP it was clear that the state had done an audit of the program and had found some problems which needed to be resolved before the agency would be capable of administering the weatherization program again. She continued by saying that she does not believe another audit will be productive, but believes that CAP does need some help. Councilor Hardesty suggested that the council meet and discuss what other vehicles may be available to help the agency with its dilemma. She noted that it is unfortunate that the divided board has rendered itself incapable of conducting its business, but does not believe an audit by the state is the means for bringing about some kind of healing in the process.

Councilor Swapinski stated that if the council intercedes with regard to this agency, he fears that a precedent will be set which may lead to the intercession in the business affairs of other nonprofit organizations. He continued by saying that the board has the power to request an audit from the state and that it is not the role of the council to be meddling in this board's affairs. Councilor Swapinski agreed that the organization needs support, which he intends to fulfill by getting another organization recertified to perform the weatherization program and assist that process as soon as possible. He stated that he understands that CAP will not apply for the funds, but if they should, it is doubtful the award will be made to the organization because of its present circumstances.

Resolution 98-0332 failed upon the following vote (Public Document No. 98-0413-40):

Yeas: Councilors Edwards, Gilbert and Hales -- 3

Nays: Councilors Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 6

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BY COUNCILOR RAPAICH:

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

BUILDING APPEAL BOARD

Gene Pelletier (finance) for a term expiring February 1, 2001, replacing Joseph Johnson.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0250 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Fredric Youngstrand for a term expiring March 30, 1999, replacing Henry Hanka who resigned.

Resolution 98-0251 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SPECIAL BOARD OF REVIEW

Neal Hessen (attorney) for a term expiring July 31, 2001, replacing Joel Mitchell.

Resolution 98-0252 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of animal shelter technician, including a title change to animal control officer, which were approved by the civil service board on March 3, 1998, and which are filed with the city clerk as Public Document No. 98-0413-23, are approved.

Resolution 98-0301 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

BUILDING APPEAL BOARD

Lynn D. Beechler (realtor) for a term expiring February 1, 2001.

Resolution 98-0334 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as conservation lands the following parcels from the county auditor's list of properties which have been declared tax-forfeited and title thereto vested in the state:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>Legal description</u>	<u>Location</u>	<u>Reason</u>
Lot 10, Block 3, Brighton Gardens Second Division (010-0290-00500)	west side of 71st Avenue East between Superior and Brighton Streets (North Shore)	lack of sanitary sewer
That part lying southerly of a line drawn from northeast corner of Lot 6 to southwest corner of Lot 8, Block 3, Central Division West Duluth (010-0420-00540)	east side of 60th Avenue West between Cody Street and Greene Street (West Duluth)	DW&P trail
Lot 8, Block 3, that part lying southerly of a line drawn from northeast corner of Lot 6 to southwest corner of Lot 8 Central Division West Duluth (010-0420-00550)	East side of 60th Avenue West between Cody Street and Greene Street (West Duluth)	DW&P trail
Lots 10, 12 and 14, Block 3, Central Division West Duluth (010-0420-00560)	east side of 60th Avenue West between Cody Street and Greene Street (West Duluth)	DW&P trail
That part of Lots 16 and 18 lying northwesterly of a line running from northeast corner of Lot 16 to the southwest corner of Lot 16 to the southwest corner of Lot 18, Block 3, Central Division West Duluth (010-0420-00590)	east side of 60th Avenue West between Cody Street and Greene Street (West Duluth)	DW&P trail
Lots 13 through 23, odd numbered lots, Block 4, Central Division West Duluth (010-0420-00980)	west side of 60th Avenue West between Cody and Greene Streets (West Duluth)	DW&P trail
Lots 14, 15 and 16, Block 18, Clinton Place Addition Duluth (010-0580-03130)	southwest corner of Polk Street and 68th Avenue West (Fairmount Park)	DW&P land assembly
Lot 3, Block 1, East 25 feet of south 79 feet, Fleischer-Cremers Rearrangement Block 56, Third Division of Duluth (010-1280-00110)	north side of Pittsburgh Avenue between Second and Third Avenues West (Central Hillside)	land assembly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Lots 25 through 30, Block 79, Gary Central Division Duluth, (010-1790-07270)	northwest corner of 109th Avenue West and Reis Street (Gary-New Duluth)	steep hillside/creek ravine
Lot 8, Block 2, except part taken for highway, Ironton Fourth Division Duluth (010-2550-00280)	east side of Pine Street between Boyd and Huelett Streets (Lower Smithville)	Stewart Creek ravine
Lands of Duluth, Section 29, Township 50, Range 14, easterly 1/2 of westerly 1/2 of southwesterly 1/4 of northwesterly 1/4 of northwesterly 1/4 (010-2710-06582)	north side of Trinity Road east of 22nd Avenue East extended (Duluth Heights)	municipal forest
Lands of Duluth, Section 31, Township 50, Range 14, north half of northwesterly 1/4 of northwesterly quarter except westerly 1/2 of westerly 1/2 and except easterly 360 feet of easterly 1/2 and except part platted as First Addition to Parkwood (010-2710-07926)	south side of Morris Thomas Road between Haines Road and Asbury Drive (Piedmont Heights)	wetland
Lot 2, Block 3, Lester Park First Division Duluth, (010-2830-00530)	south side of DM&IR (RRA) right-of-way between 56th and 57th Avenues East (Lester Park)	trail buffer
Lot 22, Block 7, Morgan Park First Addition Duluth, (010-3310-02830)	west side of 97th Avenue West south of Pencoyd Avenue (Morgan Park)	lack of utilities, steep hillside, trail buffer
Lot 31, Block 14, Morgan Park First Addition Duluth (010-3310-04360)	west side of 97th Avenue West between Pencoyd and Sharon Avenue (Morgan Park)	lack of utilities, steep hillside, trail buffer
Lot 32, Block 14, Morgan Park First Addition Duluth (010-3310-04370)	west side of 97th Avenue West between Pencoyd and Sharon Avenue (Morgan Park)	lack of utilities, steep hillside, trail buffer
Outlot A First Addition to Parkwood Duluth (010-3753-00150)	south side of Morris Thomas Road, west of Asbury Drive (Piedmont Heights)	drainage course

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Outlot B First Addition to Parkwood Duluth (010-3753-00160)	south side of Morris Thomas Road, west of Asbury Drive (Piedmont Heights)	drainage course
Outlot A Second Addition to Parkwood C of Duluth (010-3754-00720)	between Karl Avenue and Palisade Drive (Piedmont Heights)	wetland
Outlot B Second Addition to Parkwood C of Duluth (010-3754-00730)	between Parkwood Lane and Palisade Drive (Piedmont Heights)	wetland
Outlot C Second Addition to Parkwood C of Duluth (010-3754-00740)	between Parkwood Lane and Hanford Avenue (Piedmont Heights)	wetland
Lot 1, Block 11, Rearrangement part of Summit Park Division (010-4260-00630)	southwest corner of 13th Street and 5th Avenue West (antenna farm)	retain for antenna farm land assembly
Lot 2, Block 11, Rearrangement part of Summit Park Division (010-4260-00640)	southwest corner of 13th Street and 5th Avenue West (antenna farm)	retain for antenna farm land assembly
Lot 3, Block 11, Rearrangement part of Summit Park Division (010-4260-00650)	southwest corner of 13th Street and 5th Avenue West (antenna farm)	retain for antenna farm land assembly
Lot 4, Block 11, Rearrangement part of Summit Park Division (010-4260-00660)	southwest corner of 13th Street and 5th Avenue West (antenna farm)	retain for antenna farm land assembly
Lot 24, Block 11, Rearrangement part of Summit Park Division (010-4260-00860)	southwest corner of 13th Street and 5th Avenue West (antenna farm)	retain for antenna farm land assembly
Northerly 75 feet of Lots 3, 4 and 4 1/2, subject to increment financing, Block 190, West Duluth Seventh Division (010-4530-03860)	south side of Wadena Street between 52nd and 53rd Avenues West (Ramsey)	Spirit Valley community area study
Lot 16, Block 190, subject to increment financing, West Duluth Seventh Division (010-4530-03980)	north side of Ramsey Street between 52nd and 53rd Avenues West (Ramsey)	Spirit Valley community area study

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Lot 9, Block 9, Wilmington west side of 73rd Avenue West land assembly
Addition to West Duluth (010- between Redruth and
4630-01480) Sherburne Streets (Fairmount)

Resolution 98-0288 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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Resolution 98-0290, by Councilor Prettner Solon, vacating a portion of skywalk easement in the Holiday Center (Lyric Block), was introduced for discussion.

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

John Rathe, representing young Duluthians, questioned what portion of the Holiday Center is being vacated and raised concern that this vacation sets a precedent for vacating other public portions of the mall, which were paid for with public money, to turn it into a private building without any exchange of money or compensation.

Councilor Prettner Solon explained that this vacation involves a three foot by five foot extension to what was formerly Goldies Too to accommodate expansion for the Pioneer Bank, which will occupy the space. She continued by saying that, typically, there is no exchange of funds with regard to vacating space in the Holiday Center.

Resolution 98-0290 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a three foot deep by 14 foot wide portion of the skywalk easement as shown on the scaled drawing (Public Document No. 98-0413-24) on the second floor level of the property known as the Holiday Center, which property is legally described as: All of Lots 40 and 42, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 38, West First Street, Duluth Proper First Division. All of Lots 33, 35, 37, 39, 41, 43, 45 and 47, West Superior Street, Duluth Proper, First Division. All of First Alley between the common extended west line of Lot 42, West First Street, Duluth Proper, First Division and Lot 41, West Superior Street, Duluth Proper, First Division and the common east line extended of the westerly 40 feet of Lot 38, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 37, West Superior Street, Duluth Proper, First Division. All of Lots 40 and 42, West First Street, Duluth Proper, First Division and the westerly 40 feet of Lot 38, West First Street, Duluth Proper, First 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 March 25, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the skywalk easement described above and as more particularly described on Public Document No. 98-0413-24.

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 skywalk to be vacated.

Resolution 98-0290 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as: That ten foot wide utility easement, five feet either side of the common lot line between Lots 24 and 25, Block 1, Lepaks Second Addition; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its March 25, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above and as more particularly described on Public Document No. 98-0413-25.

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 utility easement to be vacated.

Resolution 98-0291 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council did, on July 27, 1970, adopt a resolution granting to Team Electronics a special use permit for the construction and operation of a 150 foot guyed communication tower and an eight foot by eight foot equipment building located on the upper side of West Ninth Street between Eighth and Ninth Avenues West, said property being legally described as: Lots 135, 137, 139, 141, Block 139, Duluth Proper Third Division; and

WHEREAS, Rural Cellular Corp., successor in interest to Team Electronics, has submitted to the city council a request for an amendment to said special use permit to replace the existing 150 foot guyed communication tower and eight foot by eight foot equipment building with a 250 foot self supporting tower and new 12 foot by 24 foot equipment building on said property 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 special use permit granted to Team Electronics, pursuant to the resolution of July 27, 1970, is hereby amended to allow Rural Cellular Corp., successor in interest to Team Electronics, to replace the existing 150 foot guyed communication tower and eight foot by eight foot equipment building with a 250 foot self supporting tower and new 12 foot by 24 foot equipment building on the above described property, on the condition that the tower be constructed and maintained in accordance with plans and drawings identified as Public Document No. 98-0413-27.

Resolution 98-0292 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>File No</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
98041	Karen Lynn Turnboom	Lot 12, Block 19, Kimberly and Strykers Addition (10-2660-2460)	northwest corner of 65th Avenue West and Nashua Street (West Duluth)
98043	William H. Lundberg	north 1/2 of Lot 6, D.P. First, Cascade Square (010-1040-00110)	west side of Lake Avenue between Sixth and Seventh Streets (Central Hillside)
98044	St. Louis County Land Department	west 1/2 of Lot 2, Block 35, Harrison's Division (10-2080-5030)	south side of Greysolon Road between 25th and 26th Avenues East (Congdon Park)
98046	Rhodie Lee McGath	Lots 23 and 24, Block 106, Myers Rearrangement, Duluth Proper Second Division (10-1170-550,560)	north side of Fifth Street east of 20th Avenue West (Lincoln Park/West End)
98049	Roger Bergh	that portion of Lot 7, Block 71, Harrison's Brookdale Division lying southwesterly of a line from the northwest corner of said Lot 7 to the southeast corner of said Lot 7. (10-2110-9460 partial)	lower side of Tenth Street between Voss and 22nd Avenue West (Lincoln Park/West End)
98050	Michelle Klassen	Lots 12-13, Block 21, rearranged part of east Duluth and First Addition to East Duluth (10-1370-3670, 3680)	west side of 30th Avenue East between Jefferson Street and Branch Street (Congdon Park)

Resolution 98-0296 was unanimously adopted.
 Approved April 13, 1998
 GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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 for off street parking and snow storage.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>File No.</u>	<u>Applicant name</u>	<u>Legal description</u>	<u>Location</u>
98039	City of Duluth	Lots 13-16, Block 29, Duluth Heights Sixth Division (10-890-9320, 9330, 9340, 9350)	west side of Ebony Street between Myrtle and Central Entrance (Duluth Heights)

Resolution 98-0297 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized and directed to transfer the sum of \$59,853 from Fund 450, Agency 015, Org. 1994, Obj. C423 to Fund 100, Agency 700, Org. 1417, Obj. 5490 relating to the neighborhood matching grant funds program.

FURTHER RESOLVED, that upon completion and close out of the neighborhood matching grant funds projects funded under Fund 450, Agency 015, Org. 1994, Object C423, the proper city officials are hereby authorized and directed to transfer all remaining monies in said Fund 450 to Fund 100, Agency 700, Org. 1417, Obj. 5490.

Resolution 98-0299 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, a copy of which is on file in the office of the city clerk as Public Document No. 98-0413-29 to City Contract No. 18047 with Klaers, Powers & Associates (KPA), adding services to be provided under the agreement and increasing the amount payable thereunder by \$8,200, payable from 1997 Federal Program Fund 262 - community development program administration Account No. 6034.

Resolution 98-0304 was unanimously adopted.
Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has received an additional funding allocation for the HUD-funded community development block grant (CDBG) program in the amount of \$95,000, based on the city's application to HUD for \$3,400,000 and the final grant award of \$3,495,000; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting on February 24, 1998, passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfers in the federal program Fund 262 - 1998 HUD-funded community development accounts as set forth below:

1998 Duluth HUD-funded CDBG program

<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Mod.</u>	<u>Revised</u>
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

6142	contingency	\$ 565	\$ 80,750	\$ 81,315
6129	Playfair Discovery Center	1,000	14,250	15,250

Resolution 98-0305 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0308, authorizing proper city officials to enter into an agreement with Soft Center Duluth to provide a business incubator facility in the Duluth Technology Village project, at a cost of \$100,000; and Resolution 98-0309, authorizing the expenditure of \$500,000 in municipal state aid highway funds in the year 1998 and \$500,000 in municipal state aid highway funds in the year 1999 for the Duluth Technology Village project, by Councilor Prettner Solon, were introduced for discussion.

Councilor Prettner Solon stated that the \$100,000 being allocated to the Duluth Technology Village project in Resolution 98-0308 is left over from the Northwest Airbus project and can only be used for economic development purposes.

To clarify questions raised by Councilor Gilbert, Mr. Nollenberger explained how the developer, A & L Partnership, was chosen for the project, why the city council was not included in the process of choosing a developer and that the development agreement is between the developer and the Duluth economic development authority (DEDA). He explained in detail what role Soft Center Duluth, a nonprofit agency whose board he has agreed to sit on as a director for a period of not longer than three years, will play in this project; how the nonprofit agency and its board were created; who its directors are and how they were chosen; what work the agency has already done; and how it is anticipated that it will function in the future. Regarding the utilization of municipal state aid (MSA) funds for skywalks, Mr. Nollenberger cited strict regulations that must be adhered to and prevent these funds from being used on non-MSA streets.

Councilor Gilbert and Mr. Nollenberger discussed at length how local businesses who are interested in the project may participate.

Responding to Councilor Swapinski, Mr. Nollenberger stated that the governor's veto of a bill that included funding for this project will not affect the funding for the first phase, but it will affect funding for the years 1999 and 2000.

Responding to Councilor Keenan, Mr. Nollenberger acknowledged that by authorizing the expenditures of 1998 and 1999 MSA funds for construction of the skywalk for this project, the completion of some street improvement projects may be pushed into future years. He acknowledged that a source for \$1.5 million of the funding necessary to complete Phase 2 of the project has not yet been identified. Regarding preallocation of 1999 MSA funds for the project, Mr. Nollenberger stated that the project will not be jeopardized if it is not approved at this time and that it is acceptable to deal with each phase of the project separately, if that is what the council wishes.

Responding to Councilor Edwards, Mr. Nollenberger stated MSA funding that could have been used for other street projects was used for the tunnels connecting the Radisson Hotel to the skywalk system. However, there is no way of knowing which specific projects were delayed because of it, because prioritization is used when scheduling projects to be completed.

Councilor Swapinski stated he disagrees with the prioritization policy for using MSA funds for projects such as this because he believes the city's infrastructure of its streets and sewers should take precedence. He stated that he supports the project, but he will oppose the use of MSA funding in this manner.

Councilor Keenan stated he supports the soft center project, but he is concerned that this project is moving forward before the whole financial package is put together. He stated that since all of the funding is not in place yet, and it will not jeopardize the project, he prefers to deal with only Phase 1 at this time. Councilor Keenan moved to amend Resolution 98-0309 by striking the words "and \$500,000 in municipal state aid highway funds in the year 1999" in the title, and the words "and \$500,000 in 1999" in the last paragraph of the body of the resolution, which motion was seconded for discussion.

Councilor Prettner Solon opposed the amendment, stating that this is an exciting opportunity to build new industry in Duluth that will provide good paying jobs. She emphasized the need to move quickly on the project even if it means shifting priorities. Councilor Prettner Solon noted that this project will have a number of positive impacts on the community and urged 100 percent support of the resolution as written.

Councilor Keenan emphasized his support for this project and that he just will feel more comfortable with it if the council approves each phase separately.

Responding to Councilor Hardesty, Mr. Nollenberger reiterated that he prefers to see the whole package approved at this time, but it will not jeopardize or compromise Phase 1 of the project if it is acted on separately.

Councilors Hardesty and Swapinski stated that they agree with Councilor Prettner Solon, but do not object to the amendment.

Councilor Edwards stated she also desires to deal with each phase separately and supported the amendment.

Councilor Keenan's amendment carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Swapinski and President Hogg -- 7

Nays: Councilors Prettner Solon and Rapaich -- 2

Councilor Swapinski stated that economic development cannot be attracted to Duluth if its infrastructure is crumbling beneath it or if the quality of life is not being sustained. He stated that for these reasons he supports the concept of the project, but opposes the method of financing through use of MSA funding.

Councilor Gilbert stated he shares Councilor Prettner Solon's enthusiasm for the project, but he believes the project should have had a public review. He continued by saying that he will probably support it, but wants to express his concerns and objections to the way it has gone forward, that is: DEDA is the body that has authorized most of this project; it has been designed by the Soft Center and excluded the city council, which is the connection between the government and the people. He stated that for legitimacy of the program, he does not feel he has been a part of it—the program was brought to the council already set in place with the players and developer already chosen and there was no open process for other businesses and people to be involved in the process which gives the impression that the views of local businesses and individuals were not welcome. Regarding the financing of the project, Councilor Gilbert stated that he agrees in principle with using MSA funds for the project if it is necessary. However, the council was given no opportunity to ask questions or look at other sources because it was all set in place when presented to the council.

Discussion ensued regarding information that has or has not been made available to councilors regarding this project and philosophies regarding expenditure of MSA funds for skywalks.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0308 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the Duluth City Council hereby authorizes the proper city officials to enter into an agreement with Soft Center Duluth to provide an incubator facility in the Duluth Technology Village project at a cost of \$100,000, said cost to be paid from Fund 425, Technology Village project fund.

Resolution 98-0308 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0309, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth (the city) is undertaking a project in cooperation with the Duluth economic development authority (DEDA) and with a private developer, which project will involve construction of office buildings and a parking facility and will be known as the Duluth Technology Village project; and

WHEREAS, the office buildings will have space available for tenants who are engaged in technology based businesses and will include space to be used by the University of Minnesota - Duluth and other institutions of higher education and will also include space for an incubator for small businesses with services and support provided for such small businesses which will be operated by an entity to be known as Soft Center Duluth; and

WHEREAS, the office buildings and parking facility will be located in a block in the old downtown area of the city which is bounded by Lake Avenue, Superior Street, East First Street and First Avenue East; and

WHEREAS, it is in the interest of the economic viability of the downtown area of the city to have buildings connected to each other by a skywalk system, including the construction of bridges over the street rights-of-way and pedestrian passageways within the buildings; and

WHEREAS, it will be necessary as part of the Duluth Technology Village project to construct a skywalk system which will include pedestrian passageways within the office buildings and bridge connections over Lake Avenue and First Avenue East, all at an estimated cost of \$4 million; and

WHEREAS, the construction of bridge connections over the street rights-of-way as a part of the skywalk system is an expenditure which is eligible for funding from the construction allotment of the municipal state aid funds provided to the city by the state of Minnesota for the purpose of improving and maintaining municipal state aid highways within the corporate limits of the city, and Lake Avenue and First Avenue East are designated as municipal state aid highways.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city hereby determines that municipal state aid funds will be used for the construction of the bridge connections for the proposed skywalk system for the Duluth Technology Village project in the amount of \$500,000 in 1998.

Resolution 98-0309, as amended, was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized enter into the second amendment to the amended and restated master financing agreement and development

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

agreement with the commissioner of finance of the state of Minnesota on behalf of the state of Minnesota, St. Louis County, the Duluth economic development authority, Northwest Airlines, Inc., NWA, Inc., and Northwest Airlines Corporation, a copy of which is on file in the office of the city clerk as Public Document No. 98-0413-30, modifying the amount of project tax increment proceeds available to pay off the state bonds.

Resolution 98-0333 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the West Duluth Little League authorizing the West Duluth Little League to operate two little league fields behind Wade Stadium in the 1998 baseball season for a consideration of \$3,500 to be deposited in street and park maintenance Account No. 100-500-1920-5103; said agreement filed as Public Document No. 98-0413-31.

Resolution 98-0286 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 98-0413-32, between the city of Duluth and the Piedmont Community Club, which authorizes the Piedmont Community Club to operate facility named in said agreement for recreational and community advancement purposes in consideration of the payment of \$8,400 per year by the city of Duluth.

RESOLVED FURTHER, that monies paid pursuant to this agreement be paid out of Parks and Recreation General Fund 100, Agency 400, Div. 1812, Obj. 5319.

Resolution 98-0298 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Metro Cash Register System be and hereby is awarded a contract for furnishing and delivering two computer driven cash registers with golf specific software enhancements for the Enger Golf Course and Lester Golf Course in accordance with specifications on its low specification bid of \$14,854.62, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0311 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Scotts Proturf Division be and hereby is awarded a contract for furnishing and delivering approximately 52,000 pounds of various fertilizers for the golf courses in accordance with specifications on its low specification bid of \$29,862.60, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 98-0331 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved April 13, 1998
GARY L. DOTY, Mayor

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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 city of Superior, Wisconsin, for the furnishing of traffic signal maintenance services by Duluth to Superior. Monies collected under said contract shall be deposited in Fund 100, Agency 500, Org. 1935, Revenue Source 4336.

Resolution 98-0264 was unanimously adopted.

Approved April 13, 1998
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 St. Louis County board of commissioners to provide public assistance social worker services for an amount not to exceed \$9,000 for the growth and achievement program (G.A.P.). Services will be provided by one half-time equivalent, fully trained and qualified social worker to the city's job training programs division at G.A.P. offices, located in the Duluth Y.W.C.A. Contract will run from April 1, 1998, through June 30, 1998. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0413-33.

FURTHER RESOLVED, that costs incurred shall be payable from Fund 269, Budget Item 6294, NDLX (\$6,000) Budget Item 6294, ORDX (\$2,000) and Budget Item 6294, First Bank grant (\$1,000).

Resolution 98-0265 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

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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 St. Louis County Board for the furnishing of meals for senior citizens for the period of January 1, 1998, through December 31, 1998. Monies collected under said contract shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6308, Revenue Source 4654.

Resolution 98-0267 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth Housing and Redevelopment Authority under which the city will receive \$149,868 to carry out the Duluth public housing drug elimination program, which agreement is on file in the office of the city clerk as Public Document No. 98-0413-34.

Resolution 98-0278 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to allow a St. Louis County staff person to occupy space in the job training programs division offices to St. Louis County and to provide clerical support for such staff person for the sum of \$750 per month, with funds received being deposited in Fund No. 269, Budget Item No. 6285. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0413-35.

Resolution 98-0302 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officers are hereby authorized to modify Agreement No. 17735 between the St. Louis County board of commissioners and the city of Duluth job training programs division by extending the contract dates through June 30, 1998, and increasing the total Minnesota family investment program (M.F.I.P.) funds by \$26,234, bringing total M.F.I.P. program budget to a total of \$860,027. A copy of this modification shall be on file in the city clerk's office as Public Document No. 98-0413-36.

FURTHER RESOLVED, that monies received under this modification shall be deposited in Fund 269, Budget item 6276.

Resolution 98-0303 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 98-0413-37); and

WHEREAS, the private parties have executed application agreements in accordance with Article VII, Division 2, Section 45, of the Duluth City Code; and

WHEREAS, the various parties desire to dedicate to the city of Duluth the constructed water and gas mains; and

WHEREAS, the water and gas department performed the inspection of the construction of said water and gas mains, plans of which are on file in the engineer's office of the water and gas department and now finds the construction to be wholly acceptable.

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the director of the water and gas department, the privately constructed water and gas mains as listed in Exhibit A are hereby accepted and he be authorized to include such water and gas mains as part of the water and gas system of the city of Duluth.

Resolution 98-0257 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, various private parties have constructed and paid for water and gas main extensions as listed in Exhibit A (Public Document No. 98-0413-38); 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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.

RESOLVED FURTHER, that the city council ratifies and approves the execution of the following water and gas main extension agreements and approves the granting of payment to the developer any connection charges 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 98-0258 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Schlumberger Industries, Inc., (\$7,934.25) and Fisher Controls, Inc., (\$7,960.88) be and hereby are awarded a contract for furnishing and delivering approximately 1,000 gas regulators for the gas division in accordance with specifications on their low specification total bid of \$15,895.13, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 98-0294 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that North Star Ford be and hereby is awarded a contract for furnishing and delivering two 1998 1-1/2-ton Ford cab and chassis with air compressors, service bodies and liftgates for the water and gas department in accordance with specifications on its low specification bid of \$95,055.51, terms net 30, FOB destination, \$47,527.76 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$47,527.75 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0314 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering approximately 115 repair clamps for the water and gas department in accordance with specifications on its low specification bid of \$5,988.50, terms net 30, FOB destination, \$2,994.25 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$2,994.25 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0322 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR GILBERT:

RESOLVED, that Bingham and Taylor, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,300 cast iron valve boxes and parts for the water and gas department in accordance with specifications on its low specification bid of \$23,133.70, net 30, FOB destination; \$11,566.85 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$11,566.85 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0323 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnesota Pipe and Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,500 feet of ductile iron pipe and 3,000 various fittings for the water and gas department in accordance with specifications on its low specification bid of \$76,906.63, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0326 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,000 cubic yards of pit run gravel for the water and gas department in accordance with specifications on its low specification bid of \$29,985, terms net 30, FOB job site; \$14,992.50 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227 and \$14,992.50 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0328 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0277, by Councilor Swapinski, of intent to increase the property tax levy in 1999 and subsequent years to provide funding for the continuation of police officer positions that have been funded by federal grants, was introduced for discussion.

Councilor Swapinski stated that this resolution states the council's intent to increase the tax levy, if necessary, to provide the funding that has been remiss to continue police officer positions. He noted that a previous resolution was tabled which would enable the council to hold a referendum to decide this issue. Councilor Swapinski further stated that the intent of this resolution is to bypass that referendum. He continued by saying that this resolution coincides with Ordinance No. 98-002 to fund the positions until the council goes through a budgetary process to either find an alternative source of funding or fund the positions by means of a tax levy increase.

Councilor Hales stated that taxpayers in her district have expressed opposition to the idea of raising taxes to fund these positions. She noted that the council has heard from the water and gas department that there will be a shortfall in the amount of revenues transferred to the general fund this year due to El Niño and that the administration is talking about empowering neighborhoods to maintain the park system. Councilor Hales stated that she opposes this

resolution now and if she was to support it, there needs to be a public hearing held for residents to show that they support an increase in taxes to fund this program.

Councilor Hardesty stated she will support the resolution in order for the council to indicate that it will maintain community policing at this point and not let unresolved budgets issues prevent making a decision on this issue. She continued by saying that the council can decide whether to raise taxes when the budget is discussed. Councilor Hardesty noted that taxes have been increased only once during the past 12 years and that she has heard support from a lot of people that the council should do whatever it takes to keep this program going. She said she believes that police services should not suffer because some revenues are down and that the council's responsibility is to decide how the services should be paid for without a referendum.

Councilor Gilbert stated that this resolution will eliminate the need for a referendum in the fall, but emphasized that the council is not making a decision to raise taxes by approving this resolution. He continued by saying that between now and the Fall, the council will have a chance to look at the budget to see if there are areas that can be scrutinized and the city can be more efficient in providing services. Councilor Gilbert explained that by indicating its support in this resolution, the administration is being given the authority to go to the reserve fund, if necessary, to fund some of the immediate costs involved with the financing of the police department, which he believes is a reasonable request. He noted that some police officers are presently working with uncertainty and that they deserve to have the security of knowing that their positions will be retained. Councilor Gilbert added that he is mindful of Councilor Hales' statements and noted that governments throughout the country have surplus funds, are giving money back and that Duluth should consider doing the same by investigating areas that may be able to pay their own way. He added that he must take the administration seriously when the council is given an ultimatum that officers, who are critical to the city's public safety, will be laid off in March if this authority is not granted. Councilor Gilbert stated he is not willing to allow the city's ability to provide public safety to be jeopardized and will support the resolution.

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At this time, 11:00 p.m., Councilor Hardesty moved to extend the meeting until 11:15 p.m., which motion was seconded and unanimously carried.

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Mr. Nollenberger clarified that the reason the federal government is in surplus is because new income taxes are generated as economic development grows. He noted that local governments do not receive income taxes, therefore, the only means available to increase revenues is by increasing property taxes. Mr. Nollenberger continued that the city intends to reduce police staff through attrition and has never indicated that there will be layoffs.

Councilor Rapaich noted that the most residents will pay for these services is approximately \$28 per year, which she believes is nominal. She urged support of the resolution.

Councilor Edwards stated that \$28 per year is a lot for those who must live on a fixed income. She added that police services should be provided for within the established budget and will not support the resolution.

President Hogg read the resolution in its entirety. He stated that he will not agree to raise taxes for five consecutive years and will not support this resolution.

Councilor Swapinski stated that if councilors and the administration cannot agree on how to reduce the budget to insure funding for the continuation of present police services, this resolution provides a last resort option. He further stated that he is willing to fund police officers, the visioning of the community police and the school liaison officers, because it is a matter of public safety. Councilor Swapinski continued by saying that councilors who will oppose this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

resolution cannot be in support of community policing and school liaison officers when they are not willing to fund the programs adequately. He noted that councilors have not been able to come up with an alternative way to fund these programs; this resolution will allow present positions to be maintained.

Councilor Hales stated that she supports community policing and to say that the school liaison program is being eliminated pushes emotional buttons and is unfair. She encouraged holding a public safety committee meeting to educate councilors about what the concept of community policing truly is. Councilor Hales added that to say that councilors who do not vote for a tax increase do not support the police department is wrong. She stated that there are areas within the police budget where she believes funding is not being used wisely and could be put to better use.

Councilor Prettner Solon stated that this issue has been discussed for the last nine months and that she has not heard anything new this evening. She moved to call the question, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hardesty, Prettner Solon, Rapaich and Swapinski -- 4

Nays: Councilors Edwards, Hales, Gilbert, Keenan and President Hogg -- 5

Councilor Gilbert stated that it does not matter whether Duluth collects income taxes or not, but how it chooses to use the funding that is available. He added that there are projects being funded by general fund revenues that, if prioritized, would receive a lower priority rating than public safety.

Councilor Keenan stated that the city needs to get back to basics in the services it provides; he will oppose the resolution.

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At this time, 11:15 p.m., Councilor Hales moved to extend the meeting until 11:30 p.m., which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Hales, Gilbert, Hardesty, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Keenan -- 1

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Discussion ensued regarding school liaison positions, what their function is and how they are funded.

Councilor Keenan moved to call the question, which motion was seconded unanimously carried.

Resolution 98-0277 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, the city has for a number of years received federal grants which have enabled the implementation of a community policing program and enhanced street patrols during high crime periods through the employment and training of additional police officers; and

WHEREAS, it appears that federal funding for these purposes will not be available in future years; and

WHEREAS, the mayor and city council believe that these programs have had a very beneficial effect on our city and believe that such programs should be continued with local funding; and

WHEREAS, continuation of such programs will require an increase in the city's property tax levy of \$596,760 in 1999, and an increase in such levy of approximately \$200,000 in years 2000, 2001 and 2002.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby signifies its intent to increase the city's property tax levy in 1999, 2000, 2001 and 2002 to support continuation of community policing programs and enhanced police street patrols presently funded by federal grants.

Resolution 98-0277 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Bellis Street from Minneapolis Avenue to 1,000 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 98-0249 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by Resolution of Intent numbered 98-0249, the council did request the administration to prepare plans and specifications for the construction of a sanitary sewer in Bellis Street from Minneapolis Avenue to 1000 feet easterly (City Job No. 9029SA98); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board, proper notice has been sent to the benefiting property owners, the special assessment board has conducted a hearing to meet and hear any person affected by the proposed improvement or assessment, the special assessment board has submitted its report to this council pursuant to Section 45-79, Duluth City Code of 1959, and the said board, at the direction of the mayor, has furnished this council with information as required by Section 45-80 of the Duluth City Code of 1959.

NOW, THEREFORE, BE IT RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$16,000, payable from the Special Assessment Fund 810, Agency 038, organization, object, that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited, which land and premises are described in the report of the special assessment board and which report is on file in the office of the city clerk as Public Document No. 98-0413-20(b), and which description is hereby incorporated herein by reference to Public Document No. 98-0413-20(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 satisfy all the requirements of Section 60 of the Charter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 98-0287 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the city of Duluth hereby accepts a utility easement hereinafter described from Suzanne I. Murphy at no cost to the city: A ten foot utility easement over, under and across that part of the westerly 33 feet of vacated Oregon Avenue, formerly Niagara Street, abutting Lot 12, Block 23, Duluth Heights 6th Division, more particularly described as follows: The easterly ten feet of the westerly 33 feet of vacated Oregon Avenue, formerly Niagara Street, lying adjacent to Lot 12, Block 23, Duluth Heights 6th Division.

RESOLVED FURTHER, that the city of Duluth hereby accepts a utility easement hereinafter described from Donald P. Johnson and Jeanette M. Johnson at no cost to the city: A ten foot utility easement over, under and across that part of the easterly 33 feet of vacated Oregon Avenue, formerly Niagara Street, abutting Lot 32, Block 22, Duluth Heights 6th Division, more particularly described as follows: The westerly ten feet of the easterly 33 feet of vacated Oregon Avenue, formerly Niagara Street, lying adjacent to Lot 32, Block 22, Duluth Heights 6th Division.

Resolution 98-0259 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0266, by Councilor Swapinski, accepting the private construction of a sanitary sewer in Miller Trunk Highway to serve Block One, Miller Creek Division (Kohl's Department Store), was introduced for discussion.

Councilor Hales stated that requirements for the project which were established by a previous council have not been met. She moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute an acceptance of a proposal from West Central Environmental Consultants under which such firm would receive 25 percent of any reimbursement the city received from the state petrofund for expenses incurred in its underground storage tank removal project, which proposal is on file in the office of the city clerk as Public Document No. 98-0413-26.

Resolution 98-0268 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Potters Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 40,000 glass beads for the traffic operations division in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

accordance with specifications on its low specification bid of \$7,859.70, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 98-0270 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that M-R Sign Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 1,200 sign posts for the traffic operations division in accordance with specifications on its low specification bid of \$5,855.37, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 98-0273 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Minnesota Power Company be and hereby is awarded a contract for relocation of city owned street lights for the 1998 street improvement program in accordance with specifications on its low specification bid of \$10,000, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9800, Object 5319.

Resolution 98-0274 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of the Norton Park West 1998 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$679,842.09, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9802, Object 5530.

Resolution 98-0279 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0281, by Councilor Swapinski, awarding contract to K.G.M. Contractors, Inc., for construction of Skyline Parkway turnaround (from Glenwood Street to First Street), to increase the amount by \$33,342.46 for a new total of \$146,808.16, was introduced for discussion.

Councilor Swapinski moved to amend the resolution and title by changing the words "First Street" to "first turnaround," which motion was seconded and unanimously carried.

Resolution 98-0281, as amended, was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0294 to K.G.M. Contractors, Inc., for construction of Skyline Parkway turnaround (from Glenwood Street to first turnaround) be amended to increase the amount by \$33,342.46 for a new total of \$146,808.16, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9506, Object 5530.

Resolution 98-0281, as amended, was unanimously adopted.

Approved April 13, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Amsign Corporation be and hereby is awarded a contract for furnishing and delivering approximately 830 traffic signs for the traffic operations division in accordance with specifications on its low specification bid of \$14,826.08, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 98-0295 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Theco, Inc., be and hereby is awarded a contract for rental of a screener and conveyor for the street maintenance division in accordance with specifications on its low specification bid of \$8,040.75, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 98-0316 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0903 to Seaway Engineering Company for furnishing construction engineering services required for the 1998 street improvement program for the upper Woodland East-2 project be amended to increase the amount by \$136,122 for a new total of \$269,182, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9805, Object 5530.

Resolution 98-0317 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0905 to L.H.B. Engineers and Architects for furnishing construction engineering services required for the 1998 street improvement program for the Lower Lakeside project be amended to increase the amount by \$219,648 for a new total of \$388,191, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9801, Object 5530.

Resolution 98-0318 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0904 to Salo Engineering, Inc., for furnishing construction engineering services required for the 1998 street improvement program for the Norton Park West project be amended to increase the amount by \$67,500 for a new total of \$143,700, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9802, Object 5530.

Resolution 98-0319 was unanimously adopted.

Approved April 13, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0902 to R.R.E.M., Inc., for furnishing construction engineering services required for the 1998 street improvement program for the Upper Lincoln Park project be amended to increase the amount by \$50,620 for a new total of \$138,354, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9804, Object 5530.

Resolution 98-0320 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of Upper Lincoln Park 1998 street improvements for the engineering division in accordance with specifications on its low specification bid of \$460,733.70, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9804, Object 5530.

Resolution 98-0325 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Billington Contracting, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 2,395 cubic yards of Class 5 gravel and 2,000 cubic yards of bedding sand for the street maintenance division and sewer division in accordance with specifications on its low specification bid of \$27,182.61, terms net 30, FOB job site, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0327 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of a retaining wall at Skyline Boulevard for the engineering division in accordance with specifications on its low specification bid of \$264,141.37, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2125, Object 5530.

Resolution 98-0330 was unanimously adopted.

Approved April 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota department of transportation for the construction of a storm sewer replacement in London Road near 52nd Avenue East at an estimated cost of \$99,363. The city's cost in this project will be funded out of the Permanent Improvement Fund 411 with partial reimbursement from Minnesota department of transportation.

Resolution 98-0335 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved April 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Baker Fire Equipment be and hereby is awarded a contract for furnishing and delivering 20 sets of fire fighter O.S.H.A. required protective clothing (turnout gear) for the fire department in accordance with specifications on its low specification bid of \$12,380, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject to budget allocations and the agreement of both parties.

Resolution 98-0272 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

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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. 98-0413-28, between the city of Duluth and Arrowhead Regional Corrections for the purposes of providing services of processing and assessment of juvenile offenders at a cost to the city of \$40,000, to be paid from the Minnesota Cities Grant Program, Police Special Revenue Fund 268, Agency 031, Organization 6225, Activity SCXX, Object 0033.

Resolution 98-0306 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Orchard Knoll Kennels, Inc., be and hereby is awarded a contract for furnishing two USPCA trained police dogs for the police department in accordance with specifications on its low specification bid of \$9,585, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5441.

Resolution 98-0312 was unanimously adopted.

Approved April 13, 1998
GARY L. DOTY, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT HOGG

98-002 (9364) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET USING UNDESIGNATED, UNRESERVED FUND BALANCE AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

Councilor Swapinski moved to remove the ordinance from the table, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Prettnner Solon, Rapaich and Swapinski -- 6

Nays: Councilors Hales, Keenan and President Hogg -- 3

President Hogg stated that the ordinance authorizes use of city reserve funds and if the council is to handle it responsibly, much more discussion is necessary.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon stated that this issue has been discussed extensively, that there has been a significant amount of public input, and that she believes the council has had sufficient time to make a decision. She urged the council to vote on the ordinance at this time.

Councilor Hales noted that it is 11:20 p.m. and the public has had no notification that this issue would be discussed and voted on this evening. She stated she will not support the ordinance. Councilor Hales added that there are six officers retiring in the Spring, that there is not a gap in the budget that requires action tonight, and to treat this ordinance as though there is an emergency is ridiculous. She urged retabling the ordinance.

- - -

At this time, 11:25 p.m., Councilor Hardesty moved to extend the meeting until 11:45 p.m., which motion was seconded and failed upon the following vote:

Yeas: Councilors Hardesty and Swapinski -- 2

Nays: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Rapaich and President Hogg -- 7

- - -

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

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich, and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

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

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich, and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

- - -

At this time, 11:30 p.m., Councilor Hardesty moved to extend the meeting until 11:35 p.m., which motion was seconded and carried upon a unanimous vote.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR EDWARDS

98-012 - AN ORDINANCE ESTABLISHING UNIFORMITY IN SOLID WASTE COLLECTORS BASE RATE FILINGS AND BILLING STATEMENTS; AMENDING SECTION 24-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR PRETTNER SOLON

98-009 - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56 AND 50-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST HOMESTAYS.

- - -

BY COUNCILOR PRETTNER SOLON

98-011 - AN ORDINANCE MODIFYING SIGN REGULATIONS; AMENDING CHAPTER 44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR HALES

98-010 - AN ORDINANCE PROVIDING FOR THE OPERATION AND LICENSING OF MOTOR VEHICLES PROVIDING SIGHTSEEING OR RECREATIONAL RIDES; ADDING A NEW ARTICLE II TO CHAPTER 47 AND AMENDING SECTION 47-16 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 11:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9364

BY PRESIDENT HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 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 9358 passed and approved December 15, 1997, is hereby amended by appropriating an additional \$355,800 from the general fund's undesignated, unreserved fund balance as follows:

Department 700 - transfers.....\$355,800

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: April 13, 1998)

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

Yeas: Councilors Gilbert, Hardesty, Prettner Solon, Rapaich and Swapinski -- 5

Nays: Councilors Edwards, Hales, Keenan and President Hogg -- 4

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 13, 1998

Approved April 13, 1998

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 27, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on October 14, 20 and 27, 1997, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0427-01 Ben and Mary A. Boo submitting petition to vacate unused utility easement on the east boundary of Lot 1, Vermilion Road Addition. -- Assessor

- - -

REPORTS OF OFFICERS

98-0427-02 Engineering division submitting April, 1998, monthly project status report. -- Received

98-0427-03 Purchasing agent submitting emergency order to Anderson Fuel & Lube, Superior, Wisconsin, to supply chemicals to the Lake Superior Zoo. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

98-0427-04 Heritage preservation commission minutes of March 11, 1998, meeting. -- Received

98-0427-05 Lawful gambling commission minutes of: (a) February 26; (b) February 27; (c) March 12; (d) April 3, 1998, meetings. -- Received

98-0427-06 Sanitary sewer board of WLSSD minutes of April 6, 1998, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price spoke regarding the safety at Bayfront and the liability of the city should someone fall in the water. He suggested putting netting in the water to prevent anyone from drowning.

- - -

RESOLUTION RECONSIDERED

Councilor Swapinski moved to reconsider Resolution 98-0309, authorizing the expenditure of \$500,000 in municipal state aid highway funds in the year 1998 for the Duluth Technology Village project, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 5

Nays: Councilor Edwards, Hales, Prettner Solon and Rapaich -- 4

Councilor Swapinski stated that he did not vote the way he wanted to on the resolution and wants to be on record as being opposed to that resolution.

Resolution 98-0309 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth (the city) is undertaking a project in cooperation with the Duluth economic development authority (DEDA) and with a private developer, which project will involve construction of office buildings and a parking facility and will be known as the Duluth

Technology Village project; and

WHEREAS, the office buildings will have space available for tenants who are engaged in technology based businesses and will include space to be used by the University of Minnesota - Duluth and other institutions of higher education and will also include space for an incubator for small businesses with services and support provided for such small businesses which will be operated by an entity to be known as Soft Center Duluth; and

WHEREAS, the office buildings and parking facility will be located in a block in the old downtown area of the city which is bounded by Lake Avenue, Superior Street, East First Street and First Avenue East; and

WHEREAS, it is in the interest of the economic viability of the downtown area of the city to have buildings connected to each other by a skywalk system, including the construction of bridges over the street rights-of-way and pedestrian passageways within the buildings; and

WHEREAS, it will be necessary as part of the Duluth Technology Village project to construct a skywalk system which will include pedestrian passageways within the office buildings and bridge connections over Lake Avenue and First Avenue East, all at an estimated cost of \$4 million; and

WHEREAS, the construction of bridge connections over the street rights-of-way as a part of the skywalk system is an expenditure which is eligible for funding from the construction allotment of the municipal state aid funds provided to the city by the state of Minnesota for the purpose of improving and maintaining municipal state aid highways within the corporate limits of the city, and Lake Avenue and First Avenue East are designated as municipal state aid highways.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city hereby determines that municipal state aid funds will be used for the construction of the bridge connections for the proposed skywalk system for the Duluth Technology Village project in the amount of \$500,000 in 1998.

Resolution 98-0309 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0046, calling a special municipal election on November 3, 1998, for an advisory referendum on an increase in the property tax levy to provide funding for the continuation of police officer positions that have been funded by federal grants, from the table, which motion was seconded and unanimously carried.

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

- - -

Councilor Edwards moved to remove Resolution 98-0321(a), approving the exemption of a raffle license for Northland Motorcycles Riders Association, from the table, which motion was seconded and unanimously carried.

Councilor Edwards stated that she has talked to the police department and the organization is ready to move forward with a new person in charge who will be approved by the police department.

Resolution 98-0321(a) was adopted as follows:

BY COUNCILOR EDWARDS:

WHEREAS, Northland Motorcycles Riders Association 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 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 Northland Motorcycles Riders Association 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 98-0321(a) was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY PRESIDENT HOGG

98-0350R - RESOLUTION AMENDING THE STANDING RULES OF THE CITY COUNCIL BY ADDING A NEW RULE 5A PERMITTING COUNCILORS TO PARTICIPATE IN COUNCIL MEETINGS BY SPEAKER PHONE.

- - -

Resolution 98-0340, by President Hogg, approving the budget for the fiscal year May 1, 1998, to April 30, 1999, in the following amount of \$3,239,733 for the Spirit Mountain recreation area authority, was introduced for discussion.

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Rapaich, Swapinski and President Hogg -- 6

Nays: Councilors Hales, Keenan and Prettner Solon -- 3

- - -

BY PRESIDENT HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following contracts:

Sanitary sewer in Rice Lake Road from Baylis Street to Blackman Avenue		
(Contract No. 5257)	Sewer fund	\$ 62,566.00
	Total assessable	165,127.20
Bristolwood Phase 1, Chinook Drive and Sockeye Drive		
(Contract Nos. 5292, 1196121, 1196132)		
	Total assessable	495,404.36
Maple Ridge Phase 1, Hickory Street and Silverberry Circle		
(Contract Nos. 5255, 1193011, 119301)		
	Total assessable	373,480.80

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Demolition of buildings (Contract No. 5307)	Total assessable	33,793.00
Reroute sanitary sewer at 29th Avenue East and Jefferson Street (Contract No. 5295)	Total assessable	22,648.93

be and the same are hereby confirmed.

Resolution 98-0341 was unanimously adopted.
Approved April 27, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0393, by President Hogg, authorizing execution of a collective bargaining agreement between the city and International Association of Firefighters, Local 101, was introduced for discussion.

Councilor Keenan voiced concern of the financial management of the city with the administration needing to find \$3 million for the city employees' pay increases. He requested that the administration update the council on where the money will be coming from to finance these increases.

Resolution 98-0393 was adopted as follows:

BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and International Association of Firefighters, Local 101, covering years 1997 and 1998, which agreement contains the terms and conditions in the agreement between the parties in effect in 1996 and those changes to the 1996 agreement ordered in the binding arbitration award of arbitrator Jack Flagler, dated April 8, 1998, which is on file with the city clerk as Public Document No. 98-0427-07.

Resolution 98-0393 was unanimously adopted.
Approved April 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Mobile Concepts Scotty RV be and hereby is awarded a contract for furnishing and delivering a fire safety house for the fire department in accordance with specifications on its low specification bid of \$29,935.02, terms net 30, FOB destination; \$19,935.02 payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5459 and \$10,000, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E838.

Resolution 98-0347 was unanimously adopted.
Approved April 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

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

	<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
1.	Welch Center, Inc.	Limit Bar	March 23, 1998
2.	Duluth Amateur Basketball Assoc.	Sneakers Sports Bar	April 15, 1998

Resolution 98-0356 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0359, by Councilor Edwards, approving the issuance of an on sale wine license to Kenrite, Inc. (Bulldog Pizza and Deli), 1600 Woodland Avenue, was introduced for discussion.

Councilor Hales stated she is opposed to the resolution because she feels it is not appropriate for wine and beer to be sold next to a library.

Resolution 98-0359 was adopted as follows:

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of an on sale wine license for the period ending August 31, 1998, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Kenrite, Inc. (Bulldog Pizza and Deli), 1600 Woodland Avenue, with Ken Wright, president and 42-1/2 percent stockholder, Susan Wright, 42-1/2 percent stockholder and Peter Hermans, 15 percent stockholder.

Resolution 98-0359 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and approves the issuance of an on sale wine license for the period beginning May 1, 1998, and ending April 30, 1999, and the period ending August 31, 1998, respectively, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Marvin Lee Pomeroy (Heaven), 114 East First Street.

Resolution 98-0360 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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:

College of St. Scholastica, 1200 Kenwood Avenue, for May 6 and 8, 1998, with Melanie J. Rotz, manager.

Western Softball Team (Early Bird Tournament), Wheeler Field, for May 30 and 31, 1998, with Jerry Hill, manager.

Resolution 98-0361 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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:

SS&P of Duluth, Inc. (Western Tavern), 2801 West Superior Street, for May 30, 1998, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Resolution 98-0362 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following renewal applications for on sale nonintoxicating malt liquor licenses for the period beginning May 1, 1998, and ending April 30, 1999, 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. 98-0427-08.

Resolution 98-0363 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following renewal applications for off sale nonintoxicating malt liquor licenses for the period beginning May 1, 1998, and ending April 30, 1999, 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. 98-0427-09.

Resolution 98-0364 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0366, by Councilor Edwards, authorizing a contract with the Minnesota Council on Compulsive Gambling, Inc., for the operation of a compulsive gambling assessment and prevention program for at risk youth during 1998, at a cost to the city of \$24,044, was introduced for discussion.

Responding to Councilor Swapinski's questions of who decides what and how expenditures from the casino profits are spent, Administrative Assistant Nollenberger replied that the procedure is set up in the charter and requests are made to the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Betty George stated that this program is geared toward at risk youth and was originally looked at in conjunction with the police department along with input from social services. It will be based in the Lincoln Park substation.

Resolution 98-0366 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to contract with the Minnesota Council on Compulsive Gambling, Inc., for operation of a compulsive gambling assessment and prevention program for at-risk youth during 1998, at a cost to the city of \$24,044, which shall be payable from General Fund 015-1514 aid to other agencies.

Resolution 98-0366 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that United Rotary Brush Corporation be and hereby is awarded a contract for furnishing and delivering 90 sets of sweeper gutter brooms for the street maintenance division in accordance with specifications on its low specification bid of \$5,838.22, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0369 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Goodwill Industries Vocational Enterprises (\$23,548.70), Blotti and Sons Contracting (\$21,509.32) and Northern Pines Landscaping (\$7,708.47) be and hereby are awarded a contract for furnishing grass cutting services for the various departments/divisions in accordance with specifications on their low specification bids of a total of \$52,766.49, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0376 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Duncan Industries be and hereby is awarded a contract for furnishing and delivering 50 replacement meter mechanisms and one data terminal for the traffic operations division in accordance with specifications on its low specification bid of \$9,848.59, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E831.

Resolution 98-0379 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

ORDINANCES TABLED

BY COUNCILOR PRETTNER SOLON

98-007 (9365) - AN ORDINANCE REQUIRING EROSION AND SEDIMENT CONTROL IN THE CITY, ADDING A NEW CHAPTER 18 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

President Hogg moved to remove from the table and consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Keenan moved to amend the ordinance on page 3, Section 18-4(a), by replacing "20,000 square feet" with "10,000 square feet," which motion was seconded for discussion.

Councilor Keenan urged support of this amendment and ordinance as the main purpose of the ordinance is the protection of watersheds going into Lake Superior. He went on by saying that this is possible through a permit process and an enforcement process. Councilor Keenan reviewed that Darrell Lewis, physical planning division manager, had stated that much of the erosion control occurs between the 10,000 and 20,000 square feet of property and development and this should help this problem.

Councilor Keenan's amendment was unanimously carried.

Councilor Prettner Solon moved passage of the ordinance and the same was unanimously adopted.

- - -

BY COUNCILOR SWAPINSKI

98-006 - AN ORDINANCE ESTABLISHING A STORMWATER UTILITY SYSTEM; ADDING A NEW ARTICLE XI TO CHAPTER 43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Hardesty stated that she needs a clearer definition of user in this ordinance before she can vote on the ordinance. She moved to retable the ordinance for more information, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Rapaich and President Hogg -- 6

Nays: Councilors Keenan, Prettner Solon and Swapinski -- 3

- - -

The regular order of business was resumed at this time.

- - -

BY COUNCILOR RAPAICH:

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

NONDOMESTIC ANIMAL COMMITTEE

Cherie Franzen (Animal Humane Society) for a term expiring October 1, 2001.

Lisa Jeanetta (veterinarian) for a term expiring October 1, 2000.

Zoo director (ex officio) for an indefinite term.

Resolution 98-0338 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0339, by Councilor Rapaich, approving proposed amendments to the specifications for the civil service classification of employment technician, was introduced for discussion.

Councilor Hales questioned why the changes in the employment technician did not take place earlier and stated that she has received complaints about the staff in the office and that they are not doing their job well.

Resolution 98-0339 was adopted as follows:

BY COUNCILOR RAPAICH:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that the proposed amendments to the specifications for the civil service classification of employment technician which were approved by the civil service board on April 7, 1998, and which are filed with the city clerk as Public Document No. 98-0427-10, are approved, that said classification is subject to the city's collective bargaining agreement with its basic unit employees and that the pay range will change from Pay Range 127, pay rate of \$2,151 to \$2,535 per month to Pay Range 131, pay rate of \$2,535 to \$2,998 per month.

Resolution 98-0339 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

At this time, 9:30 p.m., Councilor Hardesty left her seat.

- - -

Resolution 98-0342, by Councilor Rapaich, confirming appointment of Betsy Little to housing and redevelopment authority replacing Neal Hessen, was introduced for discussion.

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

- - -

BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Deanne M. Westermann (West Duluth) for a term expiring March 1, 2000, replacing Fay Bibeau who resigned.

Resolution 98-0343 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Martin DeWitt for a term expiring March 30, 2001, replacing Jean LeRoy.

Resolution 98-0351 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH PUBLIC ARTS COMMISSION

Larry Turbes for a term expiring September 30, 1999, replacing Robert Leff who resigned.

Resolution 98-0357 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

LAWFUL GAMBLING COMMISSION

Edwin S. Levey for a term expiring April 30, 1999, replacing Gregory Goldman who resigned.

Resolution 98-0358 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

- - -

At this time, 9:35 p.m., Councilor Hardesty returned to her seat.

- - -

Resolution 98-0300, by Councilor Prettner Solon, of intent to enter into agreements and to issue bonds pertaining to Lake Superior Center, was introduced for discussion.

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

Arend Sandbulte reviewed that the Lake Superior Center board has given the councilors large amounts of information and discussion. He stated that there has been a strong case given for building the center with reasonable risk and urged support of the resolution.

Bill Mittlefehldt, an Anoka High School teacher, urged support of the resolution as he has been a part of the project for two years. He stated that his students have been working with the Lake Superior Center and spread their knowledge of the Great Lakes area through newsletters and the Internet. Mr. Mittlefehldt stated that teachers will be excited about this center as it will be a partner with the teachers and become a learning mechanism for their students.

John Goldfine, Jim Gels and Robert Mars voiced support for the resolution for the following reasons: it would be a great place for Duluthians to take their families; it would be a catalyst for the tourist industry as the visitor industry is Duluth's largest employer; it's the last piece of development of the Canal Park area; it's a project that combines education, the environment and progress into one development; and this project has been thoroughly researched and funding is all in place except for a narrow piece that the city needs to support.

Greg Price, representing Evergreen Environmental, reviewed that the purpose of Lake Superior Center is to educate the public about Lake Superior. He continued by saying that if the mission is to truly educate, the center should serve as an advocate to the restoration of Lake Superior to its historic condition to which there was zero discharge of toxic waste and the native species of fish would be restored.

George Sundstrom, representing the building trades, voiced his support of the project and hoped that the council will adopt this resolution.

Mike Conlan urged support of this resolution as it is a joint venture for business, labor and government. He continued by saying that this project may look risky now, but in retrospect it will show that it brought strength to the community.

Don Monroe, representing the Citizens Research Council, stated the major concern of the research council is with the financing package. He stated that the bonding debt of the city and also the shared bonding debt with other government entities is too high.

Tom Paradise, representing FIGHT of Minnesota, urged support of the resolution as he feels that this project will have little or no impact on the taxpayers in the area.

Councilor Keenan moved to amend the title and body of the resolution to read as follows:

“RESOLUTION OF INTENT TO ENTER INTO AGREEMENTS AND TO MAKE A G.O. PLEDGE PERTAINING TO LAKE SUPERIOR CENTER.

WHEREAS, the city council (the “council”) of the city of Duluth (the “city”) has been involved in the Lake Superior Center project (the “project”) for many years and has invested city’s funds in furtherance of the project; and

WHEREAS, the council has determined that the project is in furtherance of the city’s economic development plans and is necessary to the economic well-being of the community; and

WHEREAS, Lake Superior Center, Inc.(“LSC, Inc.”), a private nonprofit Minnesota corporation, has proposed to enter into an operating agreement with the Lake Superior Center authority (the “authority”), a public corporation under the laws of the state of Minnesota, which will be the owner of the project; and

WHEREAS, the Duluth economic development authority (“DEDA”) has committed to issue an additional \$4.44 million in tax increment revenue bonds, payable from Tax Increment District No.4 (Waterfront and Historic District) for the benefit of the project; and

WHEREAS, the authority and LSC, Inc., are in need of an additional amount for capital construction of approximately \$1.92 million plus issuance and discount costs; and

WHEREAS, the anticipated tax increment revenues from Tax Increment District No. 4 are expected to be sufficient to pay the additional principal and interest on additional DEDA bonds which could provide such an amount; and

WHEREAS, the principal and interest payable on the \$4.44 million bond issue to which DEDA is already committed and on the additional amount of \$1.92 million could be materially reduced if the city agreed to approve the issuance of such bonds with the backing of the full faith and credit of the city; and

WHEREAS, the state of Minnesota has conditioned its contribution of approximately \$16 million to the project upon the requirement that the city guaranty that any operating deficits of the project will be funded from sources other than the state of Minnesota; and

WHEREAS, city is willing to make such a guaranty and to provide such backing to such bonds for the benefit of the project under the conditions that LSC, Inc., agree that city be entitled to budgetary approval and financial oversight of the project with regard to those factors of its operations which will have an impact on gross revenues, expenses and operating surpluses ; and

WHEREAS, the details of city’s involvement in the operations of the project have yet to be determined.

RESOLVED, that the city council does hereby request that the board of commissioners of the Duluth economic development authority authorize the issuance of \$6.34 million in tax increment revenue bonds payable from the tax increment cash flow from Tax Increment District No. 4.

FURTHER RESOLVED, that the city council does hereby approve the proposed financing plan for the project and express its intent to approve backing such bonds with the full faith and credit of the city and to further back up to \$1.92 million in principal amount of such bonds with subject to LSC, Inc., entering into an agreement with city granting city:

(a) The commitment of LSC, Inc., to repay \$1.92 million of the principal of the above bonds to DEDA at the option of city together with all interest thereon and costs of issuance thereof from “surplus revenues” of the project or future fund raising efforts or both;

(b) Budgetary approval and, if needed, financial oversight of the project with regard to those factors of its operations which will have an impact on gross revenues, expenses and operating surpluses ;

(c) That the authority joining in such an agreement if necessary," which motion was seconded for discussion.

Councilor Keenan explained that he is looking for another option for funding for the city's share without using city bonding. He continued by saying that it is using all of the reserve \$1.3 million TIF money in District No. 4 to reduce the amount needed to bond down to \$5 million, which brings down the annual payments to a more workable figure. Councilor Keenan stated that there is a steady cash flow of money in that TIF district that would be of no risk to the city for those bonds, and if there was a shortage of funds, it would be backed up by tourism money. He said that this project has been billed as an economic development project, and DEDA's responsibility is economic development for the city. Councilor Keenan added that this project then can be done without any further city financial debt or risk to the city.

Councilor Prettner Solon stated that after thinking about this amendment, her concern is that there would be a lack of flexibility that would be available to DEDA because the funds would be dried up and would limit the amount of money that could be turned over to other projects in that TIF district. She reviewed that DEDA is already in the project for a significant amount of money and that the city needs to have some investment into this project as they will have some oversight in the operation of the project.

Councilor Hales stated that there is a large amount of support for this project in her district, but that the TIF money used in the district can help out different projects in the Downtown and Hillside area, and therefore, she cannot support the amendment.

Councilor Swapinski stated that he supports the amendment as it reduces the risk to the Convention and Visitor's Bureau and tourism dollars as they need to start working on filling the Duluth Entertainment Convention Center expansion. He continued by saying this puts the main responsibility on DEDA, as this is a development project.

Councilor Keenan's amendment failed upon the following vote:

Yeas: Councilors Gilbert, Keenan and Swapinski -- 3

Nays: Councilors Edwards, Hales, Hardesty, Prettner Solon, Rapaich and President Hogg -- 6

Councilor Prettner Solon moved to call the question, which motion failed upon the following vote:

Yeas: Councilors Edwards, Hales, Prettner Solon and Rapaich -- 4

Nays: Councilors Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 5

Councilor Keenan stated that this project is good and that he supports the project, but that he has concerns over the attendance figures needed to break even on the public obligation debt. He continued by saying that another concern of his is the high debt load the city has from bonding, and is also concerned about the city's responsibility to back up all operational costs of Lake Superior Center.

Councilor Gilbert stated that although this seems to be a good project and very responsible people have been working on this project, there are several concerns that he would like to address. He stated that this is a large financial project and that he is concerned that the city is responsible for any shortfalls in the operating costs of the center. Councilor Gilbert reminded the councilors that when the state approved the money for this project, it also stipulated that the city be responsible for the operating costs and no more money would be available from the state. He continued by saying that the taxpayers are telling him that there are too many projects happening which will cause an increase in taxes which they do not want. Councilor Gilbert emphasized that the money going to this project should be used on traditional city functions and not gambling the money on this new project. He also stated concern about the large number of visitors that are

needed to break even and doubted if the figure is accurate. Councilor Gilbert reminded the council that the city hired a company to study Bayfront to see what should be developed in that area and suggested the council wait on this project until the study is completed.

Councilor Swapinski stated that he thinks the project is good but has reservations on the projected attendance figures and the possible liability to the taxpayers and cannot vote for the project at this time.

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

Resolution 98-0300 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council (the council) of the city of Duluth (the city) has been involved in the Lake Superior Center project (the project) for many years and has invested city's funds in furtherance of the project; and

WHEREAS, the council has determined that the project is in furtherance of the city's economic development plans and is necessary to the economic well-being of the community; and

WHEREAS, Lake Superior Center, Inc. (LSC, Inc.), a private non-profit Minnesota corporation, has proposed to enter into an operating agreement with the Lake Superior Center Authority (the authority), a public corporation under the laws of the state of Minnesota, which will be the owner of the project; and

WHEREAS, the authority and LSC, Inc., have requested that city issue revenue bonds for the benefit of the project in the amount of approximately \$1.92 million plus issuance and discount costs reimbursable from the proceeds of future private fund-raising activities and to the extent not so reimbursed, payable from the operating surpluses of the project, but whose repayment would be backed by the city's tourism tax; and

WHEREAS, the state of Minnesota has conditioned its contribution of approximately \$16 million to the project upon the requirement that the city guarantee that any operating deficits of the project will be funded from sources other than the state of Minnesota; and

WHEREAS, the city is willing to make such a guarantee and to issue such bonds for the benefit of the project under the conditions that LSC, Inc., agrees that the city be entitled to budgetary approval and financial oversight of the project with regard to those factors of its operations which will have an impact on gross revenues, expenses and operating surpluses; and

WHEREAS, the details of city's involvement in the operations of the project have yet to be determined.

RESOLVED, that the city council does hereby approve the proposed financing plan for the project and expresses its intent to issue bonds reimbursable from the proceeds of future private fund-raising activities and to the extent not so reimbursed, payable from the operating surpluses of the project but backed by the city's tourism tax in the amount of approximately \$1.92 million plus costs of issuance and discount costs subject to LSC, Inc., entering into an agreement with city granting city:

(a) The commitment of LSC, Inc., to repay the above bonds together with all interest thereon and costs of issuance thereof from surplus revenues of the project or future fund raising efforts or both;

(b) Budgetary approval and, if needed, financial oversight of the project with regard to those factors of its operations which will have an impact on gross revenues, expenses and operating surpluses;

(c) That the authority joining in such an agreement if necessary.

Resolution 98-0300 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Nays: Councilors Gilbert and Swapinski -- 2

Approved April 27, 1998

GARY L. DOTY, Mayor

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At this time, 11:00 p.m., Councilor Hardesty moved to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the following described street to facilitate the Fremont Point Phase III residential development: That portion of Fremont Street located in the Burlington Northern and Santa Fe Railway Company right-of-way in the south ½ of Section 13, Township 49 north, Range 15 west of the Fourth Principal Meridian, retaining a pedestrian and utility easement over, under and across the above-described portion of Fremont Street; and

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

WHEREAS, the city planning commission approved the vacation petition at its April 22, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the above-described portion of Fremont Street and as more particularly described on Public Document No. 98-0427-11.

BE IT FURTHER RESOLVED, that a pedestrian and utility easement be retained over, under and across the above-described portion of Fremont Street.

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 easement being vacated and the pedestrian and utility easement being retained.

Resolution 98-0336 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement for easements with the Burlington Northern and Santa Fe Railway Company (BNSF), substantially in the form of that on file in the office of the city clerk as Public Document No. 98-0427-12(a), relating to a pedestrian walkway and utilities located in the BNSF right-of-way.

FURTHER RESOLVED, that the city of Duluth hereby accepts an easement from BNSF, the fee for said easement to be borne by DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-0427-12(b), subject to BNSF's conveyance of same to the city, relating to the pedestrian walkway and utility lines over the following parcel: That portion of vacated Fremont Street located in the Burlington Northern and Santa Fe Railway Company right-of-way in the south ½ of Section 13, Township 49 north, Range 15 west of the Fourth Principal Meridian.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

FURTHER RESOLVED, that the city of Duluth hereby accepts from BNSF a temporary construction easement and a permanent right-of-way easement relating to 67th Avenue West, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-0427-12(c), over the parcels of property described in said Public Document No. 98-0427-12(c), the fee for said easements to be borne by DEDA.

Resolution 98-0337 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the American Indian Community Housing Organization (AICHO) transitional housing project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-13, with AICHO, to implement the above project; payment for said services shall not exceed \$12,000, payable out of the 1998 Federal Program Fund 262 - community development - Duluth Community Health Center Account No. 6138.

Resolution 98-0355 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Minnesota Statutes, Sections 462A.221 through 462A.225 (the act), the city of Duluth, Minnesota (the city), is a suballocator of low-income housing tax credits (LIHTCs); 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 1998 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received three complete applications for the LIHTCs and the applications have been scored in accordance with the plan.

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

(a) The city hereby finds and determines that the three project applications (the projects) of Duluth T. C. Partners Limited Partnership (the partnership) for its John Norman Apartments, Mt. Shadow Apartments and Norman Apartments are complete in all material respects and meet the selection criteria set forth in the plan. The request for 1998 LIHTC allocations in the amount of \$33,030 for John Norman Apartments, \$50,040 for Mt. Shadow Apartments and \$29,167 for Norman Apartments does not exceed the amount which is necessary for each of the projects' financial feasibility and viability as qualified low-income housing projects throughout the ten-year credit period;

(b) In making the determination set forth above, the city considered the following with respect to the application submitted:

(1) The sources and uses of funds and the total financing planned for the projects;

(2) Any proceeds or receipts expected to be generated by reason of tax benefits;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(3) The percentage of the housing credit dollar amount used for costs of the projects other than the cost of intermediaries;

(4) The reasonableness of the developmental and operational costs of the projects;

(c) There is hereby allocated \$112,237 of the city's 1998 LIHTC allocation to Duluth T.C. Partners Limited Partnership, specifically in the amount of \$33,030 for John Norman Apartments, \$50,040 for Mt. Shadow Apartments, and \$29,167 for Norman Apartments;

(d) 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 and subject to such conditions as the staff in their reasonable discretion deem appropriate and necessary to comply with the intent and policies set forth in the plan.

Resolution 98-0367 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the YMCA Mentor Duluth project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-14, with the Duluth Area Family YMCA to implement the above project; payment for said services shall not exceed \$12,000, payable out of the 1998 Federal Program Fund 262 - community development - Duluth Area Family YMCA Account No. 6125.

Resolution 98-0380 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the YWCA Kids' Corner Central Hillside project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-15, with the YWCA to implement the above project; payment for said services shall not exceed \$43,000, payable out of the 1998 Federal Program Fund 262 - community development - Young Women's Christian Association of Duluth, Account No. 6126.

Resolution 98-0381 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Neighborhood Youth Services project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

clerk as Public Document No. 98-0427-16, with Woodland Hills to implement the above project; payment for said services shall not exceed \$45,000, payable out of the 1998 Federal Program Fund 262 - community development - Woodland Hills Account No. 6127.

Resolution 98-0382 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the women's transitional housing project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-17, with Women's Transitional Housing Coalition, Inc., to implement the above project; payment for said services shall not exceed \$31,000, payable out of the 1998 Federal Program Fund 262 - community development - Women's Transitional Housing Coalition, Inc., Account No. 6128.

Resolution 98-0383 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Playfair Discovery Center project pursuant to city council Resolution 97-0836(c); and

WHEREAS, on April 13, 1998, additional funding was allocated to the Playfair Discovery Center project pursuant to city council Resolution 98-0305.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-18, with Playfair Discovery Center to implement the above project; payment for said services shall not exceed \$15,250, payable out of the 1998 Federal Program Fund 262 - community development - Playfair Discovery Center, Account No. 6129.

Resolution 98-0384 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Life House Youth Center project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-19, with Life House, Inc., to implement the above project; payment for said services shall not exceed \$23,000, payable out of the 1998 Federal Program Fund 262 - community development - Life House, Inc., Account No. 6131.

Resolution 98-0385 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, on October 27, 1997, the city established the Duluth Community Health Center project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-20, with the Duluth Community Health Center to implement the above project; payment for said services shall not exceed \$65,000, payable out of the 1998 Federal Program Fund 262 - community development - Duluth Community Health Center Account No. 6132.

Resolution 98-0386 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Harbor View Youth Services project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-21, with Harbor View Resident Management Corporation to implement the above project; payment for said services shall not exceed \$13,000, payable out of the 1998 Federal Program Fund 262 - community development - Harbor View Resident Management Corporation Account No. 6133.

Resolution 98-0387 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Duluth hunger project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-22, with CHUM to implement the above project; payment for said services shall not exceed \$80,000, payable out of the 1998 Federal Program Fund 262 - community development - CHUM Account No. 6134.

Resolution 98-0388 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Salvation Army transitional housing project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-23, with The Salvation Army, Inc., to implement the above project; payment for said services shall not exceed \$27,000, payable out of the 1998 Federal Program Fund 262 - community development - The Salvation Army, Inc., Account No. 6135.

Resolution 98-0389 was unanimously adopted.

Approved April 27, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Lincoln Park Youth and Family Center project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-24, with the Boys & Girls Club to implement the above project; payment for said services shall not exceed \$73,000, payable out of the 1998 Federal Program Fund 262 - community development - Boys & Girls Club Account No. 6136.

Resolution 98-0390 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the connecting with kids project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-25, with Copeland Community Center to implement the above project; payment for said services shall not exceed \$25,000, payable out of the 1998 Federal Program Fund 262 - community development - Copeland Community Center Account No. 6137.

Resolution 98-0391 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the YWCA Kids' Corner-East project pursuant to city council Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0427-26, with the YWCA to implement the above project; payment for said services shall not exceed \$43,000, payable out of the 1998 Federal Program Fund 262 - community development - YWCA Account No. 6139.

Resolution 98-0392 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with LHB Architects and Engineers for schematic design services relating to the design of the Technology Village parking ramp located on East First Street between Lake Avenue and First Avenue East, substantially in the form of Public Document No. 98-0427-27 on file in the office of the city clerk, at a cost to the city of \$66,400, which shall be payable from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Technology Village Fund 425.

Resolution 98-0405 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has previously entered into an agreement dated February 22, 1994, bearing City Contract No. 17650, which agreement provided for the formation of an association known as TEAM Duluth; and

WHEREAS, the city of Duluth has further entered into an agreement dated April 1997, bearing City Contract No. 18051, which agreement continued the association known as TEAM Duluth; and

WHEREAS, the city of Duluth finds that it would be in the best interest of the city of Duluth to continue its participation in TEAM Duluth in order to coordinate economic development activities with all of the other participants in TEAM Duluth; and

WHEREAS, the city of Duluth provides financial support for the operation of TEAM Duluth pursuant to the terms of the agreement between the parties, which financial support is proposed to be in the amount of \$50,000, for the period May 1, 1998, through April 30, 1999.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into the agreement continuing the operation of TEAM Duluth for the period from May 1, 1998, until April 30, 1999 (Public Document No. 98-0427-28). Furthermore, the city of Duluth is authorized to provide funding for the operation of TEAM Duluth on terms established in the agreement in the amount of \$50,000, this amount payable from Fund 100, Ag. 700, Org. 1465.

Resolution 98-0407 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Polfus Golf and Turf be and hereby is awarded a contract for furnishing and delivering one three-wheel drive utility/tee mower for the Lester Park golf course in accordance with specifications on its low specification bid of \$13,917.42, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0346 was unanimously adopted.

Approved April 27, 1998

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 zoo animals at Lake Superior zoo in accordance with specifications on its low specification bid of \$12,000, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5245.

Resolution 98-0377 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Duluth Lawn and Sport be and hereby is awarded a contract for furnishing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and delivering one six-wheel utility vehicle with attached ball cage cab for the Lester Park Golf Course in accordance with specifications on its low specification bid of \$8,200.50, terms net 30, FOB job site, payable out of Enterprise Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0406 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement to accept year of the city/community resource program monies totaling \$237,078 from the state of Minnesota/department of trade and economic development to fund four community service projects, said agreement to run from April 18, 1998, through June 30, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0427-29.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 275, Budget Item 6008.

Resolution 98-0368 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnesota Pipe and Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering various cast transitional couplings and bell clamps for the water and gas department in accordance with specifications on its low specification bid of \$11,709.68, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0344 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Kerotest Manufacturing Company be and hereby is awarded a contract for furnishing and delivering miscellaneous gas gate valves for the gas division in accordance with specifications on its low specification bid of \$11,585.07, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0345 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Dresser Measurement Operation be and hereby is awarded a contract for furnishing and delivering 55 line mounted rotary gas meters for the gas division in accordance with specifications on its low specification bid of \$63,432.47, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 98-0349 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for furnishing and delivering construction of ½ inch and one inch plastic gas services and one inch, two inch and three inch plastic gas mains and related work in various locations in the city of Duluth for the gas division in accordance with specifications on its low specification bid of \$104,975, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0371 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, by resolutions 97-0292, 97-0484(a) and 97-0484(b), the city council established the 1998 street improvement program by ordering the construction of certain streets; and

WHEREAS, the city administration has requested that a street preservation component be added to the 1998 street improvement program by designating certain streets for improvement through crack sealing and bituminous overlay;

NOW, THEREFORE, BE IT RESOLVED, that the 1998 street improvement program is hereby amended by adding to such program the improvement by crack sealing and bituminous overlay of the streets listed on the document on file in the office of the city clerk as Public Document No. 98-0427-30, at an estimated cost of \$360,000.

Resolution 98-0285 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Sealing-Striping 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 \$.93 per pound applied on flat surfaces and \$.84 on hilly surfaces, not to exceed \$100,000, terms net 30, FOB job sites, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2126, Object 5530.

Resolution 98-0235 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth is planning on implementing municipal state aid street project(s) in 1998 which will require state aid funds in excess of those available in its state aid construction account; and

WHEREAS, said city is prepared to proceed with the construction of said project(s) through the use of advance encumbrances from the general state aid construction account to supplement the available funds in their state aid construction account; and

WHEREAS, repayment of the funds so advanced will be made in accordance with the provisions of Minnesota Statutes 162.14, Subdivision 6 and Minnesota Rules, Chapter 8820.

NOW, THEREFORE, BE IT RESOLVED, that the commissioner of transportation be and is hereby requested to approve this advance for financing approved municipal state aid street projects of the city of Duluth in an amount up to \$1,590,000 in accordance with Minnesota Rules

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

8820.1500, subparagraph 9, and to authorize repayments from the following year's accruals to the construction account of the municipal state aid street fund for said city.

Resolution 98-0329 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Neenah Foundry be and hereby is awarded a contract for furnishing and delivering 50 sanitary rings and cover assemblies with Duluth Detail No. 5020 for manholes for the sewer division in accordance with specifications on its low specification bid of \$9,904.50, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 98-0370 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Safety Signs, Inc., be and hereby is awarded a contract for the street name sign replacement project for the engineering division in accordance with specifications on its low specification bid of \$574,816, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2127, Object 5530.

Resolution 98-0372 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for construction of Cody South 1998 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$452,888.35, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9806, Object 5530.

Resolution 98-0373 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Gregory J. Francisco and Nancy A. Francisco to petition for the permanent improvement of Galbreath Street from Falcon Street north to its platted terminus and to cause water, gas and sewer improvements to be made in Falcon Street and Galbreath Street; said agreement filed as Public Document No. 98-0427-31.

Resolution 98-0374 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

construction of Upper Woodland East-2 1998 street improvement project for the engineering division in accordance with specifications on its low specification bid of \$969,651.55, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9805, Object 5530.

Resolution 98-0375 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the construction of sanitary sewer, water and gas in Arrowhead Road from Arlington to approximately 5,000 feet westerly and in Arlington from Arrowhead Road southerly 600 feet at an estimated cost of \$501,327.50. The city's cost in this project will be funded out of the Special Assessment Fund 810, Agency 038, Organization 5303, Object 5530. Said agreement filed as Public Document No. 98-0427-32.

Resolution 98-0394 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for furnishing and delivering 11 Motorola vehicle radio modems (VRM 600) to include software and laptop computer hook-up for the police department in accordance with specifications on its low specification bid of \$41,295, terms net 30, FOB shipping point, \$18,771 payable out of Duluth Police Grant Program Fund 215, Dept./Agency 200, Organization 2444, Object 5580; \$2,744 payable out of General Fund 100, Dept./Agency 200, Organization 2439, Object 5580 and \$19,780 payable out of Duluth Police Grant Program Fund 215, Dept./Agency 200, Organization 2446, Object 5580.

Resolution 98-0348 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-94 of the City Code, 1959, as amended, the following angle parking is hereby established:

Three parking bays located on the west side of Canal Park Drive between Buchanan Street and Railroad Street.

Resolution 98-0399 was unanimously adopted.

Approved April 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-84 of the Duluth City Code, 1959, as amended, the following time limit parking zone is hereby amended from a three hour time limit parking May 15 to October 15 of each year to a two hour time limit parking May 15 to October 15 of each year:

East side of Canal Park Drive from Morse Street to Railroad Street.

West side of Canal Park Drive from Buchanan Street to Railroad Street.
Both sides of Lake Avenue from Morse Street to Sutphin Street.
Resolution 98-0400 was unanimously adopted.
Approved April 27, 1998
GARY L. DOTY, Mayor

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At this time, 11:30 p.m., Councilor Hardesty moved to extend the meeting until 11:45 p.m., which motion was seconded and unanimously carried.

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Resolution 98-0401, by Councilor Hales, rescinding the no parking zone on the south side of Morse Street from Lake Avenue to Canal Park Drive, was introduced for discussion.

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

Lloyd Vienneau spoke against the resolution, as the Park Point residents use this street which is already very narrow and is not wide enough for a parking lane and for passing traffic.

- - -

At this time, 11:45 p.m., Councilor Hardesty moved to extend meeting until 11:50 p.m., which motion was seconded and unanimously carried.

- - -

Councilor Hales requested the administration to look at this issue and moved to table the resolution, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT HOGG

98-015 - AN ORDINANCE IMPOSING AN ADDITIONAL 1/2 PERCENT FOOD AND BEVERAGE TAX AND AN ADDITIONAL 1/2 PERCENT HOTEL-MOTEL TAX, AMENDING SECTIONS 42A-2, 42A-44, 42A-49 AND 42A-50 OF THE DULUTH CITY CODE.

- - -

BY COUNCILOR RAPAICH

98-014 - AN ORDINANCE AMENDING THE MANNER IN WHICH THE DURATION OF CIVIL SERVICE LISTS IS ESTABLISHED AND AMENDING SECTION 13-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR PRETTNER SOLON

98-013 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW RESTRICTED INDUSTRIAL-TECHNOLOGY DISTRICT.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR EDWARDS

98-012 (9366) - AN ORDINANCE ESTABLISHING UNIFORMITY IN SOLID WASTE COLLECTORS BASE RATE FILINGS AND BILLING STATEMENTS; AMENDING SECTION 24-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR PRETTNER SOLON

98-009 - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56 AND 50-68 OF THE

DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST HOME-STAYS.

Councilor Prettner Solon moved to table the ordinance for a committee meeting on May 11, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON

98-011 - AN ORDINANCE MODIFYING SIGN REGULATIONS; AMENDING CHAPTER 44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Prettner Solon moved to table the ordinance for a committee meeting on May 11, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HALES

98-010 (9367) - AN ORDINANCE PROVIDING FOR THE OPERATION AND LICENSING OF MOTOR VEHICLES PROVIDING SIGHTSEEING OR RECREATIONAL RIDES; ADDING A NEW ARTICLE II TO CHAPTER 47 AND AMENDING SECTION 47-16 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 11:50 p.m.

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

- - -

ORDINANCE NO. 9365

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE REQUIRING EROSION AND SEDIMENT CONTROL IN THE CITY, ADDING A NEW CHAPTER 18 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Chapter 18 be added to the Duluth City Code, 1959, as amended, to read as follows:

CHAPTER 18.

EROSION AND SEDIMENT CONTROL.

Sec. 18-1. Statement of purpose.

The purpose of this Chapter is to control or eliminate soil erosion and sedimentation within the city. It establishes standards and specifications for conservation practices and planning activities which minimize soil erosion and sedimentation and provides a permit system to secure the enforcement of these standards and specifications.

Sec. 18-2. Scope.

This Chapter applies to all land disturbing activities within the city except those specifically exempt in this Chapter and those subject to a superseding or preemptive state or federal law. Specifically, this Chapter shall be deemed to be supplemental to, and not in conflict with provisions of Appendix Chapter 33 of the State Building Code. This Chapter shall apply to all nonexempt land disturbing activities for which building permits or grading permits are required.

Sec. 18-3. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings given them in this Section:

Erosion and sedimentation practice specifications, or practice. The management procedures, techniques and methods adopted by the city to adequately and effectively control soil erosion and sedimentation incident to land disturbing activity within the city. The specifications are primarily based upon the Minnesota pollution control agency handbook entitled "Protecting Water Quality in Urban Areas," published in October of 1989, but may be varied on a case by case basis to effectively control erosion and sedimentation.

Erosion. Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and sediment control plan. A written plan conforming to the requirements of Section 18-4 that when implemented will decrease soil erosion on a parcel of land and off site sediment damages.

Land disturbing activity. Land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the city, including clearing, grading, excavating, transporting and filling of land. Land disturbing activity does not mean:

- (a) Minor land disturbing activities such as home gardens and individuals' home landscaping, repairs and maintenance work;
- (b) Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;
- (c) Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;
- (d) Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;
- (e) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
- (f) Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of Section 18-4.

Sediment. Solid mineral or organic material, that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Sec. 18-4. Permit and erosion and sediment control plan required.

- (a) Except as provided herein, no person shall perform or cause to be performed any land disturbing activity on one or more contiguous parcels of land of 10,000 square feet in area without first having submitted an erosion and sediment control plan and having applied for and received a land disturbance permit. On parcels of less than one acre, if the city engineer should find that, because of slope,

soil disturbances, topography, hydrology or other factors, a project will not create erosion and sedimentation problems, the engineer may waive a disturbance permit process set forth in this Section. On parcels of over five acres that are subject to a national pollutant discharge elimination system (NPDES) permit that is administered by the Minnesota pollution control agency, no permit shall be required under this Chapter;

(b) The city engineer shall monitor, to the extent practical, land disturbing activities on parcels of land of less than 10,000 square feet in area by examining building permit and grading permit applications, city projects and other construction data. If the city engineer reasonably believes that, because of slope, soil disturbances, topography, hydrology or other factors, a project will be likely to create unacceptable erosion and sedimentation problems, the engineer may require that the project be subject to the land disturbance permit process set forth in this Section. The engineer may adopt regulations setting forth permit criteria for projects on parcels of land of less than 10,000 square feet in area;

(c) Applications for land disturbance permits shall be submitted to the city engineer on forms provided by the city engineer. The application shall be accompanied by a permit fee, which shall be set by city council resolution and by an erosion and sediment control plan which shall conform to the requirements of this Section. Upon receipt of the application, the city engineer or engineer's designee shall review the plan to ensure that the plan complies with appropriate erosion and sediment practice specifications. The city engineer may require additional information from the applicant and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. The plan review shall be completed within 30 days from receipt of the plan and the applicant shall be notified of the permit approval within 45 days from receipt of the plan. If the plan does not comply with appropriate erosion and sediment control practice specifications, the permit shall be denied. The applicant, in the case of denial, shall be given a brief summary of the plan's deficiencies and shall be informed that the land disturbing activity cannot be commenced until another plan and application is submitted and approved;

(d) The erosion and sediment control plan shall address the following criteria:

- (1) Stabilization of denuded areas and soil stockpiles;
- (2) Establishment of permanent vegetation;
- (3) Protection of adjacent properties;
- (4) Timing and stabilization of sediment trapping measures;
- (5) Use of sediment basins;
- (6) Cut and fill slopes;
- (7) Stormwater management criteria for controlling off site erosion;
- (8) Stabilization of waterways and outlets;
- (9) Storm sewer inlet protection;
- (10) Working in or crossing water bodies;
- (11) Underground utility construction;
- (12) Construction access routes;
- (13) Disposition of temporary erosion and sediment control

measures;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- (14) Maintenance of erosion and sediment control practices;
- (e) The erosion and sediment control plan shall include a site map which shall include:
- (1) Location map;
 - (2) North arrow;
 - (3) Scale (1 inch = 100 feet or greater detail);
 - (4) Benchmark;
 - (5) Existing contours at two foot intervals, 200 feet beyond property boundary;
 - (6) Final contours;
 - (7) Existing vegetation - trees, shrubs, grasses;
 - (8) Soil boundaries;
 - (9) Property boundary and lot lines;
 - (10) Elevations and grades - street grades, pond elevations, etc.
 - (11) Drainage direction arrows;
 - (12) Critical erosion areas;
 - (13) Limits of clearing and grading;
 - (14) Utility plans;
 - (15) Location of erosion and sedimentation control practices - detention ponds, swales, etc.;
 - (16) Location of other practices;
 - (17) Plan preparer's signature, address and phone number;
 - (18) Responsible individual's name, address and phone number;
 - (19) Delineation of applicable zoning boundaries;
- (f) The erosion and sediment control plan shall also contain a narrative description of the project which shall include:
- (1) Project description;
 - (2) Phasing of construction;
 - (3) Existing site conditions;
 - (4) Adjacent areas affected by project;
 - (5) Critical areas identified;
 - (6) Erosion and sediment control measures;
 - (7) Soil descriptions;
 - (8) Permanent stabilization methods;
 - (9) Stormwater management considerations;
 - (10) Maintenance schedule for erosion and sediment control measures;
 - (11) Calculations made for the design of management practices such as basin capacity, etc.;
 - (12) Any other information required by the city engineer.

Sec. 18-5. Maintenance of erosion and sediment control practices.

During the period of construction of a land disturbing activity, the person engaging in the construction shall be responsible for erosion and sediment control practices. After construction is completed, the owner of the property shall be responsible for erosion and sediment control practices.

Sec. 18-6. Modification of approved plan.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

An approved erosion and sediment control plan may be modified upon submission of request for modification to and subsequent approval by the city engineer. In reviewing such a request, the city engineer may require additional reports and data.

Sec. 18-7. Variance.

The city council may, after holding a public hearing, grant variances from this Chapter in cases of restrictive site conditions or emergency situations. No variance shall be granted that compromises the general purposes or intent of this Chapter. No variance shall be granted without a showing of hardship by the applicant. Requests for variances shall be heard and decided within 45 days after receipt of application for the variance.

Sec. 18-8. Duties of the building official.

In the administration of the State Building Code on projects where no permit is required under this Chapter, the building official shall, to the extent feasible and practical, utilize the erosion and sediment practice specifications as guidelines for adequate erosion control.

Section 2. That this ordinance shall be in force and take effect 30 days from and after its passage and publication. (Effective date: May 31, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 27, 1998
Approved April 27, 1998
GARY L. DOTY, Mayor

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ORDINANCE NO. 9366

BY COUNCILOR EDWARDS:

AN ORDINANCE ESTABLISHING UNIFORMITY IN SOLID WASTE COLLECTORS BASE RATE FILINGS AND BILLING STATEMENTS; AMENDING SECTION 24-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 24-21 of the Duluth City Code, 1959, as amended, be amended to read as follows:

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

The city council shall, by resolution, establish a solid waste collection rate structure. The structure shall consist of a base rate, which shall be the rate charged for one 32 gallon container of solid waste collected once per week and various upward and downward percentage increments to cover all solid waste collection services offered. The rate structure increments shall be adjusted upward or downward to compensate for increased number of containers collected, decreased size of containers collected or decreased frequency of collection. Each hauler shall set its own base rate. No hauler shall charge a rate greater than that computed by multiplying the base rate times the appropriate increment set forth in the rate

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

structure. Licensed haulers shall file their base rates with the city clerk at least 30 days before the rate is to take effect. The base rate set by each collector shall in all cases be fair and reasonable, considering the collector's cost of operation, capital investment and a reasonable rate of return on investment. The cost of operating recycling operations required by this Chapter may be considered in setting base rates. The base rate filed by each licensed hauler shall not include sales tax or any WLSSD service fee. All billing statements sent by licensed haulers to customers shall separately itemize the haulers base rate, sales tax and any WLSSD service fees.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 31, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 27, 1998
Approved April 27, 1998
GARY L. DOTY, Mayor

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ORDINANCE NO. 9367

BY COUNCILOR HALES:

AN ORDINANCE PROVIDING FOR THE OPERATION AND LICENSING OF MOTOR VEHICLES PROVIDING SIGHTSEEING OR RECREATIONAL RIDES; ADDING A NEW ARTICLE II TO CHAPTER 47 AND AMENDING SECTION 47-16 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article II be added to Chapter 47 of the Duluth City Code, 1959, as amended, to read as follows:

Article II. Recreational and Sightseeing Rides.

Sec. 47-13. Recreational and sightseeing ride vehicle licenses.

(a) Except as provided in this Chapter or by state common carrier permit, no person shall carry passengers for hire in a motor vehicle on recreational or sightseeing rides without first having applied for and received a license to do so under the terms of this Article;

(b) For the purposes of this Article, recreational or sightseeing rides shall mean motor vehicle rides for a monetary consideration along a fixed route with the entry and exit points at approximately the same location where the ride is for recreational or sightseeing purposes, as opposed to transportation from one point to another.

Sec. 47-14. Licensing procedure.

(a) An application for a recreational and sightseeing ride license shall be filed with the city clerk upon forms provided by the city. Such application shall include the following information:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(1) The name and business address of the applicant and garage location for all vehicles;

(2) The experience of the applicant in the transportation of passengers for hire;

(3) The description of each vehicle to be used;

(4) Such further information as the police department may reasonably require;

(5) The name, address and date of birth of each driver employed or expected to be employed by applicant;

(b) Before a recreational and sightseeing ride license is issued to any person by the city clerk, the application shall first be submitted to the police department for investigation, then to the administrative assistant of the city for his approval or denial. The administrative assistant shall not deny a license except for good cause. In determining whether good cause exists, the administrative assistant may consider, without limitation, the public need for such service, the experience and qualifications of the applicant and the drivers and the investigative report of the police department. If the application is denied by the administrative assistant, the applicant may, within ten days, appeal such denial to the city council;

(c) The fee for each recreational and sightseeing ride license shall be \$100 per year plus \$30 for each vehicle used. Any license may be issued for a period of not less than three months on a pro rata basis. Licenses are not transferable;

(d) All licenses shall expire on December 31 in each year;

(e) No license shall be issued until the applicant has submitted insurance covering all vehicles used and meeting the requirements of Section 47-18 of this Chapter.

Sec. 47-15. Vehicle inspections.

(a) No vehicle shall be used for recreational or sightseeing rides unless it has first been inspected as provided in Section 47-20(a) of this Chapter. Vehicles shall be subject to periodic inspection as provided for in Section 47-20(b) of this Chapter;

(b) Before putting any different or additional vehicles into service during a license year, the licensee shall submit a complete description of the vehicle to the city clerk, pay a \$25 fee to the clerk and have the vehicle inspected in accordance with Section 47-20 of this Chapter.

Section 2. That Section 47-16 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 47-16. Definitions.

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

Ambulance. A motor vehicle which is designed and intended to be used for providing transportation of a wounded, injured, sick, invalid or incapacitated human being or an expectant mother.

Ambulance service. The transportation by ambulance for a wounded, injured, sick, invalid or incapacitated human being or an expectant mother, which is regularly offered or provided to the public by any person.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Limousine. An unmarked, luxury class automobile which carries passengers for hire, driven by a uniformed chauffeur, subject to call only from its own garage or central place of business and the use of which results in customers being billed at an hourly, daily or trip rate that is greater than the current taximeter rate for a comparable trip.

Motor vehicle and street or highway. As defined in Section 33-1 of this Code.

Taxicab. Any motor vehicle used for the purpose of transporting any passengers for hire over and upon any street or highway in the city, except any of the following:

(a) Any common carrier which is operated under a permit from the public service commission of the state;

(b) Any ambulance used for providing ambulance service and which is operated under authority of a license issued by the state board of health;

(c) Any motor vehicle operated by the Duluth transit authority under authority of Laws of Minnesota 1969, Chapter 720;

(d) A limousine as defined herein;

(e) A transportation vehicle operated by a federal, state, county, municipal or school district governmental unit in conjunction with a program sponsored or run by such governmental unit;

(f) Any motor vehicle providing transportation services to a federal, state, county, municipal or school district governmental unit pursuant to a written, extended term contract between said transportation provider and the governmental unit;

(g) Any motor vehicle used for recreational or sightseeing rides under a license issued pursuant to Article II of this Chapter.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 31, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 27, 1998
Approved April 27, 1998
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 11, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on November 6, 10, 20 & 24, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0511-01 George Hovland submitting petition for construction of a six inch water main and a two inch P.E.H.P. gas main in East Skyline Parkway from approximately 400 feet to 800 feet easterly of 13th Avenue East. -- Assessor

98-0511-02 Drew C. Sexton, et al. (three signatures) submitting petition for construction of a sanitary sewer, easterly from Getchell Road to serve properties abutting the north line of Outlot A, Auditors Plat Bayview Heights, Park Tract (2512 and 2428 Getchell Road). -- Assessor

98-0511-03 J.M. and Susan Streitz, et al. (five signatures) submitting petition for a variance from the 1994 street standards being applied to construction plans for 25th Avenue East, requesting the avenue remain at its current 20 foot width. -- Planning commission

98-0511-19 Duluth Area Chamber of Commerce submitting communication pertaining to proposed establishment of a stormwater utility system (98-006-O). -- Received

98-0511-45 Duluth Association for the Education of Young Children submitting communication pertaining to the proposed establishment of a child care advisory committee (98-0222R). -- Received

98-0511-04 Miller-Dwan Medical Center submitting: (a) 1997 legal compliance audit; (b) 1997 annual audit report. -- Received

98-0511-20 The following submitting communications pertaining to proposed hotel project and golf course at Spirit Mountain (98-0180R): (a) Minnesota Center for Environmental Advocacy; (b) Spectrum Research, Inc. -- Received

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REPORTS OF OFFICERS

98-0511-05 Assessor submitting:

(a) Letter of sufficiency pertaining to construction of sanitary sewer easterly from Getchell Road to serve properties abutting the north line of Outlot A, Auditors Plat Bayview Heights Park Tract (2512 and 2428 Getchell Road).-- Received

(b) For confirmation the assessment rolls levied to defray the assessable portions of the following contracts: SIP 1997, Skyline Parkway from Glenwood to first turnaround, Contract No. 7020 and SIP 1994, 15th Avenue East from London Road to Fourth Street, Contract No. 7019. -- Clerk

98-0511-18 Community development and housing division submitting HRA housing rehabilitation report for February, 1998. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0511-06 Alcoholic beverage board minutes of March 18, 1998, meeting. -- Received

98-0511-07 Building appeal board minutes of April 8, 1998, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- 98-0511-08 Citywide citizens advisory committee minutes of January 27, 1998, meeting. -- Received
- 98-0511-09 Civil service board minutes of March 3, 1998, meeting. -- Received
- 98-0511-10 Duluth housing trust fund board minutes of: (a) January 15; (b) February 12; (c) March 12, 1998, meetings. -- Received
- 98-0511-11 Duluth transit authority minutes of March 25, 1998: (a) Special; (b) Regular meetings. -- Received
- 98-0511-12 Neighborhood advisory council minutes of: (a) February 11; (b) February 17, 1998, meetings. -- Received
- 98-0511-13 Parks and recreation commission minutes of: (a) February 18; (b) March 11, 1998, meetings. -- Received
- 98-0511-14 Planning commission minutes of: (a) February 25; (b) March 25, 1998, meetings. -- Received
- 98-0511-15 Sanitary sewer board of WLSSD minutes of April, 1998, meeting. -- Received
- 98-0511-16 Technical design advisory committee for DWMX-D minutes of March 17, 1998, meeting. -- Received
- 98-0511-17 Tree commission minutes of April 13, 1998, meeting. -- Received

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0340, approving the budget for the fiscal year May 1, 1998, to April 30, 1999, in the following amount of \$3,239,733 for the Spirit Mountain recreation area authority, from the table, which motion was seconded and unanimously carried.

Resolution 98-0340 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the budget for the fiscal year May 1, 1998, to April 30, 1999, in the amount of \$3,239,733 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 98-0340 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

- - -

Councilor Rapaich moved to remove Resolution 98-0342, confirming appointment of Betsy Little to housing and redevelopment authority replacing Neal Hessen, from the table, which motion was seconded and unanimously carried.

Resolution 98-0342 was adopted as follows:

BY COUNCILOR RAPAICH:

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

HOUSING AND REDEVELOPMENT AUTHORITY

Betsy A. Little for a term expiring January 3, 1999, replacing Neal Hessen who resigned.

Resolution 98-0342 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Councilor Gilbert moved to remove Resolution 98-0222, requesting the city to establish a child care advisory committee to formulate a city child care policy and develop ways to maximize the use of local resources to promote child care, from the table, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Roni Budde spoke as a small business owner in the city of Duluth and requested that the city and the early childhood development centers work together to improve the quality of Duluth's future, which are the children. She urged support of the resolution.

Councilor Gilbert spoke on the question of why the city should become involved in the day care issue. He stated that this task force is to coordinate the efforts and get the most out of our resources to help child care centers. Councilor Gilbert stated that the scope of the task force goes beyond the community development block grant (CDBG) funding process and the topic is wide open for them to explore.

Administrative Assistant Nollenberger stated that the administration does not oppose the resolution and is comfortable with the level of city staff that would be involved in relation to the CDBG program.

President Hogg moved to amend the last line of the resolution by deleting the words "within 90 days after it is established," which motion was seconded and unanimously carried.

Resolution 98-0222, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the city council believes that economic development can be stimulated through better child care programs in the city; and

WHEREAS, although the city has limited financial resources to devote to child care, it can take a leadership role among public and private entities to maximize its own resources and leverage other resources which currently exist or become available; and

WHEREAS, federal and state governments are in the process of developing plans to increase funding and resources devoted to child care and the city would be in a better position to obtain these resources and/or assist child care providers in the community to obtain these resources if it has developed a coordinated child care policy ahead of time.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city administration to set up a child care task force consisting of city personnel, child care providers and representatives from the Arrowhead Child Care Resource Center, the school district and other business and community organizations to recommend a city child care policy and to develop ways to maximize the use of local resources to promote child care.

RESOLVED FURTHER, that materials (Public Document No. 98-0511-21) regarding child care policy established by Redwood City, California, should be considered by the task force in formulating its recommended city policy.

RESOLVED FURTHER, that the city council requests that the task force report back to the council with its recommendation.

Resolution 98-0222, as amended, was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 98-0266, accepting the private construction of a sanitary sewer in Miller Trunk Highway to serve Block One, Miller Creek Division (Kohl's Department Store), from the table, which motion was seconded and unanimously carried.

Resolution 98-0266 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, by Application and Permit No. 162, the city engineer granted Northland Constructors permission to construct a sanitary sewer in Miller Trunk Highway to serve Block One, Miller Creek Division (City Job No. 8886SA94); and

WHEREAS, the city engineer has inspected and approved said improvement to the city.
NOW, THEREFORE, BE IT RESOLVED, that the city accepts title to and responsibility for the above described improvement.

Resolution 98-0266 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Councilor Hales moved to remove Resolution 98-0401, rescinding the no parking zone on the south side of Morse Street from Lake Avenue to Canal Park Drive, from the table, which motion was seconded and unanimously carried.

Councilor Hales moved to return the resolution back to the administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

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MOTIONS AND RESOLUTIONS

Resolution 98-0350, by President Hogg, amending the standing rules of the city council by adding a new Rule 5a permitting councilors to participate in council meetings by speaker phone, was introduced for discussion.

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

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Resolution 98-0397, by President Hogg, approving Laws of Minnesota 1998, Chapter 389, Article 8, sections 25, 26 and 27, authorizing the city to impose an additional 1/2 percent food and beverage tax and an additional 1/2 percent hotel-motel tax, was introduced for discussion.

President Hogg moved to table the resolution for a committee meeting on May 18, which motion was seconded and unanimously carried.

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BY PRESIDENT HOGG:

RESOLVED, that the Duluth City Council hereby approves Laws of Minnesota 1998, Chapter 404, sections 61 to 70, and directs the city clerk to comply with the provisions of Minnesota Statutes, Section 645.021, Subdivision 3, by filing the required documents with the secretary of state certifying the adoption of this resolution.

Resolution 98-0398 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and the confidential unit represented by textile processors, service trades, health care, professional and technical employees international union Local #150, covering years 1997 and 1998, containing the terms and conditions of that contract on file with the clerk as Public Document No. 98-0511-22.

Resolution 98-0436 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute a collective bargaining agreement between the city and international association of firefighters, Local 101, covering years 1997 and 1998, which agreement is on file with the city clerk as Public Document No. 98-0511-23.

Resolution 98-0447 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0435, by President Hogg, establishing salaries and fringe benefits for the city attorney, assistant city attorneys and the equal opportunity representative for 1997 and 1998, was introduced for discussion.

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Swapinski and President Hogg -- 6

Nays: Councilors Keenan, Prettner Solon and Rapaich -- 3

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Resolution 98-0456, by President Hogg, objecting to the sale of Lake Superior water to foreign countries, was introduced for discussion.

Councilor Prettner Solon stated that this water should not be sold, but there are countries where it is needed for drought and the amount being taken is very small. She suggested the council have a committee meeting addressing the policies on the resources of our area.

Resolution 98-0456 was adopted as follows:

BY PRESIDENT HOGG:

WHEREAS, the provincial government of Ontario has issued a permit to company known as the Nova Group to take water from Lake Superior and ship it to for sale to Asia; and

WHEREAS, the water resources of the Great Lakes Basin are a precious public natural resource, shared and held in trust by the Great Lakes states and the Canadian provinces; and

WHEREAS, the Great Lakes need to be carefully managed and protected in order to meet current and future water needs within the Great Lakes Basin and Canadian provinces; and

WHEREAS, any new diversions of Great Lakes water for use outside of the Great Lakes Basin will have a significant adverse effect on the environment, economy and welfare of the Great Lakes region; and

WHEREAS, Lake Superior is defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada and therefore any new diversion of Great Lakes water would affect relations between the government of the United States and the government of Canada; and

WHEREAS, the city of Duluth is dependent upon Lake Superior for its aesthetic beauty, water-borne commerce and tourism industry; and

WHEREAS, the administration and city council of the city of Duluth wish to express their opposition to Lake Superior water sales to areas outside of the Great Lakes Basin in the strongest possible terms;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby strenuously objects to the sale of water from Lake Superior to foreign countries as has been authorized by the government of the province of Ontario.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED FURTHER, that the Duluth City Council requests that the governments of the United States, Canada and the state of Minnesota take all legal steps within their power to halt the sale of Lake Superior Water to foreign countries.

RESOLVED FURTHER, that a certified copy of this resolution be mailed to the proper authorities of the governments of the United States, the province of Ontario, the state of Minnesota and the national government of Canada.

Resolution 98-0456 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0457, by President Hogg, amending the employment agreement with the administrative assistant for 1997 and 1998, was introduced for discussion.

President Hogg stated his concern about setting a precedent passing raises and incentives without employees having their contracts settled for over a year. He moved to return the resolution back to the administration and have it brought back when the employees have settled their contracts, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Swapinski and President Hogg -- 6

Nays: Councilors Keenan, Prettner Solon and Rapaich -- 3

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Resolution 98-0428, by Councilor Edwards, awarding contract to Erling R. Hansen Contractor for police front desk and office renovation in accordance with specifications on its low specification bid of \$154,700, was introduced for discussion.

Councilor Keenan stated that if the city needs to find \$2.6 million in the general fund and this project is not absolutely necessary, this money could be used to help with the budget shortfall. He continued by saying that the council and administration should be looking at projects to save money and not always looking at staff when cutting the budget. Councilor Keenan added that the reserve fund should not be used to fund the shortage in the budget.

Mr. Nollenberger stated that this money would not go into the general fund if the council does not approve this resolution. He continued by explaining that there is also a reserve fund for the capital improvement fund and this money would go into that fund to be used for other projects. Mr. Nollenberger went on to say that the city needs to keep moving forward with building improvements and this project needs to be done. He stated that cuts will be made out of the operating fund of the general fund to help balance the budget and this project will not impact the general fund shortage.

Councilor Hales reviewed that the police department has been opening community policing stations throughout the city to interact with the neighborhoods. She stated that they have already spent a lot of money polishing up the police department on the first floor of City Hall and the neighborhood stations and that this money should be used to help with the budget shortfall.

Councilor Hardesty reviewed that the council approved the administration's request to keep the community policing program going. She felt that to delay this investment to keep the level of police officers that were supported by the council earlier this year would be an appropriate action by the council.

Councilor Prettner Solon spoke in favor of the resolution, as the community policing program has been very popular with the public. She stated that the police department is crowded in their space and the city should remodel now to prevent major costs in later years.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Swapinski stated that there is no relation with the level of community policing out there and the remodeling in City Hall. He added that he supports the resolution, as this is a show of support for the department and their good work.

President Hogg felt that this improvement can wait and the police can function as they are. He went on to say that this is a way to cutting back on spending without a disruption to city function, no matter what department is requesting the remodeling.

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan and Swapinski -- 5

Nays: Councilors Hales, Prettner Solon, Rapaich and President Hogg -- 4

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BY COUNCILOR EDWARDS:

RESOLVED, that United Electric Company be and hereby is awarded a contract for furnishing and delivering various fluorescent, incandescent and high intensity discharge lamps for 1998 requirements for the various city departments/divisions in accordance with specifications on its low specification bid of \$41,961, terms net 30, FOB pick-up, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0430 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Republic Automotive be and hereby is awarded a contract for furnishing and delivering miscellaneous auto seal beams, miniature lamps and miscellaneous auto electrical supplies for various city departments/divisions in accordance with specifications on its low specification bid of \$12,993, terms net 30, FOB pick-up, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0431 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering ten decorative replacement street lights for the traffic operations division in accordance with specifications on its low specification bid of \$16,869.60, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E832.

Resolution 98-0445 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed new specifications for the civil service classification of industrial equipment technician which were approved by the civil service board on April 7, 1998, and which are filed with the city clerk as Public Document No. 98-0511-24, are approved. This classification will be represented by the basic unit and compensated at Range 27, \$2,321 to \$2,746 per month (1996 rates).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0352 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police lieutenant which were approved by the civil service board April 7, 1998, and which are filed with the city clerk as Public Document No. 98-0511-25, are approved. This classification remains represented by the supervisory unit and compensated at Range 1100, \$3,890 to \$4,744 per month (1996 rates).

Resolution 98-0353 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the new specifications for the civil service classification of development coordinator, which were approved by the civil service board on March 3, 1998, and which are filed with the city clerk as Public Document No. 98-0511-26, are approved. This classification will be represented by the basic unit and compensated at Range 129, \$2,327 to \$2,757 per month (1996 rates).

Resolution 98-0354 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

HERITAGE PRESERVATION COMMISSION

Debra Kellner and Diane Kettelhut for term expiring May 31, 2001.

Resolution 98-0415 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

LIBRARY BOARD

Carol Kelley and Maureen Q. Strange for terms expiring June 1, 2003.

Resolution 98-0416 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the Downtown Waterfront Mixed Use-Design Review District

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Ruthann Schnell (planning commission) for a term expiring May 31, 2001, replacing Louis Pichetti.

Jan Sivertson (area) for a term expiring May 31, 2001.

Resolution 98-0417 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0450, by Councilor Rapaich, confirming reappointment of Paula Dallum to Duluth community action program board, was introduced for discussion.

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

Yeas: Councilors Edwards and Hales -- 2

Nays: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

To Councilor Hales' questioning, Councilor Rapaich stated that the community action program (CAP) bylaws state that a board member can serve for three terms and that Ms. Dallum's first appointment was to fill an existing term. She added that this will be Ms. Dallum's third complete term, even though she has served more than nine years.

Resolution 98-0450 was adopted as follows:

BY COUNCILOR RAPAICH:

RESOLVED, that the city council hereby reappoints the following person to the Duluth community action program board:

Paula Dallum for a term expiring January 1, 2001.

Resolution 98-0450 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

WHEREAS, the Minnesota scenic byway commission has established a state scenic byway program to designate routes within Minnesota as state scenic byways; and

WHEREAS, the Trunk Highway 23 task force submitted an application in August, 1997, to designate Trunk Highway 23 or the Veteran's Evergreen Memorial Drive from I-35 to the St. Louis River Bridge (St. Louis and Carlton County line) a state scenic byway; and

WHEREAS, the Minnesota scenic byway commission designated that portion of Veteran's Evergreen Memorial Drive as a state scenic byway in August 1997; and

WHEREAS, the Duluth City Council believes that the appropriate northern terminus of the state scenic byway should be the northern terminus of Veteran's Evergreen Memorial Drive at the intersection of Commonwealth Avenue and McCuen Street (Trunk Highway No. 39) in Gary/New Duluth.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby supports extending the state scenic byway designation on Veteran's Evergreen Memorial Drive from the St. Louis River Bridge to the intersection of Commonwealth Avenue and McCuen Street in Gary/New Duluth.

Resolution 98-0452 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on May 31, 1991, the city of Duluth entered into City Contract No. 16288 with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) pursuant to which HRA agreed to administer and operate various rehabilitation programs, including Duluth's property rehabilitation program (the program); and

WHEREAS, pursuant to the program guidelines, HRA entered into an agreement dated December 11, 1991 (the agreement), with Gary and Carolyn Connell (owners) pursuant to which HRA advanced a rehabilitation grant in the amount of \$8,929; and

WHEREAS, pursuant to the agreement, owners agreed to repay HRA the full amount of the advance in the event owners sold, transferred or otherwise conveyed the rehabilitated property within ten years of the date of the advance; and

WHEREAS, the rehabilitated property did not lend itself to being renovated to provide handicapped accessibility; and

WHEREAS, unforeseen circumstances required the owners to find housing which was handicapped accessible; and

WHEREAS, the owners lived on the rehabilitated property for six of the ten years committed.

NOW, THEREFORE, the city council of the city of Duluth hereby authorizes the forgiveness by HRA of repayment of \$5,357 of the advance, which is equal to 60 percent of the total advance of \$8,929.

Resolution 98-0289 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0409, by Councilor Prettner Solon, authorizing proper city officials to increase by \$1,350 an existing agreement (No. 17153) with Cheryl Lynn Erickson for administrative services for the McQuade protected access committee to an amount of not to exceed \$62,350, was introduced for discussion.

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

Alden Lind spoke against the harbor access issue at McQuade Road and suggested that the money be spent in the harbor area. He felt that there are enough harbor landings up the shore and the city should stop trying to get more money for a bad idea.

Councilor Keenan reviewed that he was on the original task force for two years and was in on the decision on the location of the safe harbor, but it would be a good time for the task force to give an update on their status since they did not get their funding this year from the legislature.

To Councilor Swapinski's questioning, Mr. Nollenberger stated that the administration will be looking at funding for this project next year.

Resolution 98-0409 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, administrative services will be required for the next eighteen months in order for the committee to complete its current work; and

WHEREAS, an existing agreement with Cheryl Erickson has been completed; and

WHEREAS, the authorized project budget by Cheryl Erickson has been expended; and

WHEREAS, there is a modest amount of contingency funds available for continued services; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement No. 17153 with Cheryl Lynn Erickson for administrative services by an amount not to exceed \$1,350, payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. Ms. 26, said agreement to be substantially in the form of Public Document No. 98-0511-27, on file in the office of the city clerk.

Resolution 98-0409 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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 authorized budget for Margaret Colombo has been expended; and

WHEREAS, there is a modest amount of contingency funds available; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her continued services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing agreement No. 17222 with Margaret R. Colombo for public information services in an amount not to exceed \$930, payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 98-0511-28 on file in the office of the city clerk.

Resolution 98-410 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Pattie Upton has submitted to the city council a request for a special use permit for a home beauty salon on property described as Lot 29 and the northerly 12.5 feet of Lot 30, Block 4, Dickermans Division and located at 839 North 42nd Avenue West; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Pattie Upton to allow for the operation of a home beauty salon at 839 North 42nd Avenue West, on the condition that the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 98-0511-29.

Resolution 98-0413 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council of the city of Duluth hereby adopts the CDBG citizen participation plan dated May 11, 1998, a copy of which is on file in the office of the city clerk as Public Document No. 98-0511-30.

Resolution 98-0418 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has received an additional funding allocation in the amount of \$48,000 for the 1998 HUD-funded HOME program for a total grant award of \$688,000; and

WHEREAS, the city of Duluth has received an additional funding allocation in the amount of \$43,000 for the 1998 HUD-funded ESG program for a total grant award of \$139,000.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make funding additions in the Federal Program Fund 260-1998-HUD-funded HOME account in the percentages set forth in city council Resolution 97-0836 (adopted October 27, 1997).

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make funding additions in the Federal Program Fund 262-1998-HUD-ESG account, the distribution to be determined by the requests for proposal process.

Resolution 98-0420 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city has received U.S. department of housing and urban development (HUD) funds under the HOME investment partnerships program (catalog of federal domestic assistance No. 14.239).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0511-31 with HRA for administration of the fiscal year 1998 HOME program administration agreement in an amount not to exceed \$865, payable from Federal HOME Program Fund 260, Agency 020, Organization 2661, Object H003 and \$430,000 payable from Federal HOME Program Fund 260, Agency 020, Organization 2671, Object H003.

Resolution 98-0424 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that the proper city officials are hereby authorized to accept \$139,000 in emergency shelter grant program funds from the U.S. department of housing and urban development (HUD) and execute all necessary documents in connection therewith.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into emergency shelter grant program agreements substantially in the form of Public Document No. 98-0511-44, with the service providers listed below in the amounts set forth with regard thereto, payable from 1998 Federal Program Fund 262, Agency 621, Obj. 5434.

<u>Service Provider</u>	<u>Amount</u>
Churches United in Ministry (CHUM)	\$18,000
Churches United in Ministry (CHUM)	\$12,000
Women's Transitional Housing Coalition, Inc.	\$18,200
Life House	\$13,000
The Salvation Army	\$21,000
Women's Coalition	\$14,000
Human Development Center	\$15,000
American Indian Community Housing Organization	\$ 9,300
Veterans Outreach North	\$14,000
Legal Aid of Northeastern Minnesota	\$ 4,500

Resolution 98-0425 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the HRA housing rehabilitation project pursuant to Resolution 97-0836(c).

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. 98-0511-32, with the HRA to implement the above project; payment for said services shall not exceed \$804,000, payable out of the 1998 Federal Program Fund 262 - community development-HRA Housing Rehabilitation Account No. 6102.

Resolution 98-0426 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the HRA/East Hillside HARP II program housing project pursuant to Resolution 97-0836(c).

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. 98-0511-33, with the housing and redevelopment authority of Duluth, Minnesota (HRA), to implement the above project; payment for said services shall not exceed \$50,000, payable out of the 1998 Federal Program Fund 262 - community development HRA/East Hillside HARP II Program Account No. 6103.

Resolution 98-0427 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city, by city council Resolution 97-0836(c) on the 27th day of October, 1997, established the North Star Community Development Corporation project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement for a revolving loan fund, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0511-34(a), with NSCDC in an amount not to exceed \$40,000, payable out of the 1998 Federal Program Fund 262 - North Star Community Development Corporation Project Account No. 6120.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0511-34(b), with NSCDC to implement the revolving loan fund project in an amount not to exceed \$134,000, payable out of the 1998 Federal Program Fund 262 - North Star Community Development Corporation Project Account No. 6120.

Resolution 98-0438 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, May 10-16, 1998, is National Historic Preservation Week; and

WHEREAS, the theme of this year's preservation week is preservation begins at home; and

WHEREAS, Duluth has an abundance of architecturally and historically significant structures and properties worthy of preservation; and

WHEREAS, many Duluthians have shown their personal commitment to preservation through investments of time and money in their properties; and

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, continued vigilance is required that historic buildings which have special meaning for this community are not lost; 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 10 through May 16, 1998, is hereby declared Duluth historic preservation week.

Resolution 98-0448 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, that the city of Duluth (city) agrees to act as a legal sponsor for the project contained in the business and community development application to be submitted on or about May 15, 1998, and that the mayor of the city is hereby authorized to apply to the department of trade and economic development for funding of this project on behalf of the city.

RESOLVED, that the city has the legal authority to apply for financial assistance and the institutional, managerial and financial capacity to insure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

FURTHER RESOLVED, that the city has not incurred any costs and has not entered into any written agreements to purchase property.

FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickback, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon the approval of its application by the state, the city may enter into an agreement with the state of Minnesota for the above referenced project and that the city certifies that it will comply with all applicable laws and regulations as stated on all contract agreements and described in the compliances section (FP-20) of the business and community development applications.

FURTHER RESOLVED, that the city will obtain credit reports and credit information from DMR Consulting Group, Inc. The city and its city attorney will review the reports and information to ensure that no adverse findings or variances regarding, but not limited to, tax liens, judgments, court actions and filings with state, federal and other regulatory agencies are identified. Failure to dissolve any such adverse information could result in revocation or other legal action.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 98-0451 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0414, by Councilor Keenan, requesting the Charter commission to recommend adoption of an ordinance amending Section 8 of the Duluth City Charter to eliminate provisions requiring resolutions to be read at council meetings, was introduced for discussion.

Councilor Keenan moved to table the resolution for a committee meeting on May 26, which motion was seconded and unanimously carried.

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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. 98-0511-35 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 98-0419 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement between the city of Duluth and the Duluth economic development authority which allows the Duluth economic development authority to participate during 1998 in the city's self-insurance fund program and which agreement is on file in the office of the city clerk as Public Document No. 98-0511-36.

Resolution 98-0421 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 1998 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. 98-0511-37, on file in the office of the city clerk.

Resolution 98-0422 was unanimously adopted.

Approved May 11, 1998

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 1998 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. 98-0511-38, on file in the office of the city clerk.

Resolution 98-0423 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement with St. Louis County, which agreement is on file in the office of the city clerk as Public Document No. 98-0511-39, for the joint ownership and maintenance of a Printrak latent station (LS 2000), which will be used to input latent fingerprints into the state fingerprint database for comparison and analysis, for a consideration of not to exceed \$7,000 per year, to be disbursed from Account No. 100-200-1630-5404.

Resolution 98-0411 was unanimously adopted.

Approved May 11, 1998

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 is on file in the office of the city clerk as Public Document No. 98-0511-40, with the Minnesota department of economic security to provide services under the welfare to work program as defined in the program year 1998-99 welfare to work modification to the local plan for employment and training updated from March 16, 1998, through March 9, 2001, up to the amount of funding provided by said department for said program. Program funds will be accepted upon receipt of notice of funds available. Funds received shall be deposited in Fund 268, Budget Items 6222.

Resolution 98-0439 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, proper city officials are hereby authorized to amend City Contract No. 17946 to accept an additional \$23,943 in funds from the Minnesota department of economic security to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

continue operation of the Minnesota youth program for the period July 1, 1997, through June 30, 1999. This amendment brings total funding amount to \$270,816 and extends the contract through June 30, 1999. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 98-0511-41.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited in Fund 268, Budget Item 6205.

Resolution 98-0440 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Architectural Resources, Inc., for the sum of not to exceed \$9,095, from Water Fund 510, Agency 900, Organization 0505, Object 5533, Rep. Cat. M235, for providing certain architectural services to the city of Duluth in connection with the renovations to the Lakewood Pump Station (Phase 3), 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. 98-0511-42.

Resolution 98-0412 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Carlson and Kirwan be and hereby is awarded a contract for furnishing the management of the natural gas advertising program for the water and gas department in accordance with specifications on its low specification bid of \$60,000, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0560, Object 5340.

Resolution 98-0429 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Northern Water Works Supply (\$6,198.56); Davies Water Equipment Company (\$9,455.86) and Goodin Company (\$7,220.70) be and hereby are awarded a contract for furnishing and delivering various copper tubes and fittings for the water and gas department in accordance with specifications on their low specification total bid of \$22,875.12, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0449 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of ten motor graders for the street maintenance division in accordance with specifications on its low

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

specification bid of \$239,944.50, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 98-0378 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, pursuant to the Laws of Minnesota 1996, Chapter 317, the city of Duluth has established an in-flow and infiltration (I&I) grant program to provide grants to assist property owners in financing the cost of abating in-flow and infiltration on their property; and

WHEREAS, the owners of properties located at 5035 and 5041 London Road in the city of Duluth have a serious in-flow and infiltration problem that can be remedied by the construction of a joint storm sewer between those properties which will connect into the city storm sewer in London Road; and

WHEREAS, city technicians administering the I&I grant program have examined the project and have deemed it worthy for I&I grant program funding.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby authorizes the reimbursement of Robert Brophy the sum of \$23,000 to reimburse him for monies actually expended in the construction of a common storm sewer running between residences located at 5035 and 5041 London Road, respectively.

RESOLVED FURTHER, that the reimbursement authorized by this resolution shall be drawn from the I&I grant program, Fund 530-500-0582-5282.

Resolution 98-0395 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Damberg, Scott, Gerzina, Wagner for the sum of not to exceed \$25,000, from Sewer Fund 531, Ag. 500, Obj. 5532, for providing certain architectural services to the city of Duluth in connection with the public works consolidated facility, 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. 98-0511-43.

Resolution 98-0408 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of Kenwood Avenue 1998 street improvements for the engineering division in accordance with specifications on its low specification bid of \$207,012.60, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9807, Object 5530.

Resolution 98-0432 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR SWAPINSKI:

RESOLVED, that Falls Automotive, Inc., be and hereby is awarded a contract for furnishing and delivering one Dodge Ram pickup truck with plow for the sewer division in accordance with specifications on its low specification bid of \$21,860.22, terms net 30, FOB destination, payable out of Sewer Fund 530 Dept/Agency 500, Organization 0505, Object 5580.

Resolution 98-0433 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of upper Endion East 1998 street improvements for the engineering division in accordance with specifications on its low specification bid of \$855,280.35, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9803, Object 5530.

Resolution 98-0434 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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Resolution 98-0441, of intent to construct a drainage ditch and storm sewer in Kingston Alley from 51st Avenue East to 52nd Avenue East (City Job No. 9044ST98); and Resolution 98-0442, ordering the construction of a drainage ditch and storm sewer in Kingston Alley from 51st Avenue East to 52nd Avenue East (City Job No. 9044ST98) at an estimated cost of \$10,000, by Councilor Swapinski, were introduced for discussion.

Councilor Keenan moved to table the resolutions for more information, which motion was seconded and unanimously carried.

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BY COUNCILOR SWAPINSKI:

RESOLVED, that K.G.M. Contractors, Inc., be and hereby is awarded a contract for construction of lower Lakeside 1998 street improvement program for the engineering division in accordance with specifications on its low specification bid of \$1,646,224.13, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9801, Object 5530.

Resolution 98-0443 was unanimously adopted.

Approved May 11, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to provide a wastewater collection feasibility plan; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to prepare a feasibility study on providing a sanitary sewer network in Fond du Lac; and

WHEREAS, Ayres Associates has submitted a proposal for engineering services in connection with this project.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$20,000, will be payable from the Sewer Fund 530, Dept./Agency 500, Organization 0500, Object 5303.

Resolution 98-0444 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Resolution No. 98-0033 to Minnesota department of public safety for furnishing utilization of the criminal justice data network service in accordance with its fee structure at an annual cost of \$7,320, be and hereby is amended to increase the amount by \$4,400 for a new total of \$11,720, payable out of General Fund 100, Dept./Agency 200, Organization 1610, Object 5319.

Resolution 98-0404 was unanimously adopted.
Approved May 11, 1998
GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILOR PRETTNER SOLON

98-009 (9368) - AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56 AND 50-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST HOMESTAYS.

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

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

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BY COUNCILOR SWAPINSKI

98-006 (9369) - AN ORDINANCE ESTABLISHING A STORMWATER UTILITY SYSTEM; ADDING A NEW ARTICLE XI TO CHAPTER 43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Swapinski moved to amend the ordinance, Section 43-66, in:

(a) Subsection (a), by:

(1) Deleting the words "users and persons," and inserting the word "property";

(2) Adding a sentence to read: "Subject to the limitations contained in this

Section, this Article shall apply to all property in the city of Duluth";

(b) Subsection (b), by:

(1) Deleting the word "users" in the first sentence and inserting the word "benefitting," which motion was seconded and unanimously carried.

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

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The following ordinances were read for the second time:

BY PRESIDENT HOGG

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98-015 - AN ORDINANCE IMPOSING AN ADDITIONAL 1/2 PERCENT FOOD AND BEVERAGE TAX AND AN ADDITIONAL 1/2 PERCENT HOTEL-MOTEL TAX, AMENDING SECTIONS 42A-2, 42A-44, 42A-49 AND 42A-50 OF THE DULUTH CITY CODE.

President Hogg moved to table the ordinance for more a committee meeting on May 18, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

- - -

BY COUNCILOR RAPAICH

98-014 (9370) - AN ORDINANCE AMENDING THE MANNER IN WHICH THE DURATION OF CIVIL SERVICE LISTS IS ESTABLISHED AND AMENDING SECTION 13-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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BY COUNCILOR PRETTNER SOLON

98-013 (9371) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW RESTRICTED INDUSTRIAL-TECHNOLOGY DISTRICT.

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

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The meeting was adjourned at 10:00 p.m.

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

- - -

ORDINANCE NO. 9368

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING SECTIONS 50-1, 50-35, 50-56 AND 50-68 OF THE DULUTH CITY CODE, 1959, AS AMENDED RELATING TO BED AND BREAKFAST HOMESTAYS.

The city of Duluth does ordain:

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

Sec. 50-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by the following Sections.

Sec. 50-1.1. Accessory building or use.

A building or use subordinate in use, area or purpose to the principal building or use on the same lot and serving a purpose naturally and normally incidental to such principal building or use. Where an accessory building is attached to the principal building in a substantial manner by a wall or roof, it shall be considered part of the principal building.

Sec. 50-1.2. Alley.

A public thoroughfare less than 30 feet in width.

Sec. 50-1.3. Alley line.

The established side line of an alley easement.

Sec. 50-1.4. Apartment.

A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family.

Sec. 50-1.5. Apartment hotel.

A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and news stands when such uses are located entirely within the building with no separate entrance from the street and having no sign or display visible from the outside of the building indicating the existence of such use.

Sec. 50-1.6. Basement.

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than five feet of its height below the ceiling is above the grade of the adjoining ground.

Sec. 50-1.7. Bed and breakfast homestay.

A building designed as a single family dwelling providing lodging accommodations by prior arrangements, for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Sec. 50-1.8. Bed and breakfast inn.

A building designed as a single family dwelling containing habitable units providing lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public.

Sec. 50-1.9. Building.

Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Sec. 50-1.10. Building, height of.

The vertical distance at the center of the principal front of a building measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

Sec. 50-1.11. Clinic.

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or physicians and dentists in practice together.

Sec. 50-1.12. Club.

A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Sec. 50-1.13. Composting.

The controlled microbial degradation of organic waste to yield a humus like product.

Sec. 50-1.14. Construction debris.

Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Sec. 50-1-15. Day care facility.

A licensed private or public establishment, which, for gain or otherwise, regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, in a place other than the dependent's domicile.

Sec. 50-1.16. Demolition debris.

Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Sec. 50-1.17. District.

Any section of the city within which the zoning regulations are uniform.

Sec. 50-1.18. Dwelling.

Any building or portion thereof which is designed for or used for residential purposes.

Sec. 50-1.19. Dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only; occupied by the owner or by another family for periods of occupancy exceeding one week, and which is physically separated from any other habitable unit that may be located in the same building.

Sec. 50-1.20. Dwelling, one family.

A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation which complies with the Minnesota State Building Code.

Sec. 50-1.21. Dwelling, two family.

A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families.

Sec. 50-1.22. Dwelling, group.

One or more buildings containing dwelling units and arranged around two or three sides of a court which opens onto a street or place.

Sec. 50-1.23. Dwelling, multiple family.

A building containing three or more dwelling units.

Sec. 50-1.24. Dwelling, townhouse.

A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Sec. 50-1.25. Efficiency dwelling unit.

A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, provided that such dining alcove does not exceed 125 square feet in area.

Sec. 50-1.26. Elderly person.

An individual, married or single, 62 years of age or more.

Sec. 50-1.27. Elderly congregate housing.

A building used exclusively as a residential rooming house for occupancy by elderly persons.

Sec. 50-1.28. Family.

One or more persons related by blood, marriage or adoption, including foster children and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.

Sec. 50-1.29. Filling station.

Any building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting.

Sec. 50-1.30. Frontage.

All the property on one side of a street between two streets which intersect such street (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

Sec. 50-1.31. Garage, private.

An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, which vehicle shall not exceed a two ton capacity.

Sec. 50-1.32. Garage, public.

A building or portion thereof, other than a private storage or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

Sec. 50-1.33. Garage, storage or parking.

A building or portion thereof designed or used exclusively for storage of motor driven vehicles and within which motor fuels and oils may be sold, but no vehicles are equipped, repaired, hired or sold.

Sec. 50-1.34. Grade.

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

(b) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

(c) For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

Sec. 50-1.35. Habitable room.

Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

Sec. 50-1.36. Habitable unit.

Any habitable room or group of habitable rooms which provide sleeping facilities alone or in combination with required cooking, eating or living facilities.

Sec. 50-1.37. Hazardous waste.

Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid or contained gaseous form which because of its quality, concentration, or chemical, physical, or infectious characteristics may:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Sec. 50-1.38. Home occupation.

Any uses customarily incidental and subordinate to the principal residential use conducted within a dwelling and not in any accessory building, provided that no retail business of any sort is involved; no stock in trade is kept or commodities sold, except such as are made on the premises; no person not a member of the family residing on the premises is employed therein; no mechanical equipment is used except such as is permissible for purely domestic or household purposes; and not more than 1/4 of the floor area of one story of the dwelling is devoted to such home occupation. Provided, however, that such home occupation shall not require internal or external alterations, or involve special construction or features; that the occupation shall be conducted entirely within the dwelling; that the entrance to the space devoted to such occupation be from within the building with no separate exterior entrance; and that no display pertaining to such occupation be visible from the street; and provided further, that only one sign or device not exceeding one square foot in area which may contain the name and title only shall be permitted in connection with each such home occupation and shall be attached to the dwelling and not illuminated. No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television. In particular, a home occupation includes the following: artist's studio; dressmaking; office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with musical instruction limited to not more than two pupils at the same time. However, a home occupation shall not be interpreted to include barbershops, beauty parlors, tourist homes, restaurants or tea rooms.

Sec. 50-1.39. Hotel or motel.

A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation for periods of less than a week.

Sec. 50-1.40. Landscape plan.

An accurate scale drawing which indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to

allow the evaluation of impacts on natural systems and other aspects of the development. The landscape plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location and size of all existing and proposed buildings and other structures; walls and fences; existing coniferous trees having a height of eight feet or greater and existing deciduous trees having a trunk diameter of more than four inches, provided that boundaries for areas containing groups of such trees may be delineated as prime tree stands without identifying individual trees if the species and average tree size within such areas is indicated, and if there will be no construction of buildings or roadways within such areas; marshes, swamps and other wetlands; rock outcrops and severe slopes of 25 percent or greater; floodplains; the location, size and specific type of all proposed landscaping material; existing and proposed drainageways; existing and proposed contours at an interval of not less than two feet; vehicular, pedestrian and service access, including parking areas; areas to be conveyed, dedicated or reserved as common open areas, including public parks and recreational areas; drainage improvements such as culverts, retention/detention basins, major drainage swales and stormwater pipes in excess of six inches; north arrow; scale; title; and date.

Sec. 50-1.41. Laundromat.

An establishment providing hometype washing, drying or ironing machines for use on the premises.

Sec. 50-1.42. Loading space.

A space within the main building or on the same lot therewith, providing for the off street standing, loading or unloading of trucks and trailers.

Sec. 50-1.43. Lot.

Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings and the yards and parking spaces required herein and having its principal frontage upon a street or upon an officially approved place.

Sec. 50-1.44. Lot frontage.

Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

Sec. 50-1.45. Lot, corner.

A lot abutting upon two or more streets at their intersection.

Sec. 50-1.46. Lot, double frontage.

A lot having a frontage on two streets as distinguished from a corner lot.

Sec. 50-1.47. Lot of record.

A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of St. Louis County or a parcel of land described by metes and bounds the description of which has been recorded in the office of the register of deeds of St. Louis County or of the county auditor.

Sec. 50-1.48. Nonconforming use.

Any building or land lawfully occupied by a use at the time of passage of this Chapter or amendment thereto which does not conform after the passage of this Chapter or amendment thereto with the use regulations of the district in which it is situated.

Sec. 50-1.49. Nursing, rest or convalescent facilities.

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Sec. 50-1.50. Parking area.

An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

Sec. 50-1.51. Parking lot.

An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented or sold.

Sec. 50-1.52. Parking space.

A surfaced area, enclosed or unenclosed, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles.

Sec. 50-1.53. Petroleum soil treatment.

The storage and placement of petroleum contaminated soil on or into the soil surface, by methods such as land treatment (soil farming), composting or aerobic treatment cells for the purpose of biodegradation treatment of organic waste components. Terms herein shall have the meanings as defined in state of Minnesota rules on petroleum contaminated soil.

Sec. 50-1.54. Place.

An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

Sec. 50-1.55. Power transmission line.

A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

Sec. 50-1.56. Premises.

A lot, together with all buildings and structures existing thereon.

Sec. 50-1.57. Residential care facility.

A public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with 24 hour a day care, food, lodging, training, education, supervision, rehabilitation and treatment.

Sec. 50-1.58. Rooming house, commercial.

A building containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis.

Sec. 50-1.59. Rooming house, residential.

A building designed as a single family dwelling containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis.

Sec. 50-1.60. Site plan.

An accurate scale drawing which indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development. The site plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location, size and floor elevation of all existing and proposed buildings and other structures; walls and fences; outdoor storage, yards and space between buildings; vehicular, pedestrian and service access, including curb cuts; stormwater drainage directions; off street parking and loading areas, including the location and type of curbs, number of parking spaces and dimensions; signs and lighting, including location, size, height and method of illumination; relationship to buildings on adjacent properties; street names, including adjacent streets; street dedications and improvements; utility and other easements; waste disposal facilities; the existing and intended use of each building or part of a building; total acreage of the site; north arrow; scale; title; and date.

Sec. 50-1.61. Solid waste.

Has the meaning given it in Minnesota Statutes, Section 116.06, Subdivision 22.

Sec. 50-1.62. Solid waste disposal facility.

Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.

Sec. 50-1.63. Solid waste facility.

A waste facility permitted by the city of Duluth, the Western Lake Superior Sanitary District and the state of Minnesota that is designed or operated for the purpose of disposing of solid waste on or in the land, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility.

Sec. 50-1.64. Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Sec. 50-1.65. Story, half.

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Sec. 50-1.66. Street.

A thoroughfare 30 or more feet in width, dedicated to the public or privately owned and approved by the city council.

Sec. 50-1.67. Street line.

The established side line of a street easement or right-of-way.

Sec. 50-1.68. Structure.

Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground, including but without limiting the generality of the foregoing, backstops for tennis courts, fences or pergolas, but excluding signs as defined in Chapter 44 of this Code.

Sec. 50-1.69. Structural alterations.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Sec. 50-1.70. Tourist home.

A dwelling in which accommodations are provided or offered for one or more, but not exceeding ten, transient guests for compensation.

Sec. 50-1.71. Trailer.

Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels and/or axles have been removed.

Sec. 50-1.72. Trailer camp.

Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer camp and its facilities or not. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

Sec. 50-1.73. Truck.

Every motor vehicle designed, used or maintained primarily for the transportation of property.

Sec. 50-1.74. Useable open space.

Open space, other than required building setback areas, which is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails which have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if such buildings or other facilities are used for noncommercial, recreational or cultural purposes which are compatible with useable open space objectives and have been specifically approved as part of the development plan.

Sec. 50-1.75. Wind energy conversion systems (WECS)

An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill or wind turbine.

Sec. 50-1.76. Yard.

An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear

yard, the minimum horizontal distance between the lot line and the main building shall be used.

Sec. 50-1.77. Yard, front.

A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in Subsection (c) of Section 50-22. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where lines are equal, the front yard shall be the line which is the front by reason of the established pattern of the platting or development along the street(s) and/or avenue.

Sec. 50-1.78. Yard, rear.

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches and the rear lot line. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

Sec. 50-1.79. Yard, side.

A yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

Sec. 50-1.80. Yard waste.

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

Sec. 50-1.81. Yard waste compost facility.

A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product and residual resulting from the composting process.

Section 2. That Section 50-35 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any R district;

(c) Beauty salon in an R district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) Bed and breakfast inns and homestays; but only in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those historically or architecturally unique residential properties, as so certified by the city's heritage preservation commission, which meet or exceed the criteria outlined herein and only after it is determined that the single family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with houseguests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn;

(2) An application for this special use permit shall include the following:

(A) Documentation of historical or architectural uniqueness, certified by the city's heritage preservation commission;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65;

(D) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;

(E) Sign drawings showing location, dimensions and detail;

(F) Inspection reports from the city building official, city fire marshal and St. Louis County health department;

(3) Bed and breakfast inns and homestays may be granted special use permits subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) For a homestay, the proprietor shall be the owner and occupant of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted;

(D) Off street parking shall be provided as required in Section 50-26;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) from surrounding properties and rights-of-way. Scattered parking shall not be allowed;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast homestays. In bed and breakfast inns, allowed under this Section, dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in bed and breakfast inns not to exceed the approved seating capacity of the facility;

(G) Alterations to the interior of the building shall not compromise the primary residential character of the building;

(H) Any construction to restore buildings to historic condition, any construction of new buildings and any alterations to the exterior of the building or grounds must be authorized by the city council through this special use permit process;

(I) There shall be a limitation on the number of guest rooms permitted based on the character and size of the building;

(J) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(K) Guests' stays shall be limited to ten consecutive days;

(L) The bed and breakfast homestay shall be a subordinate use to the primary single family use of the property;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility and must not present any external image other than that of a single family residence;

(g) Circus or carnival grounds, but not within 300 feet of any R district;

(h) Clinic of less than 10,000 square feet in floor area or institutions;

(i) Commercial, recreational or amusement development for temporary or seasonal periods;

(j) Commercial rooming house, but only in those districts where permitted as special use;

(k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;

(l) Day care facility, but only in those districts where permitted as a special use;

- (m) Elderly congregate housing facility, but only in those districts where permitted as a special use;
- (n) Marina;
- (o) Mini storage facilities; subject to compliance with the following criteria:
 - (1) Located in a S zone;
 - (2) On a parcel not less than 7-½ acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;
 - (3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);
 - (4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of nonilluminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;
 - (5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;
 - (6) There shall be a minimum structure setback of 100 feet from any property line;
 - (7) Storage area unit shall not exceed a 12 foot wall height and a floor area of 300 square feet;
 - (8) Lighting shall be limited so as not to illuminate beyond property lines;
- (p) Office building of a civic, religious or charitable organization conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the R-4 district;
- (q) Petroleum soil treatment;
 - (1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:
 - (A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;
 - (B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:
 - 1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;
 - 2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;
 - (C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above.

(r) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;
2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;
2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;
3. Lines shall meet or exceed the National Electric Safety Code;
4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;
5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with

high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the tower farm within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the S suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a S district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in S districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. WECS shall be permitted, provided that the existing or future uses permitted within adjacent properties are not adversely affected by: noise, radio or television signal interference, or safety

conditions. Further provided, that such WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower and in no case shall tower height exceed 200 feet. Further provided, that satisfactory visual screen buffers be provided at the edges of the property in order to mitigate aesthetic impacts upon the neighborhood.

Section 3. That Section 50-56 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-56. Permitted uses.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

(a) One-family dwelling;
(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

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

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family

dwellings in a one-family residential district; provided that such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district if the findings required by Section 50-47(b) of this Code are made by such board;

(c) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(d) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(f) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

(g) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;

(h) Home occupation;

(i) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building;

(j) Residential boat dockage under the following conditions:

(1) General provisions:

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

(B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and

2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(k) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(l) Residential care facility serving six or fewer persons;

(m) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;

(n) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(o) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV;

(p) Bed and breakfast homestay containing no more than 12 habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 4. That Section 50-68 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 50-68. Permitted uses.

A building or premises in the R-2 two-family residential district shall be used only for the following purposes:

(a) Any use permitted in the R-1-a one-family residential district;

(b) Two-family dwelling;

(c) Townhouse dwelling, provided that each dwelling shall exhibit the characteristics of a series of single family dwellings which are arranged in an attached side by side fashion, and that such dwelling is designed to protect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Dispersion of dwellings. Regardless of ownership, no townhouse dwelling shall be constructed within 300 feet of any other townhouse dwelling;

(2) Modulation of roof lines. The roofs or portions thereof of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same plane, and any variation in height of such roofs or portions thereof shall be a minimum of three feet;

(3) Modulation of exterior walls. The exterior vertical walls of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same vertical plane, and the variation in setback of such exterior vertical walls shall be a minimum of three feet;

(4) Private open space. A private open space shall be provided at each end of all dwelling units by means of an extension of the vertical party or division walls; these extensions shall be provided by wood, brick or stone fences, evergreen vegetative materials, or the direct extension of the party or division walls; these extensions shall be for a minimum distance of six feet and shall have a minimum height of five feet;

(5) Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement shall be provided within all required yard areas, such trees to have a maximum average spacing of 20 feet;

(6) Parking and refuse storage areas. Parking areas shall contain a maximum of four adjacent parking spaces, such parking areas to be separated by landscaped islands which have a minimum width of eight feet being separated from parking areas by a poured concrete curb having a minimum height of six inches, and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement. Trees as specified in Subsection (5) above shall be placed along all sides of parking areas, such trees to have a maximum average spacing of 12 feet. Where parking or refuse storage areas are directly viewable from any exterior lot line at a height of six feet above such lot line, such areas shall be screened by wood, brick or stone fences, or vegetative materials, such fences or vegetative materials to have a minimum height of four feet, and to provide a minimum obstruction by opaque materials of 75 percent when viewed at an angle perpendicular to such fences or vegetative materials;

(7) Dwelling units must front on street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;

(8) Required drawings. All applications for building permits shall include the following information: a site plan and landscape plan as defined in this Code, such plans to be drawn at a scale of not less than 1/8 inch equals one foot; and, a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot indicating the size and location of all windows and doors. Such drawings shall also contain notations on the type of exterior materials and details of all fences;

(9) Review by the secretary of the city planning commission. Each application for a building permit for a townhouse dwelling located in a two-family residential district shall be forwarded to the secretary of the city planning commission for review and certification that such application is in compliance with the terms of this Section;

(10) Limitations on variances. Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article for townhouse dwellings in R-2 two-family residential districts shall be granted except variation of not more than ten percent of the dimensional requirements established in this Article;

(d) Day care facility serving 13 through 16 persons, provided a special use permit is secured according to the procedures set forth in Article IV;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(e) Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to more than 14 children;

(f) Bed and breakfast homestay containing no more than 12 habitable units;

(g) Bed and breakfast inn containing no more than 12 habitable units in addition to the owner's dwelling unit, provided a special use permit is secured according to the procedures set forth in Article IV;

(h) Residential rooming house containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 21, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 11, 1998
Approved May 11, 1998
GARY L. DOTY, Mayor

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ORDINANCE NO. 9369

BY COUNCILOR SWAPINSKI:

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY SYSTEM; ADDING A NEW ARTICLE XI TO CHAPTER 43 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That a new Article XI be added to Chapter 43 of the Duluth City Code, 1959, as amended, to read as follows:

Article XI. Stormwater Utility System.

Sec. 43-63. Stormwater utility established.

Pursuant to Minnesota Statutes, Section 444.075, as made applicable to the city of Duluth by Laws of Minnesota, 1995, Chapter 90, and pursuant to the Duluth City Charter, the city hereby establishes a stormwater utility and authorizes the imposition of just and reasonable utility fees for the use and availability of storm sewer facilities.

Sec. 43-64. Findings of fact; statement of purpose.

(a) The city council hereby finds that effective management of stormwater runoff through a properly constructed and maintained storm sewer system enhances quality of life within the community and is necessary for public health, safety and general welfare. The city council finds that the age of existing stormwater infrastructure within the city and increasingly restrictive environmental regulations will constitute a financial burden with respect to adequate future maintenance, reconstruction and expansion of the system. The city council also finds that the city's stormwater management system benefits and provides a service to all property in the city. Assigning costs and making charges based upon expected

stormwater runoff through impervious surface calculations cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. Finally, the city council finds that the costs of operating, maintaining and reconstructing the stormwater management system should, to the extent practicable, be allocated in relationship to the benefits and services received from the system;

(b) It is the purpose of this Article to provide a fair and organized method of maintaining a stormwater drainage system that will meet the future needs of the citizens of Duluth through the establishment of a reasonable and practical methodology for making stormwater utility charges.

Sec. 43-65. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Budget. The budget of the stormwater utility. The budget shall include yearly operating and maintenance costs, capital costs, debt service and amounts necessary to meet unanticipated costs.

Capital costs. Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to:

(a) Acquisition of all property, real or personal and all interests in connection therewith, including all rights-of-way and easements therefor;

(b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;

(c) Architectural, engineering, legal and other professional services;

(d) Expenses of obtaining permits or approvals before construction or other project charges which become due during construction;

(e) Any miscellaneous expenses incidental to a project.

Debt service. The principal and interest necessary to pay an indebtedness of the city related to the stormwater utility in any year.

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or ERU. The average impervious area of residential property per dwelling unit located within the city.

ERU rate. A utility fee charged on each ERU as established by resolution as provided herein.

Impervious area. Roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, patios, porches, driveways, sidewalks, parking areas and athletic courts.

Nonresidential property. Developed property that is classified by the city assessor as Property Types 3 and 5 pursuant to Minnesota Statutes Section 273.13. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current

operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Residential property. Developed property that is classified by the city assessor as land use Types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Stormwater drainage system or system. The existing constructed and natural stormwater drainage facilities and channels of the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Stormwater utility or utility. The utility created by this article to operate, maintain and improve the stormwater drainage system.

Utility fee. A utility fee authorized by Minnesota law and this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Sec. 43-66. Rates and charges.

(a) The stormwater utility shall charge utility fees as provided in this Article to recover from property benefitting from the system the capital costs, debt service, operation and maintenance costs of stormwater facilities in the city. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth;

(b) Utility fees shall be based upon the amount of impervious area on the benefitting property and shall be computed as provided in this Article. Each parcel of property within the city shall be categorized as residential, nonresidential, or undisturbed property. The utility fees for each type of property shall be as follows:

(1) The utility fee for residential property shall be the ERU rate multiplied by the number of dwelling units existing on the property;

(2) The utility fee for nonresidential property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area for a nonresidential property by one ERU. The minimum utility fee for any nonresidential property shall be equal to one ERU rate;

(3) Undisturbed parcels of land shall be exempt from the utility fee;

(c) The city council shall, by resolution, adopt a schedule of utility fees sufficient to produce revenue equal to the budget of the storm water utility. The resolution shall state the utility fee rate per ERU;

(d) The director shall gather impervious area data on residential property within the city and calculate an ERU value. The utility fees shall be based on this ERU value. In determining the ERU value, the director shall not be required to measure and consider all residential property in the city, but shall consider a reasonable sample representing areas throughout the city. The director shall further investigate nonresidential properties within the city to determine the impervious area on each property. The determination of impervious area made by the director shall be conclusive unless modified by the adjustment procedure set forth in this Article.

The director shall endeavor to investigate and reestablish an ERU value for the city every five years after the effective date of this ordinance;

(e) Public rights of way and airport runways and taxiways shall be exempt from utility fees;

(f) The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each lot or parcel subject to the fee. The director shall cause monthly bills to be sent for each lot or parcel and shall develop a billing and collection system for said fees. Bills may be combined with other city utility bills. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

(g) Delinquent utility fees shall be collected as provided in Minnesota Statutes 444.075, Subd. 3, in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent stormwater utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each lot or parcel where utility fees are delinquent, a description of each lot or parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a ten percent penalty added, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of Chapter 70 of the City Charter.

Sec. 43-67. Utility fee adjustments.

(a) Any person liable for the payment of stormwater utility fees on nonresidential property may, subject to the limitations set forth in the Section, apply to the director for a utility fee adjustment if the person believes the utility fee to be incorrect. The request for adjustment shall be made in writing and shall state, in detail, the grounds upon which relief is sought. The director may require the applicant for relief to submit, at applicant's expense, supplemental information including, but not limited to, survey data certified by a registered land surveyor and engineering reports certified by a registered professional engineer. The director may grant an adjustment if it is found that:

(1) A substantial error was made in the calculation of the impervious area on the nonresidential property;

(2) The stormwater runoff from the property never enters any facility of the stormwater drainage system;

(3) The property is subject to stormwater management practices that significantly improve the quantity or quality of the stormwater runoff from the property;

(b) Adjustments and denials of adjustments shall be made in writing by the director. No adjustment shall be made retroactively, except for initial appeals filed within six months of the effective date of this ordinance;

(c) Any person denied an adjustment by the director may appeal the denial to the city council by filing written notice of appeal with the city clerk within 30 days of receipt of the directors decision. The city council shall hear the appeal and affirm, modify or reverse the decision of the director, applying the standards for granting adjustments set forth in this Section.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 21, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 11, 1998
Approved May 11, 1998
GARY L. DOTY, Mayor

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ORDINANCE NO. 9370

BY COUNCILOR RAPAICH:

AN ORDINANCE AMENDING THE MANNER IN WHICH THE DURATION OF CIVIL SERVICE LISTS IS ESTABLISHED AND AMENDING SECTION 13-30 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 13-30 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-30. Duration of certain eligible lists.

All employment or promotional lists shall become effective on the date the list is approved by the board. The duration of any employment or promotional list shall be determined by the board at the time the board approves the test as required by Rule 13-42. In no case shall the duration of a list exceed two years from the date of approval.

Any name placed on any reappointment list shall remain on the list for five years, unless removed pursuant to Section 13-63, however, any name shall be removed if the person resigns from or is removed from the classified service.

Section 2. This ordinance shall apply prospectively, and shall not apply to any list in existence on the effective date of this ordinance.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 21, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 11, 1998

Approved May 11, 1998

GARY L. DOTY, Mayor

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ORDINANCE NO. 9371

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, TO CREATE A NEW RESTRICTED INDUSTRIAL-TECHNOLOGY DISTRICT.

The city of Duluth does ordain:

Section 1. That a new Article XXVIII be added to Chapter 50 of the Duluth City Code, 1959, as amended, to read as follows:

Article XXVIII. I-T Industrial-Technology District.

Sec. 50-194. Generally.

In order to provide for light-industrial development of attractive, integrated design and function, the I-T industrial-technology district is hereby established. The intent of such district is to establish high quality individual properties protected through development standards. Because of varying characteristics of locations and adjacent areas, certain standards are intended to be flexible. To accomplish this objective the council determines that a detailed review of the design of each development in such districts is necessary in order to minimize blighting influences on surrounding uses and neighborhoods, reduce adverse effects of development on the natural environment, enhance the visual and aesthetic quality of development and ensure the provision of adequate and cost efficient public facilities.

Sec. 50-195. Plan review requirements.

The following activities in the I-T district shall be initiated and building permits shall be issued only after the director of the department of planning and development has certified in writing that the review and approval procedures specified in Section 50-197 have been completed:

- (a) New building construction;
- (b) Building expansions of more than 500 square feet in floor area;
- (c) Grading or construction of parking areas of more than 3,000 square feet in area;
- (d) Construction of driveways or other means of providing access to property from public streets or highways;
- (e) Excavations of more than 50 cubic yards of earth or placement of more than 50 cubic yards of fill or other material. All excavations or fill placements in furtherance of a single project shall be considered to be one excavation or fill placement for purposes of this Section;
- (f) Removal of vegetation within wetlands as defined in Chapter 51.

Sec. 50-196. Permitted uses.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

A building or premises in the I-T industrial-technology district shall be used only for the following purposes:

(a) Manufacturing, wholesaling, jobbing, warehousing, distributive, light industrial and administrative uses. Such uses shall not emit smoke, odor, dust or vibrations from the buildings. Such uses may include those listed below by example, but such listed uses shall not be deemed to be exclusive; however, permitted uses shall not include those uses listed under the M-2 manufacturing district:

- (1) Business or commercial school, industrial vocational training school;
- (2) Cosmetics and toiletries;
- (3) Computer hardware, related parts or software;
- (4) Financial services processing, office operation;
- (5) Electronic components;
- (6) Food and beverage manufacturing;
- (7) Laboratories: research and development;
- (8) Leather goods manufacture, but not including tanning operations;
- (9) Metals and metal products;
- (10) Motion picture production, film processing;
- (11) Textiles, bedding and fibers;
- (12) Offices and office building supportive to onsite manufacturing and warehousing activity;
- (13) Pharmaceutical products;
- (14) Pottery and porcelain products;
- (15) Printing, publishing and engraving;
- (16) Wholesale houses and distributors;
- (17) Other uses similar to the above when approved;

(b) Commercial services and recreational uses which are incidental to and supportive of industrial uses if said uses are granted a special use permit under the procedures of Article IV of this Chapter. Such special use permit shall be granted only if a commercial service, retail or recreational use is found to be appropriate in terms of the specific industrial district character, size and location. Such supportive uses shall not include activities which are primarily retail in nature and devoted to the sale of consumer goods;

(c) Accessory buildings or uses customarily incidental and secondary in use and area to any of the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the building for the principal use. One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet.

Sec. 50-197. Requirements of plan approval.

Plans for the activities specified in Section 50-196 of this Code shall be approved only after a finding that the following requirements will be satisfied. These provisions shall be applicable to all new developments and to the expansion portion of existing developments except that these provisions shall apply to the entirety of

existing nonconforming developments where the proposed expansion or combination of expansions occurring after the effective date of this ordinance exceed an increase of 30 percent of the total area of the nonconforming use existing of the effective date of this ordinance:

(a) The development, as designed, will not be materially detrimental to present and future land uses of adjacent properties because of traffic congestion, noise, visual blight, glare or other nuisance characteristics;

(b) There shall be a landscaped or naturally vegetated setback area adjacent to all S and R district boundaries. No parking or loading shall be permitted within such setback areas. Within the landscaped setback area natural vegetation shall be maintained to the maximum extent possible. Where natural vegetation is disturbed, it shall be replaced with materials that offer equivalent or superior visual screening effects;

(c) A minimum of five percent of all parking areas on the proposed site shall have landscaped islands. Islands shall have a minimum average width of four feet and shall include a minimum of one tree at least two inches in diameter at the time of planting. Parking areas shall include at least one tree within or at the edges of the parking areas for every ten parking spaces;

(d) The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements determined by the city engineer to be reasonably necessary based on generally accepted traffic engineering principals as a result of the proposal, such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the developer/property owner. Any additional right-of-way or easements determined to be so needed shall be provided by the property owner at no cost to the city;

(e) Development of the land shall not increase the peak stormwater runoff from the development site from its existing condition based upon a storm of 100 year frequency and 24 hour duration;

(f) The proposed development shall be designed to minimize pollutants in stormwater runoff to the lowest level possible applying the best available technology;

(g) Any easements necessary for public access or utility purposes over the subject property shall be dedicated and any necessary improvements within such easements or other easements adjacent to the subject property shall be made;

(h) Wetlands, shorelands and floodplains shall be managed in accordance with Chapter 51 of this Code;

(i) Curbing shall be provided to define parking and landscaped areas and to direct stormwater runoff;

(j) Building height restrictions and building setback requirements shall be established for each development plan to ensure that the purposes of the Code are carried out.

Sec. 50-198. Loading requirements.

All loading, unloading and maneuvering operations shall occur off street and shall be located in the side yard or rear yard area and comply with the requirements for a specific use as set forth in Article III of this Chapter. No such loading or

unloading shall be permitted in a location which interferes with ingress or egress of traffic to a street and no loading area shall be located so as to encourage vehicles to back into or out of such loading areas from the street. Loading areas shall be constructed with a durable, dust-free material having a smooth, hard surface and shall be defined on all sides by raised, cast-in-place concrete curbs.

Sec. 50-199. Outside storage.

Outdoor storage of materials, supplies, products, equipment, waste or company owned vehicles other than passenger cars shall be allowed in the side yards, rear yard and rear yard setback area only and in such cases shall be visually screened by fences, walls or planting which screen the view of storage from streets, freeways and adjacent properties. Decorative fences or walls shall screen the view of 75 percent of such yards to a point five feet in vertical height. Plantings shall consist of plantings of evergreen vegetation with individual plantings having a minimum height of four feet at the time of planting.

Sec. 50-200. Utility lines.

All utility lines shall be placed underground, including telephone lines, electrical and energy transmission lines and distribution lines. Exceptions to said requirement may be made by the city council upon recommendation of the planning commission only if it is conclusively shown that underground placement is impractical. Transformers or terminal equipment shall be visually screened to obstruct views from streets and adjacent properties.

Sec. 50-201. Yards and building height.

Specific minimum yard setbacks and maximum building heights shall be determined depending upon individual characteristics of each site. However, in no case shall any front yard be less than 25 feet in depth, corner side yard be less than 25 feet, interior side yard be less than ten feet or rear yard be less than ten feet. Building heights shall not exceed 45 feet.

Sec. 50-202. Exterior building appearance.

Not less than 30 percent of the exterior walls of all buildings in the district shall be covered with finish grade brick, stone, concrete or masonry. No metal roofing materials shall be visible. All building equipment and services shall be screened in the same manor as provided in Section 50-199 above.

Sec. 50-203. Signage.

The following signs are permitted provided that a separate permit is required:

(a) Signs shall be restricted to advertising only the person, firm or corporation operating on a site. Neon signs with exposed tubing are not permitted;

(b) Signs necessary for directional or informational purposes shall be permitted but may not exceed four square feet in area and may not extend more than five feet above the ground;

(c) Spotlighting of signs is permissible but only if such lighting is shielded so as to direct light to the sign only and the light source is not visible from the property lines;

(d) Signs shall be limited to wall signs and monument type signs. The total square foot area of wall signs shall not exceed 1/20 of the total square foot area of the wall on which they are placed. Wall signs shall be flush mounted and shall not extend above the roof line. Monument signs, which are architecturally designed and located directly at grade, shall be limited to one such sign on each

street frontage, shall be limited to 60 square feet in area and eight feet in height and shall be located no closer than 15 feet from the property lines;

(e) Direct and indirect illumination is permitted. Flashing and animated signs are not permitted.

Sec. 50-204. Parking requirements.

Except as provided in this Section, off street parking spaces shall be provided in the I-T district in accordance with the requirements for specific uses set forth in Article III of this Chapter. All vehicular parking whether customer, visitor or employee, shall be off street. The number of off street parking spaces shall comply with the following requirements:

(a) One parking space for each 1,000 square feet of gross floor area of buildings used for warehousing, jobbing and distributing;

(b) One parking space for each 500 square feet of gross floor area of buildings used for manufacturing;

(c) One parking space for each 250 square feet of floor area used for offices.

If there is a conflict between Article III and this Section, the greater requirement shall apply. Parking shall not be allowed within the required front and side yard setback areas unless a landscaped area is established on the street side of such parking and unless such parking is limited to passenger vehicles.

All parking areas shall be constructed with a durable, dust-free material, having a smooth, hard surface and shall be defined on all sides by raised cast-in-place concrete curbs.

Sec. 50-205. Landscaping.

Landscaping, including planting of grass by sodding and native trees and shrubbery, or equivalent landscaping, shall be the responsibility of the owner of the property to establish and maintain. The owner/developer of the property shall:

(a) Incorporate existing vegetation into the landscape plan wherever possible;

(b) Protect existing vegetation during construction whenever possible and thereafter maintain such vegetation;

(c) Generally incorporate large irregular groupings or massings of the same variety, avoiding rigid or repeated specimen planting, except for boulevard trees and introducing multiple varieties within one general area. No trees shall be planted within 30 feet of a public street intersection;

(d) Plant trees and shrubbery shall be established and maintained in large parking areas. Parking areas which contain more than ten adjacent parking spaces and which are located in the front yard between the building line and front yard setback line or between the building line and side yard setback line shall be separated by landscaped islands which have a minimum width of eight feet, lined by cast-in-place concrete curbs and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement;

(e) Boulevard trees which shall consist of coniferous trees having a minimum height of four feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement; such trees to have a maximum average spacing from each other of 30 feet. No trees shall be planted within 30 feet of a public street intersection;

- (f) Select climate tolerant plant materials;
- (g) Grade, properly drain, sod and maintain open areas, reserved areas or potential land not used or held for potential future development;
- (h) Totally landscape all building foundation areas that are oriented toward streets or public areas.

Sec. 50-206. Approval of plans for individual projects.

Before commencing the construction or alteration of any building, enclosure, fence, outdoor storage or display, loading dock, parking facility, storage yard, sign or landscaping or any other structure or improvement on any property within the district, the property owner, lessee or other occupant shall first submit plans and specifications to the city building official, city engineer and director of the department of planning and development, or designee, for written certification that these regulations have been complied with. If the project applicant or official is unclear as to the meaning, intent or applicability of the regulation, or if the applicant is aggrieved as to the interpretation of any of the above officials, said party may submit the matter to the planning commission's land use and zoning committee for clarification or determination. Said plans and specifications shall include:

- (a) Landscape plan at a scale of not less than one inch = 50 feet and as defined in this Chapter, including all existing and proposed plant materials and sizes;
- (b) Elevation drawings of all man-made landscaping devices such as tree pots, benches, etc., at a scale of not less than 1/8 inch = one foot;
- (c) Elevation drawings of all outdoor storage screening devices, indicating color, materials and method of construction;
- (d) A site plan as defined in this Chapter and including utilities serving the site;
- (e) Building elevation drawings, including notations as to specific building materials and colors;
- (f) Sign elevation drawings.

Sec. 50-207. Procedures.

(a) Plan review for the activities noted in Section 50-205 shall be performed by the director of the department of planning and development, subject to appeal to the city planning commission and city council. No plan will be approved unless a complete application including all required supporting information is submitted or submission of specified information is waived in writing by the director of planning and development;

(b) Applications for such review and approval shall be accompanied by the documents listed in Section 50-205, detailed stormwater management plans, detailed erosion and sedimentation control plans, detailed traffic analysis and plan for traffic control and improvements, a preliminary plat where the subject property is unplatted, involves the use of vacated and/or unimproved platted street right-of-way or involves the assemblage of multiple platted lots, a map and names and addresses of all property owners within 350 feet of the proposal site, and a written statement describing the proposed development or use. In the case of minor expansion of existing approved projects or in the case of new projects on sites of less than one acre, the director of the department of planning and development may waive these requirements when deemed to be inapplicable;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(c) Decisions of the director of the department of planning and development shall be final unless an aggrieved party appeals to the planning commission, with subsequent appeal to the city council, within ten days after written notification of the action is mailed to the applicant, by filing a notice of appeal with the city clerk. The filing of an appeal to the city planning commission, of any decision of the director of the department of planning and development, or to the city council, of any decision of the planning commission, shall stay all proceedings in furtherance of the decision appealed from. The city council may affirm, modify or reverse the decision of the commission, but shall approve development plans only if it first finds that the requirements specified in Section 50-208 of this Code will be satisfied;

(d) After the director of the department of planning and development, city planning commission or the city council has approved specific plans, all construction or other activities so approved shall be in accordance with the specific approved plans and shall thereafter be maintained in accordance with such plans. Subsequent changes or modifications in the plans or project shall be subject to review as initially required.

Sec. 50-208. Surety requirements.

In addition to the above cited requirements, the city council may subsequently require the provision of a performance bond or other form of security to insure the completion of construction of the public and/or private improvements included in the plan.

Sec. 50-209. Limitations on variances.

Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article shall be granted except a variation of not more than ten percent from any dimensional requirement and 20 percent from any off street parking requirement.

Sec. 50-210. Severability.

If any paragraph in these regulations or part thereof shall be invalid, illegal or inoperative for any reason, the remaining part so far as possible and reasonable shall be effective and fully operative.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 21, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 11, 1998
Approved May 11, 1998
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 26, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on December 1 and 15, 1997, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0526-01 A&L Diamond, LLC, by William Burns, attorney, petitioning to vacate street and utility easements in Block 68, Addition to Oneota. -- Assessor

98-0526-25 Bresnan Communications submitting 1997 performance review, pursuant to Ordinance No. 8778. -- Received

98-0526-03 St. Louis County Heritage and Arts Center submitting application from Marlene Cieluch for rental during which alcoholic beverages will be served on June 5, 1998. -- Received

98-0526-23 Spirit Ridge, LLC., by William Burns, attorney, submitting communications pertaining to the proposed hotel project and golf course at Spirit Mountain (98-0180R). -- Received

98-0526-24 Sandra Work (supported by 29 signatures) submitting communication pertaining to proposed ordinance prohibiting skateboarding on sidewalks in business districts at all times (98-017-O). -- Received

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REPORTS OF OFFICERS

98-0526-04 Assessor submitting:

(a) Letter of sufficiency of petition to vacate unused utility easement on the East boundary of Lot 1, Vermilion Road Addition. -- Received

(b) For confirmation the assessment rolls levied to defray the assessable portion of Contract No. 7027, 1997 SIP, amendment to Norton Park, Caldwell St. from 76th Avenue West easterly to alley and assessments in full for Contract No. 5310, demolition of buildings. -- Clerk

98-0526-05 Building official submitting appeals of building appeal board decisions as follows:

(a) Notice and order to repair connection to city sewer system dated April 28, 1998 (Robert O'Donnell);

(b) Yard complaint letter from the building inspection division dated March 10, 1998 (Alexander Lukovsky). -- Committee 2 (planning)

98-0526-06 Parks and recreation department director submitting Lake Superior zoological society: (a) Minutes of March 25, 1998, board of directors meeting; (b) Financial statement for March/April, 1998. -- Received

98-0526-07 Property manager submitting memorandum of understanding with Bruce Von Riedel and the city of Duluth for use of Minnesota Slip for the mooring of the Marine Trader, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

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REPORTS OF BOARDS AND COMMISSIONS

98-0526-08 Environmental advisory council minutes of April 1, 1998, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- 98-0526-09 Lawful gambling commission minutes of: (a) April 14; (b) April 22, 1998, meetings. -- Received
- 98-0526-10 Planning commission minutes of April 22, 1998, meeting. -- Received
- 98-0526-02 Sanitary sewer board of WLSSD minutes of May 4, 1998, meeting. -- Received
- 98-0526-11 Seaway Port authority of Duluth:
- (a) Financial statement for period ending February 28, 1998;
 - (b) Minutes of March 16, 1998, meeting. -- Received
- 98-0526-12 Special assessment board:
- (a) Minutes of April 14, 1998, meeting;
 - (b) Report, findings and recommendations for proposed construction of a drainage ditch in Kingston Alley from 51st to 52nd Avenue East. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Bruce Esse spoke about the dusty conditions that have prevailed on 32nd Avenue East since the city reclaimed it in 1997. He noted that health conditions suffered by family members are being exasperated by the increased dust and reported that he has written to and discussed the issue with city officials with no satisfaction. Mr. Esse stated that the street is not scheduled to be improved until the year 2001 and pleaded for immediate council assistance in resolving this matter.

Councilors requested that the administration report back with a list of city streets that are unimproved and advise the council on what the costs are for dust control. A suggestion was made that the timing for the improvement of the street be moved up.

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0397, approving Laws of Minnesota 1998, Chapter 389, Article 8, Sections 25, 26 and 27, authorizing the city to impose an additional 1/2 percent food and beverage tax and an additional 1/2 percent hotel-motel tax, from the table, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT HOGG

98-015 (9372) - AN ORDINANCE IMPOSING AN ADDITIONAL 1/2 PERCENT FOOD AND BEVERAGE TAX AND AN ADDITIONAL 1/2 PERCENT HOTEL-MOTEL TAX, AMENDING SECTIONS 42A-2, 42A-44, 42A-49 AND 42A-50 OF THE DULUTH CITY CODE.

President Hogg moved to remove the ordinance from the table for consideration at this time, which motion was seconded and unanimously carried.

- - -

Councilor Prettner Solon stated that her desire is not to take over the function of the Duluth state convention center administrative board (DECC board). However, because she has heard concerns expressed in the community about how this project will affect the waterfront, the location, design of the expansion and parking facility, and because of all the city funds invested in the immediate area, she believes that the council has a responsibility and needs to have some say in how construction progresses. Councilor Prettner Solon moved to amend the ordinance by adding the following language at the end of the ordinance: "No such bond shall be issued until

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the city council has adopted a resolution approving the location and design of the expansion of such entertainment and convention center," which motion was seconded for discussion.

President Hogg noted that the actual construction of the expansion is not scheduled to happen until next year and that the plans are not available to review at this time.

Councilor Prettner Solon's amendment carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Resolution 98-0397 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the Duluth City Council hereby approves Laws of Minnesota 1998, Chapter 389, Article 8, Sections 25, 26 and 27, and directs the city clerk to comply with the provisions of Minnesota Statutes, Section 645.021, Subdivision 3, by filing the required documents with the secretary of state certifying adoption of this resolution.

Resolution 98-0397 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

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

- - -

Councilor Edwards moved to remove Resolution 98-0428, awarding contract to Erling R. Hansen Contractor for police front desk and office renovation in accordance with specifications on its low specification bid of \$154,700, from the table, which motion was seconded and unanimously carried.

Councilor Edwards stated that the police department renovation is too costly and advocated spending the money on park facilities maintenance, which she believes has a higher priority.

Responding to Councilor Edwards, Councilor Swapinski stated that the bullet proof glass at the front desk is necessary for safety and that civilians have not been hired yet to staff the desk because the grant funds that is to pay for salaries was just recently approved. He stated support for the resolution.

Councilor Hales stated she views this project as a capital improvements issue and not necessarily a police department issue. She expressed the need for children to have safe, functional equipment and facilities and agreed that maintaining park facilities has a higher priority. She stated she will not support this resolution.

Responding to Councilor Gilbert, Administrative Assistant Nollenberger explained why the city is proceeding with this project this year and not in 1999, as scheduled in the five year plan.

Councilor Hardesty stated that her original reason to table this resolution was because the city needs to come up with over \$1 million to balance the budget at the end of the year and she was concerned about spending this money because she feared that layoffs would have to occur, which, she has since been assured, is not the case. She added that capital improvements are a part of good fiscal management, that this project has been in the works for a long time and that it is necessary to have good, efficient facilities with which to run city government. Councilor Hardesty noted that the city has spent at least \$11 million on youth facilities from capital improvement funds over the last five years and she does not feel this expenditure is out of balance in that sense. She stated support for the resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Responding to Councilor Keenan, Mr. Nollenberger stated that a report will soon be available showing how the city intends to manage anticipated budget shortfalls. Councilor Keenan stated that although he still has concerns regarding budget shortfalls, he will support the resolution.

Councilor Rapaich noted that one of the improvements to be made will create a more efficient one stop shop for individuals who find it necessary to get police assistance. She added that the police department is not in compliance with the Americans with Disabilities Act (ADA) which is a requirement.

Councilor Prettner Solon stated that she believes functional facilities are an integral part of the city's infrastructure to insure that delivery of city services are adequate in the future; she will support the resolution.

President Hogg stated that he is unwilling to support this resolution until the report regarding how budget shortfalls will be covered is available.

Councilor Gilbert stated he will support this resolution and noted the need to maintain city facilities and its infrastructure.

Resolution 98-0428 was adopted as follows:

BY COUNCILOR EDWARDS:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for renovation of the police front desk and office for the police department in accordance with specifications on its low specification bid of \$154,700, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C801.

Resolution 98-0428 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 7

Nays: Councilor Hales and President Hogg -- 2

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 98-0180, informing the Spirit Mountain recreation area authority and Spirit Ridge LLC of the reports, studies and other information that will be required by the city council before it will consider approving any plans or construction permits for the proposed lodging facility and golf course at Spirit Mountain, from the table for the purpose of discussion, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Edwards -- 1

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

The following individuals supported the resolution: John Pastor, Peggy Marrin, representing the Minnesota League of Women voters at state and local levels, Paul Monson, Sandy Roggenkamp, Cindy Hale, Larry Varhalla, Russ Stover, Will Rhodes, Kevin Smalley, Virginia Borden, representing the Duluth Audubon Society, Rosie Loeffler-Kemp, representing Clean Water Action, Mary Anderson and Ed Kale. Concerns raised to support the requiring of additional information as specified in the resolution were as follows: more time is necessary to more thoroughly gather environmental data to determine if the project is environmentally sound; the established environmental process has not been followed and developers need to comply with it before permits are issued; it will destroy native plants and vegetation; disruption of the area should not hinge on the legal matter of the presence or absence of rare or endangered species of plants;

the issues included in the resolution should have been addressed before a lease was signed; if the development is ultimately a good idea for the area, it should withstand the closer scrutiny of all aspects of the environmental impacts it will bring with it; founding legislation for the development of Spirit Mountain calls for the preservation of Spirit Mountain through intelligent and timely development and approving this development without scrutiny is unintelligent; area ground and well water may be contaminated and who will be held accountable if it is; the issue of Skyline Parkway being a scenic byway has not been addressed; the forest and environment provides habitat for birds and wildlife; the majority of Duluthians support preservation of Duluth's green spaces; and costs that result from environmental issues should be fully known before proceeding.

Responding to President Hogg, City Attorney Dinan stated that he has not researched the issue of liability with regard to water contamination. However, those questions can be addressed in the development agreement.

Assistant City Attorney Asleson stated that the development agreement provides for full indemnification for the city and Spirit Mountain. He continued by saying that if there were any problems with the quality of water resulting from the operations of the leased property, those would be the responsibility of the developer. Mr. Asleson said that if there is a problem with the quantity of water, the issue is controlled by the state of Minnesota which requires a permit for tapping into the aquifers and is responsible to see to it that the quantities that are being drawn are not injurious to other users or beyond the scope of what is reasonable to use. He added that with regard to surface water, there would be no liability because there is no particular right of any party to draw upon surface waters crossing their property.

Arlene Kashata and Vernon Zacher, representing the Indian nation, supported the resolution. Issues of concern that are important to the Indian nation were as follows: Spirit Mountain is a place of worship where area Indians of all tribes go to pray; the mountain is respected and honored by all nations and it is believed that it is alive with spirits that this development will destroy; this property is sacred and holy to a cultural entity and nation that exists in and near Duluth; any change on the mountain will impact the Indian nations' spirituality in that it will eliminate their place of worship and violate their right to pray; Spirit Mountain plays a part in the cultural heritage of the Indian nations; Ordinance No. 8938 requires the city to responsibly safeguard the heritage of the city of Duluth by preserving sites and structures which reflect elements of the city's cultural, social economic, political engineering or architectural history; Indians have customs and superstitions regarding the disturbance of Indian burial grounds and it is strongly suspected that Indian remains are buried on the proposed site.

Elizabeth Dahl, member of the council for Minnesota archeology and ad hoc member to the Indian advisory committee to the St. Louis County historical society as a resource person, spoke about the history of Spirit Mountain and its significance to American Indians. She stated that it is very likely that there are unplatted burials on the property and it is wise to have a study done before any excavation or disturbing of the earth is done because if remains are discovered during development, reporting the discovery is required by law and can cause delays.

Responding to councilors, Ms. Dahl stated that unplatted burials were done before specific burial grounds were designated. She explained some of the procedures used in studies such as this and could not give an estimate of how long a search will take or what the cost will be.

Charles Andresen, representing Spirit Mountain recreation authority board, stated that the board has not addressed the resolution. He stated that the resolution will not work and noted that the developer has already consented to work within an environmental assessment worksheet (EAW). Mr. Andresen continued that it is the responsibility of the regulating governmental unit (RGU) that is running the EAW to set the requirements for what the EAW is to contain, not the

council, which can suggest but not require. He emphasized that Minnesota Laws, Chapter 3-27, provides for the city council to approve and issue permits. However, the statute authorizes the planning commission, working jointly with the parks and recreation commission, to adopt necessary and reasonable requirements for review to insure that the proposed use is within the purposes of the statute and attach appropriate conditions and safeguards to insure compliance. Mr. Andresen referred to the legislation that established the authority board and its duties to administer operations at Spirit Mountain according to the master plan. He stated that this resolution makes management decisions and takes authority away from the board, which the council has no right to do. Mr. Andresen concluded that the resolution is vague, indefinite and is subject to controversy as to what certain terms mean.

Responding to Councilor Gilbert, Mr. Andresen acknowledged that the planning commission did not believe that an EAW is required and that it is still questionable whether it is or not; and that he is not aware of when the developer decided to have an EAW performed.

Responding to Councilor Hardesty, Councilor Keenan stated that the parks and recreation commission did approve the Spirit Mountain master plan.

Responding to Councilor Hales, Mr. Andresen stated that the Spirit Mountain recreation authority board has been working on the project and holding the required public hearings and meetings for approximately nine months.

Responding to President Hogg, Mr. Andresen stated that the council has the authority to decide which reports and conditions will be required before considering the work permits as long as they are specific to the permits being issued and not the project itself.

Responding to Councilor Gilbert, Mr. Dinan acknowledged that in his first review of the proposed resolution, items were eliminated that he did not believe related specifically to the work permits to be issued. He added that the conditions contained within the resolution could be challenged and be subject to interpretation in court as to whether the council has overstepped its boundaries of authority.

William Burns, attorney for Spirit Ridge LLC, said that the issue raised regarding authority is legitimate. He stated for the record that at the time of the review of the lease and development issues, it was an absolute prerequisite of the council's approval that environmental review would be completed before any work was done. Mr. Burns continued by saying that environmental issues have been in focus since the beginning of the project and that the question of process remains. He elaborated on studies and reports that the developer is responsible to complete and stated that if they become issues, they will have to be investigated further. Mr. Burns stated that the developer has asked for clarification, not elimination, of conditions included in the resolution. He requested that the council consider his letter (Public Document No. 98-0526-23) before making a decision on the resolution.

Councilors and Mr. Burns discussed the terminology used in the resolution at length.

Councilor Prettner Solon stated that she believes that there is general consensus among all participants of this project and that she does not wish to put roadblocks in the way that will stop this project. She continued by saying that her desire is for this project to progress in an environmentally sound manner and stated that it is her intent to offer several insignificant amendments which she believes will address and clarify the terminology in the resolution, as proposed by Mr. Burns and the issues heard this evening.

Councilor Hardesty stated that discussing each amendment separately will provide the council with a mechanism to move forward. She continued by saying that in considering these amendments, the council is defining what the council believes are environmentally appropriate standards with regard to this project and agreeing in how the project will move forward.

Councilor Gilbert stated that he and Councilor Swapinski intend to get more input from the planning commission, the city planner, the developer and Mr. Burns. He noted the cooperation he has received from all parties and expressed his desire that the language in the resolution will meet with everyone's satisfaction to avoid costly litigation and referendum.

Councilor Prettner Solon moved to amend the resolution in the fourth paragraph, (a)(1) to read as follows: "An appropriate archeological review of the site with follow up as indicated to determine the location, if any, of Indian burial or archeological sites, and a plan to deal with same," which motion was seconded for discussion.

Responding to Councilor Keenan, Councilor Prettner Solon stated that the developer is responsible for any costs relating to the study.

Councilor Hardesty requested that the amendment define who decides what an appropriate archeological review is.

Responding to Councilor Hardesty, Mr. Burns explained who and what will occur with regard to a review.

Elizabeth Dahl explicitly explained the law and the process that needs to be followed in requesting the state archeologist for a thorough review.

Councilor Hardesty stated that she wants to insure that the state archeologist oversees the review and determines that the review has been done appropriately.

To accommodate Councilor Hardesty's request, Councilor Prettner Solon moved to amend her amendment in a friendly way to add after the word "same" the words "approved by the state archeologist," which was accepted by the seconder and Councilor Hardesty.

Councilor Hales read Minnesota Statutes 30708, Subsection 10, regarding the law as it relates to Indian burial grounds in its entirety in order to inform councilors of what the law is.

Responding to Councilor Swapinski, Ms. Dahl stated that the state archeologist is responsible to notify the Minnesota Indian affairs council but there is no reason not to provide for notification to the council in the resolution.

Responding to President Hogg, Councilor Swapinski stated that it may be redundant, but it will suffice for him, to add a reference to the resolution such as: "in accordance with Minnesota Statutes 30708, Subsection 10." Councilor Swapinski requested that the additional language be inserted in the amendment if it is acceptable to Councilor Prettner Solon.

Councilor Keenan stated that making amendments at this time is not wise and he suggested that the issue be taken up during a special council meeting on June 8.

Councilor Prettner Solon stated she does have a list of minimal amendments that she believes can easily be disposed of this evening. However, she desires that councilors be given time to study them before voting on the resolution.

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

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon and Rapaich -- 6

Nays: Councilors Gilbert, Swapinski and President Hogg -- 3

- - -

Councilor Swapinski moved to remove Resolution 98-0307, ordering the improvement of the 1999 street improvement program pursuant to Section 61(B) of the Home Rule Charter of the city of Duluth at an estimated cost of \$6,500, from the table, which motion was seconded and unanimously carried.

Responding to Councilor Hales, Mr. Nollenberger stated that the concerns regarding the 93rd Avenue West improvement seem to have been resolved and he would not like to see that street removed from the project. Regarding the addition of 32nd Avenue East to the street

improvement program, he stated that he can take it under advisement and report back to the council at the next meeting.

Resolution 98-0307 was adopted as follows:

BY COUNCILOR SWAPINSKI:

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. 98-0526-13 on file with the office of the city clerk; that the costs of said improvement, estimated at \$6,500,000, shall be paid from the street improvement Fund 440 and that 1/4 or less of said costs be levied against the property specifically benefitted by said improvements.

BE IT FURTHER RESOLVED, that whenever residents who live in the vicinity of one of the street improvement projects desires to be actively involved in the design development for the street improvement, a design advisory committee consisting of interested residents and city staff 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 and traffic patterns.

Resolution 98-0307 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

Resolution 98-0486, by President Hogg, confirming assessment roll levied to defray the assessable portion of SIP 1997, Skyline Parkway from Glenwood to first turnaround; and SIP1994, 15th Avenue East from London Road to Fourth Street, was introduced for discussion.

President Hogg and Councilor Hales announced that, regarding the 15th Avenue East project, the community development and housing division has worked with the department of housing and urban development (HUD) and that upon submittal of applications by residents on the side of 15th Avenue East that falls outside the boundaries of the community development block grant (CDBG) neighborhood to determine income status, they may qualify for assistance to help pay for the street improvements assessed to their property. Residents are encouraged to get applications for assistance from the community development and housing division office.

Resolution 98-0486 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portion of Contract No. 7020, Skyline Parkway from Glenwood Street to first turnaround (total assessable \$80,025) and Contract No. 7019, 15th Avenue East from London Road to Fourth Street (total assessable \$71,613.52), are hereby confirmed.

Resolution 98-0486 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 98-0327 to Billington Contracting, Inc., for furnishing Class 5 gravel, be amended to increase the amount by \$40,439.89 for a new total of \$67,622.50, payable out of various funds, depts./agencies, organizations and objects.

Resolution 98-0446 was unanimously adopted.

Approved May 26, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor licenses for the period ending April 30, 1999, subject to departmental approvals and the payment of sales and property taxes:

Waterfront Plaza Hotel Company LLC (Hawthorne Suites at Waterfront Plaza), 325 Lake Avenue South, with Kent Oliver, 40 percent; Don Holm Construction, 13.4 percent; Marine Iron and Shipbuilding, 40.9 percent; John and Lori Searfoss, 3.9 percent and Ron and Robin Jackson, .9 percent.

Scott Thompson and Ok Boon Kim (Louis' Cafe), 3904 Grand Avenue.

Resolution 98-0475 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that E.F. Johnson Company be and hereby is awarded a contract to supply portable and mobile radios for the police department for \$9,900 in accordance with specifications on its proposal and referencing the state of Minnesota bid for Contract No. 411933, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Agency 015, Organization 2008, Object V803.

Resolution 98-0481 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1999, subject to departmental approvals and the payment of sales and property taxes:

Arms, Inc. (Deco Bay), 345 Canal Park Drive.

Resolution 98-0483 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Lipe Bros. Construction be and hereby is awarded a contract for furnishing and delivering a floating fishing pier and retaining wall for the Twin Ponds recreation area in accordance with specifications on its low specification bid of \$22,500, terms net 30, FOB job site, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1994/1998, Object C409/C706.

Resolution 98-0499 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating wine license and on sale nonintoxicating malt liquor license for the periods ending

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

August 31, 1998, and April 30, 1999, respectively, subject to departmental approvals and the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

The Boston Beanery, Inc. (The Boston Bean Pot Restaurant & Coffeehouse), 319 West Superior Street, with Paul J. McIntyre, president and 50 percent owner and Julie A. Priola McIntyre, vice president and 50 percent owner.

Resolution 98-0510 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

BOARD OF ZONING APPEALS

Richard W. Towey for a term expiring July 31, 2000.

Resolution 98-0453 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Richard Maki for a term expiring July 1, 2000, replacing Lawrence Whalen who resigned.

Resolution 98-0455 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

DULUTH HOUSING TRUST FUND BOARD

Johnnie Forrest (labor) for a term expiring September 30, 1998, replacing David Grandaw who resigned.

Resolution 98-0458 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PARKING COMMISSION

Joan A. Flechsig (District 2) for a term expiring July 1, 2000, replacing Ryan Mears who resigned.

Resolution 98-0459 was unanimously adopted.

Approved May 26, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Peggy Hiestand for a term expiring September 17, 2000, replacing Judith Trolander.
Resolution 98-0460 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, personnel services, which were approved by the civil service board on May 5, 1998, and which are filed with the city clerk as Public Document No. 98-0526-22 are approved.

Resolution 98-0461 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that Resolution 98-0417 confirming appointment of the planning commission representative to the technical design advisory committee be amended to change the name of Ruthann Schnell to Robert Baeumler for the term expiring May 31, 2001, replacing Louis Pichetti.

Resolution 98-0469 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of a utility easement legally described as: the westerly five feet of the easterly ten feet of Lot 1, Vermilion Road 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 12, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly five feet of the ten foot wide utility easement described above and as more particularly described on Public Document No. 98-0526-14.

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, as well as the portion being retained.

Resolution 98-0466 was unanimously adopted.

Approved May 26, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, George Hovland, Snowflake Cross Country Ski Center, has submitted to the city council a request for an amendment to a special use permit issued pursuant the Resolution No. 97-0395 to authorize the siting and commercial use of up to 36 primitive campsites on property described as the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 8, Township 50, Range 14, lying north and easterly of County Highway 4 (Rice Lake Road) and located at 4348 Rice Lake Road; and said application to amend said permit 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 pursuant to Resolution No. 97-0395 is hereby amended to authorize the siting and commercial use of up to 36 primitive campsites, on the condition that the improvements be located as identified on Public Document No. 98-0526-15, that all licensing and permitting requirements of the St. Louis County health department be met and complied with and that the terms and conditions of Chapter 51 of the City Code be complied with.

Resolution 98-0467 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Lindajean Woodruff-Thompson has submitted to the city council a request for a special use permit for a home beauty salon on property described as Lot 7, Block 2, Glen Avon Seventh Division and located at 1828 Dunedin Avenue; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Lindajean Woodruff-Thompson to allow for the operation of a home beauty salon at 1828 Dunedin Avenue, on the condition that the operation be limited to and maintained in perpetual compliance with Section 51-35(r) and in accordance with the plans as identified as Public Document No. 98-0526-16.

Resolution 98-0468 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to improve Sport Court located in the Central Hillside neighborhood; and

WHEREAS, the city desires to hire a consulting engineer to provide the professional landscape architectural services required to complete design, drawings estimates and construction

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

management for the Central Hillside Sport Court Project; and

WHEREAS, R.L.K.-Kuusisto, Ltd., has submitted a proposal for 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 R.L.K.-Kuusisto, Ltd., to provide the city with such landscape architectural services.

BE IT FURTHER RESOLVED, that the cost of said landscape architectural services, estimated at \$10,400, will be payable in the amount of \$1,000 from the Community Development Fund 263, Dept./Agency 603, Object 6361 and \$9,400 payable from the Community Development Fund 262, Dept./Agency 619, Object 6913.

Resolution 98-0470 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Project SOAR economic self-sufficiency project pursuant to Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0526-17, with Project SOAR of Northeastern Minnesota, to implement the above project; payment for said services shall not exceed \$45,000, payable out of the 1998 Federal Program Fund 262 - community development - Project SOAR Account No. 6122.

Resolution 98-0472 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the northeast entrepreneur microenterprise development program project pursuant to Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0526-18, with the Northeast Entrepreneur Fund, Inc., to implement the above project; payment for said services shall not exceed \$75,000, payable out of the 1998 Federal Program Fund 262 - community development - Northeast Entrepreneur Microenterprise Development Program Account No. 6121.

Resolution 98-0482 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Damiano Center opportunities cooking project pursuant to Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0526-19, with the Damiano Center, to implement the above project; payment for said services shall not exceed \$30,000, payable out of the 1998 Federal Program Fund 262 - community development - Damiano Center Opportunities Cooking Account

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

No. 6123.

Resolution 98-0484 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized enter into an agreement with Minnesota Power and Light Company for the extension of overhead power supply facilities to the Bayfront Festival Park area in the amount of not to exceed \$25,000, payable from Fund 450, Agency 015, Org. 1996, Obj. C602.

Resolution 98-0492 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Don Holm Construction Co. be and hereby is awarded a contract for furnishing and delivering expansion of Duluth Community Health Center for the community development in accordance with specifications on its low specification bid of \$298,000, terms net 30, FOB job site, payable out of CDBG Fund 262, Dept./Agency 619/620/621, Organization, Object 6909/6910/6011.

Resolution 98-0496 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

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Resolution 98-0480, by Councilor Keenan, approving certain principles recommended by the environmental advisory commission, was introduced for discussion.

Councilor Keenan moved to table the resolution in order to hold a committee meeting on the issue, which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN:

RESOLVED, that Cushman Motor Company be and hereby is awarded a contract for furnishing and delivering one turf maintenance vehicle for the Enger Golf Course in accordance with specifications on its low specification bid of \$12,268.80, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0489 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Tee Shop Marketing, Inc., be and hereby is awarded a contract for furnishing and delivering one top dressing machine for the Enger Golf Course in accordance with specifications on its low specification bid of \$8,094, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0490 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Duluth Transit Authority regarding the provision of bus passes and tokens to participants in the city's job training programs, which agreement is on file in the office of the city clerk as Public Document No. 98-0526-20.

Resolution 98-0491 was unanimously adopted.

Approved May 26, 1998

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 furnishing volleyball court rental for the parks and recreation department in accordance with specifications on its low specification bid of \$8,200, terms net 30, FOB destination, payable out of Special League Fund 790, Dept./Agency 400, Object 5412.

Resolution 98-0493 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Minncor Industries be and hereby is awarded a contract for reupholstering library furniture for the library department in accordance with specifications on its low specification bid of \$8,270.36, terms net 30, FOB destination, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 2106, Object B648.

Resolution 98-0503 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to modify City Contract No. 17945 with the Minnesota department of economic security decreasing contract amount by \$10,000. In all other aspects, City Contract No. 17945 remains the same. A copy of this modification shall be on file in the city clerk's office as Public Document No. 98-0526-21.

Resolution 98-0471 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Schlumberger Industries be and hereby is awarded a contract for furnishing and delivering approximately 850 gas meters for the water and gas department in accordance with specifications on its low specification bid of \$54,182.94, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0464 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Chicago Tube & Iron Company be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

furnishing and delivering approximately 11,000 feet of iron pipe and 8,000 fittings for the water and gas department in accordance with specifications on its low specification bid of \$18,365.13, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 540, Object 5227.

Resolution 98-0494 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that U.S. Filter & Waterpro, Inc., be and hereby is awarded a contract for furnishing and delivering 27,500 feet of straight and coiled plastic pipe and numerous plastic fittings for the water and gas department in accordance with specifications on its low specification bid of \$17,238.71, terms net 30, FOB shipping point, payable out of Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0498 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Benna Ford, Superior, Wisconsin, be and hereby is awarded a contract for furnishing and delivering seven one-ton Ford vans, one 3/4 ton 4x4 truck and one compact car for the water and gas department in accordance with specifications on its low specification bid of \$239,320.41, terms net 30, FOB delivered, payable out of Water and Gas Fund 510/520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0501 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Erling R. Hansen be and hereby is awarded a contract for F&I door replacement and new ventilating system at the Lakewood pump station transformer room for the water and gas division in accordance with specifications on its low specification bid of \$7,200, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0502 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a construction project for Superior Street at 49th Avenue East and 52nd Avenue East and London Road (TH 61) at 52nd Avenue East; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to design the project and provide construction engineering; and

WHEREAS, L.H.B. Engineers and Architects 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 L.H.B. Engineers and Architects to provide the city with such

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$54,439, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9800, Object 5319. Reimbursement of 50 percent will be from the T.H. turnback.

Resolution 98-0462 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete an environmental engineering service; and

WHEREAS, the city desires to hire a professional engineer firm to provide the engineering services required for environmental engineering and testing services related to contaminated soils and ground water during construction of Railroad Street; and

WHEREAS, American Engineering Testing, Inc., has submitted a proposal for professional 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 American Engineering Testing, Inc., to provide the city with such professional engineering services.

BE IT FURTHER RESOLVED, that the cost of said professional engineering services, estimated at \$90,000, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5299, Object 5530, to be reimbursed by municipal state aid (M.S.A.).

Resolution 98-0463 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer easterly from Getchell Road to serve properties abutting the north line of Outlot A, Auditors Plat Bayview Heights Park Tract (2512 and 2428 Getchell Road). This sanitary sewer line would be constructed after the Bay View interceptor sewer line is built by WLSSD, which is anticipated in the summer of 1998.

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 98-0465 was unanimously adopted.

Approved May 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Amberjack Tree Service be and hereby is awarded a contract for tree removal for the street/park maintenance division in accordance with specifications on its low specification bid of \$21,132.25, terms net 30, FOB job site, payable out of General Fund 100,

Dept./Agency 500, Organization 2010, Object 5454.
Resolution 98-0487 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Uniforms Unlimited, Inc., be and hereby is awarded a contract for furnishing and delivering uniforms for the fire department in accordance with specifications on its low specification bid of \$9,000, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1502, Object 5218.
Resolution 98-0488 was unanimously adopted.
Approved May 26, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Regal Forms, Inc., be and hereby is awarded a contract for furnishing and delivering 5,000 pads of parking violation summons for the Duluth police department in accordance with specifications on its low specification bid of \$6,656.25, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5355.
Resolution 98-0500 was unanimously adopted.
Approved May 26, 1998
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

98-017 - AN ORDINANCE PROHIBITING SKATEBOARDING ON SIDEWALKS IN BUSINESS DISTRICTS AT ALL TIMES; AMENDING SECTION 45-6.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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COUNCILOR QUESTIONS AND COMMENTS

Councilors Hales and Hardesty requested that the administration have a dialogue with the Fond du Lac Band of Chippewa, and that it notify the state archeologist's office regarding the Spirit Mountain development.

Councilor Keenan stated that he has requested a report by the administration regarding what makes up the buffer zone between the Spirit Ridge LLC development and area neighbors.

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Councilor Gilbert stated that he has been told that the \$1 million operating budget deficit spoken about earlier in the meeting is due to the settlement of the basic unit city workers' contract. He objected to the comment and noted that the city was able to anticipate roughly what it would cost to settle the contracts and that he will not place the blame for this deficit on city employees because of the fact that the contract was settled.

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9372

BY PRESIDENT HOGG:

AN ORDINANCE IMPOSING AN ADDITIONAL 1/2 PERCENT FOOD AND BEVERAGE TAX AND AN ADDITIONAL 1/2 PERCENT HOTEL-MOTEL TAX, AMENDING SECTIONS 42A-2, 42A-44, 42A-49 AND 42A-50 OF THE DULUTH CITY CODE.

The city of Duluth does ordain:

Section 1. That Section 42A-2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-2. Sales tax--imposed; amount of tax; exemptions.

(a) To provide funds for the purpose of general municipal operations, maintenance and capital improvements of the city, there shall be and is hereby imposed an excise tax of one percent on gross receipts of any person from sales at retail, as defined in this Chapter, made in the city. In no case shall the tax imposed hereby upon the seller exceed the amount of the tax which he is authorized and required by law to collect from the purchaser;

(b) In addition to the tax set forth in Subsection (a) of this Section, and notwithstanding any provision of law to the contrary, an additional tax of 1-1/2 percent is hereby imposed on gross receipts from the furnishing, preparing or serving for a consideration of food, meals or drinks, not including those prepared and served at hospitals, sanatoriums, nursing homes or senior citizens' homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies or churches or pursuant to any program funded in whole or in part through 42 USCA Sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges, or the occasional meal thereof by a charitable or church organization. The tax imposed in this Subsection is subject to the exemptions set forth in Subsection (c) of this Section and to the limitations of Laws of Minnesota 1980, Chapter 511, as amended;

(c) The tax imposed by Subsection (b) above shall not be imposed:

(1) Upon business establishments doing less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 of the next year;

(2) Upon business establishments which did less than \$100,000 in sales taxable under Subsection (b) in any current tax period from October 1 to September 30 immediately preceding the period from October 1 to September 30 in which the tax would be collected;

(d) New establishments. The exemption in Subsection (c)(2) above shall not apply to newly opened establishments or establishments which have not been in operation for one year on September 30. In the case of the above-mentioned establishments, the administrator shall make an estimate of the anticipated yearly sales volume of the establishment based on the size, type of operation, sales volume of similar establishments in the area and any other available relevant data. If the estimated yearly sales volume exceeds \$100,000, the establishment shall collect and remit the tax authorized in Subsection (b). If the establishment has not

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

reached \$100,000 in sales taxable under Subsection (b) by the next September 30, taxes remitted by the establishment pursuant to Subsection (b) shall be refunded to the establishment in the manner provided in Section 42A-35 of this Chapter;

(e) Notwithstanding the provisions of paragraph (a) of this Section, for sales at retail of manufactured homes used for residential purposes the excise tax is imposed upon 65 percent of the sales price of the home.

Section 2. That Section 42A-44 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-44. Allocation and distribution of revenues produced by tax.

(a) All proceeds realized from the taxes imposed by this Chapter, except those amounts described in subsections (b) and (c), shall be paid into the general fund and distributed as provided in this Subsection. After the payment of all expenses of collection and enforcement of the taxes authorized under this Chapter and after making refunds provided for in this Chapter, the remainder of the taxes levied and collected under this Chapter shall be allocated and distributed in accordance with the annual budget submitted by the mayor and approved by the city council;

(b) Taxes realized as the result of sale and purchase as defined in paragraph (e) of the definition thereof shall be paid into a special account in the general fund, the proceeds of which will be devoted to one or more of the following recreational, cultural or civic projects:

- Spirit Mountain recreation area;
- Arena-auditorium complex;
- Duluth Convention and Visitors Bureau;
- St. Louis County Heritage and Arts Center;
- An account for civic or tourist projects.

The distribution of these proceeds shall be determined by the budget process described in Subsection (a);

(c) Revenues received from one percent of the tax authorized by Section 42A-2(b) in this Chapter shall be used to pay for activities conducted by the city or by other organizations which promote tourism in the city of Duluth and to subsidize the Duluth arena-auditorium and the Spirit Mountain recreation area. Distribution of said revenues shall be approved by the city council at least once annually and shall be made in accordance with the provisions of this Subsection. Revenue received from 1/2 percent of the tax authorized by said Section 42A-2(b) shall be used to pay the debt service on bonds issued to finance the expansion of the Duluth Entertainment Convention Center. No such bonds shall be issued until the city council has adopted a resolution approving the location and design of the expansion of such entertainment and convention center.

Section 3. That Section 42A-49 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-49. Tax imposed; method of collection.

In addition to any taxes set forth in the Duluth City Charter or Article I of this Chapter, and notwithstanding any provision of law to the contrary, an additional tax of 2-1/2 percent is hereby imposed upon the gross receipts derived from the furnishing of lodging for less than 30 days at any hotel or motel having more than 30 units for rental to transients. Such tax shall be collected in the same manner as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the tax set forth in the Duluth City Charter, Section 54(d), paragraph one. One-half percent of such tax is subject to the limitations set forth in Laws of Minnesota 1980, Chapter 511, as amended.

Section 4. That Section 42A-50 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-50. Allocation of revenues.

(a) The revenues received from one percent of the tax imposed by this Article shall be used to pay for activities conducted by the city or by other organizations which promote tourism in the city of Duluth and to subsidize the Duluth Entertainment Convention Center and the Spirit Mountain recreation area, and the revenues received from another one percent of such tax shall be used for tourist related public improvements. Distribution of said revenues shall be approved by the city council at least once annually and shall be in accordance with this Section;

(b) The revenues received from 1/2 percent of the tax imposed by this Article shall be used to pay the debt service on bonds issued to finance the expansion of the Duluth Entertainment Convention Center. No such bonds shall be issued until the city council has adopted a resolution approving the location and design of the expansion of such entertainment and convention center.

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication or on July 1, 1998, whichever is later. (Effective date: July 1, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 26, 1998
Approved May 26, 1998
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 8, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on January 5, 8, 12 and 27, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0608-01 George Hovland submitting:

(a) Further petitions (two signatures) to extend the sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots 1-6, Boulevard Terrace Addition. -- Assessor

(b) Waiver agreements regarding special assessment hearing for extension of sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots 1-6, Boulevard Terrace Addition. -- Engineering division

98-0608-02 Lake Superior Center, by William Burns, attorney, submitting petition to vacate that part of Fifth Avenue West in the recorded plat of Munger's Subdivision of Duluth and those parts of Section 27 and Section 34, Township 50 North, Range 14 West. -- Assessor

98-0608-03 Joseph and Mary Sitek, by William Burns, attorney, submitting petition for street and utility construction in Hartley Estates, Second Addition. -- Assessor

98-0608-17 U.S. army corps of engineers submitting letter regarding skateboarders, in-line skaters and stunt bicyclists in the Canal Park area (98-017-O). -- Received

98-0608-18 FIGHT for Minnesota, by Tom Paradise, submitting copy of Newsweek article regarding the high-tech industry in Minnesota (98-0308R). -- Received

98-0608-05 Great Lakes Aquarium submitting letter regarding the demolition and abatement of the Lake Superior Center building (98-0300R). -- Received

98-0608-07 Nathan Nesgoda submitting letter opposing the proposed skateboard ordinance (98-017-O). -- Received

98-0608-19 John Streitz submitting appeal of planning commission denial to approve a street width variance. -- Committee 2 (planning)

98-0608-04 The following submitting communications regarding the proposed Lake Superior Center project (98-0544R, 98-0545R and 98-0549R): (a) Murita Marty; (b) Margaret Ann Neufeld; (c) LaDonna Swenson. -- Received

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REPORTS OF OFFICERS

98-0608-08 Assessor submitting:

(a) Affidavit of mailing of notice of public meeting on ordering of proposed construction of water and sewer mains in East Superior Street from 63rd Avenue East to 380 feet easterly and levying of assessments against property benefited by such construction. -- Clerk

(b) Letters of sufficiency of petitions to:

(1) Construct street and utilities in Hartley Estates, Second Addition;

(2) Vacate street and utility easements in Block 68, Addition to Oneota;

(3) Vacate that part of Fifth Avenue West in the recorded plat of Munger's Subdivision of Duluth and those parts of Section 27 and Section 34, Township 50 North, Range 14 West. -- Received

98-0608-09 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling licenses from St. Margaret Mary Church (bingo and raffles) on September 13, 1998. -- Received

98-0608-10 Purchasing agent submitting emergency purchase orders for:

- (a) Aerial Lift Bridge spare motor repair awarded to L&S Electric, Inc.;
- (b) Wade Stadium renovation/Phase I awarded to Erling R. Hansen Contractor;
- (c) Wade Stadium risers waterproofing awarded to A. J. Spanjers Company. --

Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0608-11 Board of zoning appeals minutes of: (a) March 24; (b) April 28, 1998, meetings. -- Received

98-0608-12 Civil service board minutes of April 7, 1998, meeting. -- Received

98-0608-14 Housing and redevelopment authority board minutes of: (a) December 30, 1997; (b) January 27 annual; (c) January 27 regular; (d) February 24; (e) April 7, 1998, meetings. -- Received

98-0608-15 Sanitary sewer board of the WLSSD minutes of May 18, 1998, meeting. -- Received

98-0608-16 Special assessment board minutes of May 12, 1998, meeting. -- Received

98-0608-06 Technical design advisory committee for DWMX-D minutes of April 21, 1998, meeting. -- Received

98-0608-13 Tree commission minutes of May 11, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Lois Shields raised concern that since 15th Avenue East was reconstructed, an erosion problem has developed that causes rocks and debris to be deposited on the sidewalk and street in front of her house when it rains. She stated that after numerous contacts with city officials, the problem still has not been resolved, and that the rock has created a safety hazard for pedestrians. Ms. Shields requested that the city consider paving the alley to resolve the issue.

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John Rathe, representing Young Duluthians Care, expressed concern that the issue of privatization of public spaces in the Holiday Mall will be revisited by the council because of recent store closings Downtown. He continued by saying that after talking to officials, his organization is requesting that the council appoint a committee in the event the issue is presented to the council again.

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0435, establishing salaries and fringe benefits for the city attorney, assistant city attorneys and the equal opportunity representative for 1997 and 1998, from the table, which motion was seconded and unanimously carried.

Resolution 98-0435 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the monthly salary schedule for assistant city attorneys is hereby established as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Effective January 1, 1997

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
3238	3403	3568	3735	3899
<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
4084	4293	4501	4709	4918
<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
5153	5418	5684	5951	6216

Effective January 1, 1998

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
3332	3502	3671	3843	4012
<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
4202	4417	4632	4846	5061
<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
5302	5575	5849	6124	6396

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 2-1/2 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 \$6662, and effective January 1, 1998, such monthly salary shall be \$6855.

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:

Effective January 1, 1997

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
3271	3433	3605	3786	3975

Effective January 1, 1998

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
3300	3464	3637	3820	4011

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.

Resolution 98-0435 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

- - -

Councilor Gilbert moved to remove Resolution 98-0180, informing the Spirit Mountain recreation area authority and Spirit Ridge LLC of the reports, studies and other information that

will be required by the city council before it will consider approving any plans or construction permits for the proposed lodging facility and golf course at Spirit Mountain, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert stated that he has met with the developers and the Spirit Mountain board of directors and he believes that there is mutual agreement between all parties with regard to the language in the resolution.

Councilor Prettner Solon reviewed that the resolution being considered this evening is a replacement to the original resolution proposed and that amendments she proposed at the previous council meeting have been incorporated into the new language.

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

Joel Sipress stated support for the resolution and noted that the process has enabled all parties to work together to come up with a project that everyone can support.

Russell Stover reminded the council that there are still a number of factors that need to be addressed regarding this project, and he thanked councilors for their efforts, even though he is not in favor of the project. He urged support for the resolution.

Resolution 98-0180 was adopted as follows:

BY COUNCILORS GILBERT AND SWAPINSKI:

WHEREAS, the city council has approved a comprehensive amendment to the master plan of Spirit Mountain to include the construction of a hotel facility and nine hole golf course; and

WHEREAS, Spirit Ridge LLC is in the process of developing its plans for the hotel facility and golf course and any such plans will need to be reviewed and approved by the city council and a work permit will need to be obtained from the city council prior to the construction of the building or facility and prior to any site preparation; and

WHEREAS, the city council desires to facilitate the development process while Spirit Ridge LLC is in the planning phase of the project by notifying Spirit Ridge LLC of the reports, studies and other information that will be required before the city council will consider approving a work permit.

NOW, THEREFORE, BE IT RESOLVED, that Spirit Ridge LLC must provide the following documents and information to the council prior to submission of work permit requests for the golf course and hotel:

(a) An environmental assessment worksheet and the following:

(1) An appropriate archaeological review of the site, with follow-up as indicated, to determine the location, if any, of Indian burial or archaeological sites and a plan to deal with same as approved by the state archaeologist;

(2) A detailed map approved by the Army Corps of Engineers of all wetlands on the property to be developed and a plan to comply with the city's water resources and management ordinance;

(3) A review that addresses the impact on mature hardwood forests that exist on the property and a written plan to minimize any impact on the forest;

(4) A review of water quality and quantity issues to analyze the prospective impact that the development will have on the drinking water and wells of homeowners in the area as well as other nearby natural water bodies;

(5) A turf management plan that addresses procedures for the use of fertilizers, herbicides and pesticides and addresses the transport and fate of the applied fertilizers and pesticides;

(b) A specific protocol (including on site monitoring) to oversee the construction of the golf course to make sure that wetlands, forests and cross-country ski trails are protected and preserved as set forth in the work permit;

(c) A review of the impact, if any, on Spirit Mountain cross country ski trails, and, to the extent of impact, a mitigation plan;

(d) A written plan for the implementation of erosion control measures during construction complying with the Best Management Practices for Minnesota, manual prepared by the Minnesota pollution control agency.

Alternately, the council may consider other documents proposed by the city planning commission which provide the same information requested above.

Resolution 98-0180 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and AFSCME Council 96, Local 66, representing the basic bargaining unit, covering years 1997 and 1998, said agreement to be in the form and containing the terms and conditions set out in Public Document No. 98-0608-20 on file with the city clerk.

Resolution 98-0509 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract No. 7027, 1997 street improvement program, amendment to Norton Park, Caldwell Street from 76th Avenue West, easterly to alley (total assessable \$6,000) and Contract No. 5310, demolition of buildings (total assessable \$15,722) and the same are hereby confirmed.

Resolution 98-0529 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0473, by Councilor Edwards, issuing temporary on sale nonintoxicating malt liquor licenses to Greek Orthodox Church (Twelve Holy Apostles, 632 East Second Street, Grandma's Marathon - Duluth, Inc., Morse Street and Canal Park Drive, and Mr. D's Men and Women's Softball Tournament, Wheeler Field, was introduced for discussion.

Councilors Keenan and Prettnner Solon stated they will abstain from voting on the resolution.

Resolution 98-0473 was adopted as follows:

BY COUNCILOR EDWARDS:

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:

Greek Orthodox Church (Twelve Holy Apostles), 632 East Second Street, for June 27 and 28, 1998, with Nick Petrangelo, manager.

Grandma's Marathon - Duluth, Inc., Morse Street and Canal Park Drive, for June 19, 20 and 21, 1998, with Donald Fennessy, manager, with the music and serving ceasing at 12:30 a.m.

Mr. D's Men and Women's Softball Tournament, Wheeler Field, for June 13 and 14, 1998, with Al Terwey, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0473 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Rapaich, Swapinski and President Hogg -- 7

Nays: None -- 0

Abstentions: Councilors Keenan and Prettner Solon -- 2

Approved June 8, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0474, by Councilor Edwards, authorizing consumption of alcoholic beverages in public places in Canal Park on June 19-21, 1998, in conjunction with Grandma's Marathon and subject to certain conditions, was introduced for discussion.

Councilor Keenan stated that he will abstain from voting on the resolution.

Resolution 98-0474 was adopted as follows:

BY COUNCILOR EDWARDS:

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 20, 1998, and confined to the fenced in parking lot at night on June 19-21, 1998, 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.

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.

Resolution 98-0474 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: None -- 0

Abstention: Councilor Keenan -- 1

Approved June 8, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area and issues an on sale seasonal dance license to the following on sale wine license and on sale nonintoxicating malt liquor license, subject to departmental approvals, with any specific restrictions:

Sir Benedict's Inc. (Sir Benedict's Tavern on the Lake), 805 East Superior Street, for June 26, 27 and 28, 1998, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Resolution 98-0477 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for June 20 and June 27, 1998, with the music and serving ceasing at 12:30 a.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 20, 1998, with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, for June 20, 1998, with the music and serving ceasing at 12:30 a.m.

Resolution 98-0478 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license, subject to any specific restrictions, an application fee of \$400 and further subject to approval of the liquor control commissioner:

Ridgeview Country Club, 700 West Redwing Street, for July 30, 31 and August 1, 2, 1998, with Pete Meisinger, manager.

Resolution 98-0479 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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, subject to departmental approvals, and the payment of sales and property taxes:

Grandma's Rochester, Inc. (Grandma's Saloon and Grill), 522 Lake Avenue South, transferred from 1600 Miller Trunk Highway.

RESOLVED FURTHER, that the area covered by the license transferred pursuant to this resolution (the "box car" and the attached deck at 522 Lake Avenue South) be deleted from the licensed premises of Grandmas, Inc., d/b/a Grandma's Saloon and Deli, 522 Lake Avenue South.

Resolution 98-0516 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering one four wheel drive hydraulic rotary mower for the street/park maintenance division in accordance with specifications on its low specification bid of \$33,067, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V807.

Resolution 98-0523 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Hogg announced that testimony regarding the Lake Superior Center project would be heard.

Cindy Welsh, Terry Norton and Tim Velner, teachers at area schools, supported the project for the following reasons: Lake Superior Center provides educational opportunities by offering

hands on experience in studying pollution; presentations made in classrooms by Lake Superior Center staff are used as a creative learning tool; the center is an integral part of curriculum that is being developed that focuses on Lake Superior in the areas of weather, geology, biology, history and economics and would not be possible without the assistance and contributions of Lake Superior Center and staff; besides being a tourist attraction, the center is a valuable asset to the school district and community; the benefits that the center brings to the community far outweigh any risks that have been cited.

Molly Butler, Abigail Crisostomo and Anne Gilbertson, students at Holy Rosary School, described learning experiences made possible through the utilization of the center's scientific equipment. They noted that the center provides a means for students to study and appreciate the lake and environment, as well as providing knowledge about how to preserve area resources for future generations.

The following individuals also spoke in favor of Lake Superior Center: Holly Sampson, representing the Duluth Superior Area Community Foundation, Richard DeBolt, president of Twin Ports Testing Company, Andrew Slade, director of education at Great Lakes Aquarium, Harold Frederick, member of the development committee for Lake Superior Center, Glenn Slotness, Janet Green, environmentalist, member of the Lake Superior Center board and former board member for the Minnesota pollution control agency (MPCA), Adrienne Josephs, David Ross, representing the chamber of commerce, Robert Mars, George Sundstrom, Craig Olson, John Anderson, financial advisor, John Goldfine, Michael Conlan and Arend Sandbulte.

The following reasons given and statements made in support of the Lake Superior Center were as follows: the Duluth Superior Area Community Foundation has provided the center with numerous grants in the past, which were administered responsibly, and there is confidence that the board and staff will satisfactorily carry the project forward to fruition; Lake Superior Center board members and staff were selected for their expertise in nonprofit management and environmental education; the center must only be used for charitable purposes—this eliminates the need to create another administrative structure or foundation to receive future contributions; the center has a strong environmental base and Twin Ports Testing has been involved with Lake Superior Center from the beginning to assist it in making sure that site and construction plans are environmentally sound; the board has worked diligently on the project and is committed to its success; Lake Superior Center has provided family supporting jobs for the past six years; the center's current limited facilities have already served approximately 30,000 students who have utilized the center and performed testing experiments of the lake; students and teachers are supportive of the project, which is becoming a part of their curriculum for projects that require hands on experience; current programs have been funded by area foundations and companies that understand the importance of teaching the preservation of resources to young people; young people have brought donations for the center when using the facilities; the center's intent for the future is to provide curriculum in science, history, language arts, etc., and it is anticipated that it will become a facility comparable to facilities such as the Minnesota Zoo and the Science Museum, which are only available in the Twin Cities; the established process involves the MPCA and eliminates the need for any further environmental assessment worksheets (EAW); of all of the existing attractions supported by the city to preserve the city's natural and cultural heritage, there is nothing dedicated to the study and preservation and exhibit of the city's greatest natural treasure, Lake Superior; the existence of this facility will allow residents to claim ownership and take possession of Lake Superior by providing the history and scientific knowledge of Duluth and Lake Superior; a foundation can be created to support the center's operations; Lake Superior Center is envisioned to be the centerpiece of Bayfront park in order for the park to reach its

maximum potential; the board of directors of the Duluth Area Chamber of Commerce unanimously supports the project; local business owners recognize the risks involved in this project, but believe that risks have been minimized and are comfortable with the established board, the city's review of the project, the positive financial impact it will have on the city and the full time employment it will provide; construction of the center will provide jobs for the building trades industry; this project is suitable to and completes the plan that the Marshall sisters envisioned for this property when their work to beautify Fifth Avenue West began; the jobs it will provide will be an asset to the local economy; research shows that the issue of clean water is expected to persist well into the next century and is projected to be a good investment; Lake Superior Center, together with other clean water resources that exist in the community, are a potential source for economic development in Duluth over and above the facility itself; most taxpayers support the project wholeheartedly because it benefits people and the lake; the aquarium will enhance the city's tourism industry; this project is of critical importance to businesses in the Downtown area; the major issue regarding this project is the financing package which has been developed by a team of the most knowledgeable public and private sector experts available; councilors were encouraged to take the advice of the experts and not that of opposing citizens who are not familiar with the process; public pedestrian easements along the waterfront and across the property will be made available for access to the lake and Bayfront Festival Park; there is no need to create a foundation for funding because a fundraising project already exists, and it is not necessary for the city to be involved with a private, nonprofit project.

The following individuals stated opposition to the project: Gloria Blin, Herrick Hellem, Murita Marty, John Rathe, representing Young Duluthians Care, Tom Sershon, Dorothy Bohlmann, Randy Virta, Alan Kehr, Kelly Olsen and Jim Van Dell. The following reasons and statements were made to discourage support for Lake Superior Center: the project is too costly and should be used for the purpose of infrastructure and economic development so that residents will remain in Duluth; fixing city streets is a better benefit to Duluth than this project; councilors should listen to constituents and not tax residents for a tourist attraction that is neither wanted or needed; the center is not an educational tool because it does not reveal what is making the lake and fish sick; residents do not want to pay more taxes for a project that will not pay for itself; a portion of Bayfront Festival Park property will be lost to this project and will eliminate some events that Duluth is dependant upon for revenue; the region's population is declining and this project will burden taxpayers with more taxation that is already too high; the Lake Superior Center board has begged the city for funding in the past and each time has told councilors it is their last funding request; the center will continue to make requests for funding as long as the city continues granting it to them; the agreement sets the project up to fail; the city is presently faced with financial difficulties and there is no wisdom in raising taxes to pay for a project that will need to request more taxes to balance its budget; the city will not retain ownership of the property if the project fails; an investigation of how funds have been spent to date should be undertaken; it is not necessary to build a \$33 million facility to teach children about the lake; the project should be terminated before any more funds are lost; taxpayer costs to move Bayfront Festival Park and put it in usable condition are too high; a newspaper article needs to be written to address all questions that have been raised and to present accurate facts and figures to Duluthians in a clear and concise manner so that there are no misunderstandings about the project; the project is an unnecessary luxury that city taxpayers cannot afford; city-backed bonds should only be used to fund projects that are truly public and necessary to make the city functional; this is a private project and should be funded from private sources; the risk of failure of this project is too great a risk to taxpayers for the city to back or be involved with the issuance of bonds.

John Glendenning, Don Monroe, representing Citizens Research Council, and Dan Conley neither supported or opposed the project. The following concerns were expressed and statements and suggestions were made: consideration needs to be given as to whether this attraction will compete with and result in loss of income for existing events and attractions; inconsistencies exist in tonight's testimony regarding testing of the proposed site and the need for an EAW; an EAW that was prepared previously does not take into consideration the construction of or impact that a large building will have on the environment that is close to the water; an environmental worksheet for this project needs to be obtained before construction starts to prevent any unexpected problems from occurring; enabling legislation indicates that it is the city's responsibility to raise funding for operational expenses and the administration needs to be open and honest with the citizens regarding how it plans to fulfill its responsibility; inconsistencies exist in the financing package that has been made public; and residents need to be heard regarding what they are willing to contribute to the project.

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Resolution 98-0544, authorizing construction and disbursement agreement with the city, Lake Superior Center and Lake Superior Center Authority; Resolution 98-0545, authorizing operating and revenue participation agreement with the city, Lake Superior Center and Lake Superior Center authority; and Resolution 98-0549, making commitment to state of Minnesota in conformance with Laws of Minnesota for 1996, Chapter 463, Section 24, Subdivision 6, by Councilor Prettner Solon, were introduced for discussion at this time.

Councilor Prettner Solon stated that these resolutions have been approved unanimously by the Duluth economic development authority (DEDA).

Councilor Swapinski stated that the council decided previously to consider this issue on June 22. He continued by saying that he is not prepared to vote on the issue and that the public is not aware that this issue will be considered this evening. Councilor Swapinski urged delaying consideration of the resolutions until June 22.

Councilor Gilbert stated that the council must wait until June 22 to vote on this issue because that is what the public expects. He expressed gratitude for the valuable input that has been received this evening, but added that he needs some time to fully digest what has been said. Councilor Gilbert stated that he is a little uncomfortable with the financing package as it has been presented, but is confident that with a small amount of continued discussion, a plan that is acceptable to all can be achieved. He voiced his approval of the process used for development of this project.

Councilor Hardesty noted that there have been at least three opportunities for public input and that she believes councilors have made up their minds to support this project—that any further discussion will not change their vote. She expressed concern that further delay in considering this issue will result in lost construction time due to the inability to award bids in a timely manner. Councilor Hardesty urged councilors to vote on the issue now.

President Hogg stated that a full public process has taken place regarding this issue and the only question that remains is whether councilors feel they fully understand the package or need more time to decide. He stated he is comfortable with voting now.

Councilor Swapinski stated that he feels less informed than councilors who are DEDA members and were able to negotiate this agreement in a closed session. He expressed his displeasure at not being allowed to attend the closed session and stated that even though councilors who are members of DEDA may feel well versed on the issue, councilors not on the board do not. He advocated tabling the resolution until June 22.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Keenan stated he feels obligated to table the resolution until June 22 so as not to mislead the public and to gain unanimous support for the project.

Councilor Hales moved to call the question, which motion failed for a lack of a second.

Councilor Gilbert reiterated that he is not ready to vote on this issue and that by doing so, the public is given the perception that councilors knew how they would vote for the project before this meeting ever started.

Councilor Swapinski moved to table the resolutions for two weeks, which motion was seconded and failed upon the following vote.

Yeas: Councilors Gilbert, Keenan and Swapinski -- 3

Nays: Councilors Edwards, Hales, Hardesty, Prettner Solon, Rapaich and President Hogg -- 6

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: Councilor Swapinski -- 1

Resolutions 98-0544, 98-0545 and 98-0549 were adopted as follows:

BY COUNCILOR 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. 98-0608-23 with the Duluth economic development authority, Lake Superior Center and Lake Superior Center authority for the construction of the Great Lakes Aquarium facility on Bayfront under the terms and conditions set forth therein.

Resolution 98-0544 was adopted upon the following vote:

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

Nays: Councilors Gilbert and Swapinski -- 2

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR 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. 98-0608-24 with the Duluth economic development authority, Lake Superior Center and Lake Superior Center authority for the operation of the Great Lakes Aquarium facility on Bayfront under the terms and conditions set forth therein.

Resolution 98-0545 was adopted upon the following vote:

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

Nays: Councilors Gilbert and Swapinski -- 2

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the legislature of the state of Minnesota adopted Laws of Minnesota for 1996, including Chapter 463, which act relates to public administration and appropriates to state

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

agencies or officials to acquire and to better public land and buildings and other public improvements of a capital nature as specified in the act; and

WHEREAS, Section 24 of said Chapter 463 deals with "Grants to Political Subdivisions" and appropriates funds to the commissioner of administration for the purposes stated; and

WHEREAS, Subdivision 6 of said Section 24 of Chapter 463 provides an appropriation for a grant in the amount of \$10,000,000 to the Lake Superior Center for the costs to design, construct, furnish and equip the Lake Superior Center in Duluth; and

WHEREAS, Subdivision 6 of Section 24 of Chapter 463 further provides that:

"This appropriation is not available until the commissioner of administration has received commitments from the city of Duluth that the city will secure money from nonstate sources to pay the operating costs of the Lake Superior Center, if necessary"; and

WHEREAS, the city now desires to make the commitment required in Subdivision 6 of Section 24 of Chapter 463, Laws of Minnesota for 1996.

RESOLVED, the city of Duluth commits to the Minnesota state commissioner of administration that it will secure money from nonstate sources to pay the operating costs of Lake Superior Center, if necessary in accordance with the requirements of Laws of Minnesota, 1996, Chapter 463, Section 34 Subd. 6.

Resolution 98-0549 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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The rules were suspended upon a unanimous vote to hear speakers regarding skateboarding at this time.

John Rathe, Josh Richard, Monica Hanson, Paul Almirall, Ian Hassenstab, Jim Van Dell, Patrick Dickhudt; David Betts; Nate Ward and Peggy Marrin spoke against the ordinance. Reasons given and statements made in opposition to the ordinance were as follows: skateboarding at night does not harm anyone; it is just another way to privatize public property; the right of freedom to use public space is being violated; if the city provided a decent area for skateboarders and inline skaters to skate, the problem would not exist; skating is a fun, positive, healthy past time for young people and the city should provide more places to participate in the sport; the existing facility located near Michigan Street is too small; the current ordinance addresses and provides for the problem of skaters in the Downtown area, but it is not enforced; more respect from skateboarders is present today than in the past; a 24 hour skateboarding ban in the Downtown will not deter the minority of skaters who presently abuse the law; the law is ten years old and should be posted Downtown for individuals who are not aware of or understand it; \$9,000 to \$11,000 worth of damages on an annual basis is not unreasonable given the city provides no specific area for skaters to express themselves; most local skaters are not dangerous or threatening; a compromise needs to be reached with regard to Downtown skaters; the law should be enforced so that skaters who obey the law are not punished because of a few who do not; the perception that public safety has been compromised by skaters and is a problem in the Downtown is unfounded; adults should cooperate and let kids be kids; public safety and kids are not the real reason businesses are closing Downtown; passage of this ordinance will only move the destructive nature of the sport to the residential and smaller business areas of the city; the problem is attitudes and behavior and the laws should be enforced regardless of the activity or what the age of the offender is.

Brian Dougherty acknowledged that skating in the Downtown and business areas seems to be here to stay and that he has observed that the sport can be intimidating, dangerous and

destructive to those who do not participate in it. He noted that the problem is with attitudes and appropriate behavior, and that individuals who participate in the sport need to understand that there must be respect for the rights of others and for public and private property.

Councilors discussed some of the aspects of skating and the facilities available with various speakers.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

BY COUNCILOR HALES

98-017 - AN ORDINANCE PROHIBITING SKATEBOARDING ON SIDEWALKS IN BUSINESS DISTRICTS AT ALL TIMES; AMENDING SECTION 45-6.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

President Hogg stated that the ordinance will be considered at this time.

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At this time, 10:55 p.m., Councilor Hales moved to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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Councilor Hales reviewed the history of the ordinance regarding skateboarding and rollerblading that presently exists, how the hours were established, the facilities that are presently available and what the parks and recreation department is doing to enable individuals to skate in appropriate public places. She stated that this is truly a public safety issue and that it is the council's responsibility to enact workable legislation that is acceptable to all.

Councilor Keenan reviewed that he works in the Canal Park area and has observed many responsible rollerbladers and skateboarders. He stated that to ban the sport in all business districts at all hours does not make sense to him and he will oppose the ordinance.

Councilor Rapaich stated that there is no reason to pass this ordinance if it is not enforced.

Responding to President Hogg, Administrative Assistant Nollenberger stated that the present ordinance is enforced occasionally, but does not have as high a priority as other crimes have.

Councilor Swapinski reviewed that a report he received from police records reveals that from January 23, 1996, to May 2, 1998, there were 15 adult and 23 juvenile arrests made for skating offenses. He continued by saying that he does not believe there is a safety problem and that to date there have been no serious injuries reported that can be attributed to the use of skating apparatus. Councilor Swapinski further stated that he believes that expenditure of \$9,000 to \$11,000 annually for maintenance costs due to youth activities in public places is an insignificant amount.

Councilor Hardesty stated she believes it is inappropriate for anyone to destroy public property at any time of the day, but she does not think that banning skating from the Downtown is the answer. She raised concern that if this ordinance is passed, trails will need to be built in order to get skaters through the Downtown.

Councilor Prettner Solon expressed concern for the damage that is done and stated there needs to be respect for public property. She continued by saying that she believes that the costs are really higher than what has been quoted because there is a lot of damage that is done that is not repaired, which is an issue. Councilor Prettner Solon acknowledged that skateboarding and rollerblading is a growing sport and that most people do it responsibly, and in many instances, is used for transportation. She stated that this ordinance is not the way to control the problem and suggested that by providing more opportunities, the city can provide more diversions from the property that it does not wish to be used by skaters.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

The ordinance failed upon the following vote (Public Document No. 98-0608-28):

Yeas: None -- 0

Nays: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

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President Hogg stated that Resolution 98-0513 will be considered at this time because there are speakers who wish to be heard.

Resolution 98-0513, by Councilor Prettner Solon, approving the revised neighborhood matching grants fund program guidelines and authorizing agreements for Tier II grants with certain organizations for various neighborhood improvement projects for Round II, 1998, neighborhood matching grants fund in a total amount of \$64,000, was introduced for discussion.

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

Jerry DeMeo, Dan Holm and Duane Holm urged support of this resolution and noted there are two grants involved for Woodland, one for the Woodland Community Club and one for the Woodland Amateur Hockey Association. It was explained that the project is being proposed to expand the parking area so that the neighborhood is not invaded with off street parking during the winter months.

Responding to Councilor Keenan, Mr. Nollenberger stated that the administration views the roles of the tree commission and the environmental advisory council as policy setting roles and that if it is the council's desire for them to look at and make recommendations on specific projects, the legislation delegating responsibilities to those commissions needs to be changed. He continued by saying that with regard to environmental review of this project, the city gardener, city forester and staff have worked with the community club to minimize the impact on the environment.

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At this time, 11:30 p.m., Councilor Hardesty moved to extend the meeting to 12:00 a.m., which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Keenan and Prettner Solon -- 2

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Resolution 98-0513 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the revised neighborhood matching grants fund program guidelines dated June, 1998, are hereby approved.

FURTHER 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. 98-0608-21, for the following amounts and projects listed:

Round II, 1998 Neighborhood Matching Grants Fund

Tier II grants (over \$3,000 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$20,000	Duluth Heights Community Club	Duluth Heights Community Club*

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$20,000	Parking addition at Woodland Community Club	Woodland Community Center, Inc.*
\$20,000	Pleasure rink at Woodland Community Club	Woodland Amateur Hockey Association
\$ 4,000	20 picnic tables and a pot luck	neighbor network transforming the hillside
\$64,000	Total grants (Tier II)	

*Project is approved for funding contingent upon appropriate city permit being approved.

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 grant amount of each Tier II agreement authorized by this resolution shall not exceed \$20,000, and further provided that the total grant amount of each Tier II agreement shall not exceed the amount of matching funds contributed by the grantee.

Resolution 98-0513 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

(Editor's Note: Resolution 98-0513 was reconsidered on June 22, 1998.)

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At this time, 11:30 p.m., councilors Hales and Swapinski left their seats.

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BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Denice Johnson (at large) for a term expiring March 1, 2001, replacing Patrick Shaw.

Resolution 98-0454 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Florence J. Baker, Donald W. Harris and Nortrud Villones to terms expiring July 1, 2000.

Resolution 98-0504 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH STATE CONVENTION CENTER ADMINISTRATIVE BOARD

Vernon L. Amundson, Riki McManus and Richard B. Pearson to terms expiring June 30, 2001.

Resolution 98-0505 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR RAPAICH:

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

PARKING COMMISSION

Scott A. Welles for a term expiring July 1, 2001.

Resolution 98-0506 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

George Gerogeorge for a term expiring July 1, 2001.

Resolution 98-0507 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Patricia M. Sobczak (Lincoln Park) for a term expiring March 1, 1999, replacing Denice Johnson, who resigned.

NEIGHBORHOOD ADVISORY COUNCIL

Patricia M. Sobczak (Lincoln Park) for a term expiring March 1, 2000, replacing Denice Johnson, who resigned.

Resolution 98-0531 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

DULUTH AIRPORT AUTHORITY

Kenneth Sunnarborg for a term expiring July 1, 2001.

Resolution 98-0541 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR 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. 98-0608-22 to city Contract No. 18163 with HRA, the Salvation Army, Inc., and Women's

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Transitional Housing Coalition, Inc., to establish certain reporting and monitoring obligations under the agreement with no change in compensation under the terms of the agreement.

Resolution 98-0514 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Marshfield Laboratories, veterinary division be and hereby is awarded a contract for furnishing veterinary tests for the Lake Superior zoo in accordance with specifications on its low specification bid of \$8,000, terms net 30, FOB destination, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5305.

Resolution 98-0522 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the Minnesota amateur sports commission (MASC), via the state general fund, provides for capital funds to assist political subdivisions of the state of Minnesota for the development of sport facilities; and

WHEREAS, the city of Duluth desires to renovate the Peterson Arena and the Fryberger Arena for the sports of ice hockey, broomball and figure skating.

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

(a) Estimates that the total cost of renovating the Peterson Arena and the Fryberger Arena shall be \$137,238 and \$215,135, respectively, and the city of Duluth is requesting \$100,000 from the Mighty Ducks general fund and will assume responsibility for a match requirement of \$100,000;

(b) City of Duluth agrees to own, assume 100 percent operations costs for said sport facility, and will operate said facility for its intended purpose for the functional life of the facility which is estimated to be 20 years;

(c) City of Duluth agrees to enter into necessary and required agreements with the Minnesota amateur sports commission for the specific purpose of renovating a sport facility and long-term program direction;

(d) The mayor is authorized and directed to execute said application and serve as the official liaison with the Minnesota amateur sports commission.

Resolution 98-0532 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Arrowhead Youth Soccer Association for the operation and maintenance of soccer facilities located on Arlington Avenue soccer complex and Jean Duluth Road soccer complex in the city of Duluth for a consideration of \$10,000 for the 1998 soccer season, to be deposited in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the Park Maintenance Account 100-500-2010-5013; said agreement filed as Public Document No. 98-0608-25.

Resolution 98-0533 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Dean's Trucking, Inc., be and hereby is awarded a contract for furnishing and delivering various sands for the golf courses in accordance with specifications on its low specification bid of \$6,072.63, terms net 30, FOB job sites, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 98-0542 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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At this time, 11:35 p.m., Councilor Hales returned to her seat.

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BY COUNCILOR GILBERT:

RESOLVED, that Lipe Brothers Construction be and hereby is awarded a contract for reroofing the Orphanage Pumping Station located at 815 Minneapolis Avenue for the water and gas department in accordance with specifications on its low specification bid of \$11,668, terms net 30, FOB job site, payable out of Water Fund 510, Dept./Agency 900, Organization 0550, Object 5401.

Resolution 98-0519 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Silverness Plumbing, Heating and Excavating, Inc., be and hereby is awarded a contract for replumbing gas piping which enters a building from below ground for the water and gas department in accordance with specifications on its low specification bid of \$18,700, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0520 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that De Zurik General Signal be and hereby is awarded a contract for furnishing and delivering two butterfly valves for the water and gas department in accordance with specifications on its low specification bid of \$7,527.42, terms net 30, FOB factory, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0521 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR GILBERT:

RESOLVED, that United Truck Body Company, Inc., be and hereby is awarded a contract for furnishing and delivering three electric lift gates to be mounted on service trucks for the water and gas department in accordance with specifications on its low specification bid of \$5,894.78, terms net 30, FOB destination, \$2,947.39 payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5580 and \$2,947.39 payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0528 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the replacement of a 150 mm D.I. water main in Morris Thomas Road from approximately 47 meters easterly of Karl Avenue to approximately 91 meters easterly at an estimated cost of \$17,940.50. The city's cost in this project will be funded out of the Water Fund 510, Agency 900, Organization 0505, Object 5533; said agreement filed as Public Document No. 98-0608-26.

Resolution 98-0537 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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At this time, 11:40 p.m., Councilor Swapinski returned to his seat.

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BY COUNCILOR SWAPINSKI:

WHEREAS, pursuant to the Laws of Minnesota 1996, Chapter 317, the city of Duluth has established an inflow and infiltration grant program to provide grants to assist property owners in financing the cost of abating inflow and infiltration on their property; and

WHEREAS, the owner of the property located at 4861 Glendale Street in the city of Duluth has a serious inflow and infiltration problem that can be remedied by the construction of a storm sewer from the property which will connect into the city storm sewer in Glendale Street; and

WHEREAS, city technicians administering the I & I grant program have examined the project and have deemed it worthy for I & I grant program funding;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council hereby authorizes the reimbursement of Robert Ringsred the sum of \$10,950 to reimburse him for monies actually expended in the construction of a storm sewer from his property to Glendale Street.

RESOLVED FURTHER, that the reimbursement authorized by this resolution shall be drawn from the inflow and infiltration grant program, Fund 530-500-0582-5482.

Resolution 98-0485 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a study to revise and update the plans for Phase I of the north shore erosion control project; and

WHEREAS, the city desires to hire an engineer to provide the engineering services required to design the project and provide construction engineering; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, L.H.B. Engineers and Architects 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 L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$90,710, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2166, Object 5303. Reimbursement of 80 percent will be from the ISTEPA (Federal) and 20 percent will be from municipal state aid (MSA).

Resolution 98-0526 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete the design of Hartley Estates/Phase III project; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to do the design services; 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 \$25,640, will be payable from the Special Assessment Fund 810, Dept./Agency 038, Organization 5311, Object 5530.

Resolution 98-0527 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a residential design street with bituminous surface, concrete curb and gutter and drainage provisions on: (Hartley Estates Second Addition) Maxwell Avenue from Marshall Street to Hastings Drive and Hastings Drive from Maxwell Avenue to 200 feet west of Ewing Avenue; and

Construct utilities (sanitary sewer, water and gas) to serve: Hartley Estates Second Addition, Lots One through Eight, Block One; and Lots One through Ten, Block Two; (City Job No. 9047RS98).

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of this council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

BE IT FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project, and will direct further procedures prescribed by Section 62 of the Charter.

Resolution 98-0518 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement with RREM, an MSA Division, for the sum of not to exceed \$45,000, payable from the self insurance fund, for professional engineering services in connection with the former Duluth Dump Site #1, which agreement is on file in the office of the city clerk as Public Document No. 98-0608-27.

Resolution 98-0530 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it is deemed necessary for the public convenience and safety that the Aerial Lift Bridge be rehabilitated; and

WHEREAS, municipal state aid funds will not be eligible for this improvement if it is rehabilitated using the existing speed limit of 24.1 km/h (15 mph), unless a variance is granted from the commissioner of transportation in accordance with Minnesota Rules Section 8820.3300; and

WHEREAS, municipal state aid funds will not be eligible for this improvement if it is rehabilitated at the existing 7.32 m (24 feet) width, unless a variance is granted from the commissioner of transportation in accordance with Minnesota Rules Section 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Section 8820.9936, c. and b., whereby the urban state aid standards be reduced for this project from the stated standard of 50 km/h design speed and a minimum curb to curb width of 7.8 m to the proposed speed of 30 km/h, and a width of 7.32 m.

Resolution 98-0534 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth-Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials for the street maintenance division in accordance with specifications on its low specification bid of \$141,538.50, terms net 30, FOB pick up, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5232.

Resolution 98-0539 was unanimously adopted.

Approved June 8, 1998

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:

- Front of 5 West First Street;
- Front of 723 West First Street;
- Front of 2753 Wellington Street;
- Front of 422 North 54th Avenue West;
- Front of 5723 Grand Avenue;
- Front of 311 South 69th Avenue West;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Front of 205 East Sixth Street;
Front of 417 East Fifth Street;
Front of 617 East 11th Street;
Front of 221 North Ninth Avenue East.
Resolution 98-0517 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that F.L.I.R. Systems, Inc., be and hereby is awarded a contract for furnishing and delivering one Agema 510 hand held infrared heat detecting imager for the police department in accordance with specifications on its low specification bid of \$13,791.75, terms net 30, FOB shipping point, payable out of Police Grant Programs Fund 215, Dept./Agency 200, Organization 2440, Object 5580.

Resolution 98-0525 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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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 2:00 a.m. to 6:00 a.m. November 1 through May 31 zone is hereby established: North side of Jefferson Street from 13th Avenue East to 14th Avenue East.

Resolution 98-0535 was unanimously adopted.
Approved June 8, 1998
GARY L. DOTY, Mayor

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Resolution 98-0536, by Councilor Hales, to establish no parking on both sides of Superior street from Rohweder Memorial Highway (T.H. 61) to 1,500 feet westerly, was introduced for discussion.

President Hogg stated that the parks and recreation department has requested this no parking zone to prevent people from parking on Superior Street and sneaking onto the golf course without paying. He continued by saying that if the city has a problem with people sneaking on to the Lester Park golf course, this resolution is not the way to solve it and he will not support preventing people to park on a public street.

Councilor Keenan stated he has observed people sneaking on to the golf course at that location, that there are no houses or structures there and the people who park there are doing so to play golf or their car has broken down. He offered his support for the resolution.

Resolution 98-0536 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 for both sides of Superior Street from Rohweder Memorial Highway (T.H. 61) to 1,500 feet westerly.

Resolution 98-0536 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon and Rapaich -- 6
Nays: Councilors Hales, Swapinski and President Hogg -- 3

(Editor's Note: Resolution 98-0536 was reconsidered later in this meeting.)

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BY COUNCILOR HALES:

RESOLVED, that Tierney Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering a desktop projector for the fire department in accordance with specifications on its low specification state bid of \$5,589.12, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5580.

Resolution 98-0538 was unanimously adopted.

Approved June 8, 1998

GARY L. DOTY, Mayor

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RESOLUTION RECONSIDERED

Councilor Edwards moved to reconsider Resolution 98-0536, to establish no parking on both sides of Superior Street from Rohweder Memorial Highway (T.H. 61) to 1,500 feet westerly, at this time, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

Resolution 98-0536 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 for both sides of Superior Street from Rohweder Memorial Highway (T.H. 61) to 1,500 feet westerly.

Resolution 98-0536 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon and Rapaich -- 5

Nays: Councilors Edwards, Hales, Swapinski and President Hogg -- 4

Approved June 8, 1998

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 HOGG

98-016 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998, INCREASING THE BUDGET TO APPROPRIATE MONIES OF THE STORMWATER UTILITY.

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The meeting was adjourned at 11:50 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 22, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on February 9 and 23, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0622-01 Benedictine Sisters and College of St. Scholastica, et al. (two signatures), represented by Tom Brekke, submitting petition to construct a permanent street improvement in Niagara Street from the west line of Lot 12, Block 43, to the west line of Lot 8, Block 42, Myers and Whipple's Addition, a 366 foot extension beyond the 1999 street improvement project limits. -- Assessor

98-0622-02 Gary Lofald, et al. (19 signatures) petitioning to reclassify from residential to commercial Lots 7 through 11, Block 84, Portland Division. -- Assessor

98-0622-03 Miller & Holmes, Inc., by Paul B. Kilgore, attorney, petitioning for:

(a) Vacation of that portion of 13th Avenue West south of Michigan Street and north of the I-35 right-of-way;

(b) Reclassification from R-3 to C-1 of Lots 204, 206 and 208, Block 23, except that part taken for highway purposes, Duluth Proper, Second Division, St. Louis County, Minnesota; and Lots 210, 212 and 214, Block 22, except that part taken for highway purposes, Duluth Proper, Second Division, St. Louis County, Minnesota; and that portion of 13th Avenue West south of Michigan Street and north of the I-35 right-of-way. -- Assessor

98-0622-41 Seaway Port Authority of Duluth, by Robert Maki, attorney, submitting petition to vacate Enterprise Avenue in Airpark. -- Assessor

98-0622-04 Kevin Youderin, et al. (three signatures) petitioning to construct sanitary sewer in 22nd Avenue West from Eighth Alley to Eighth Street to serve Lot 352, Block 167, Duluth Proper Second Division. -- Assessor

98-0622-05 Minnesota state auditor submitting:

(a) Duluth transit authority audit report for the year ended December 31, 1997;

(b) Duluth state convention center audit report for the year ended December 31, 1997. -- Received

98-0622-37 The following submitting communications pertaining to the proposed fee increase for animals sold to institutions for testing and experimentation (98-0599R): (a) Animal Allies Humane Society; (b) Animal Humane Board; (c) Lana Dahl; (d) Trish Grahek; (e) Edwin W. Haller; (f) Lake Superior Humane Society, Inc.; (g) Rebecka Larmer; (h) Patrick Purcell. -- Received

98-0622-38 The following submitting communications pertaining to the proposed resolution requesting the human rights commission to establish a drafting committee to prepare a proposed human rights ordinance (98-0610R): (a) Mark C. Danielson; (b) Human Rights Commission. -- Received

98-0622-39 The following submitting communications pertaining to the proposed neighborhood grants proposal (98-0513R): (a) Debbie Bailey; (b) Debby Ortman; (c) Woodland Community

Center, Inc. -- Received

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REPORTS OF OFFICERS

98-0622-06 Assessor submitting letters of sufficiency pertaining to petitions to:

(a) Construct sanitary sewer in 22nd Avenue West from Eighth Alley to Eighth Street to serve in Lot 352, Block 167, Duluth Proper Second Division;

(b) Reclassify from residential to commercial Lots 7-11, Block 84, Portland Division;

(c) Reclassify from R-3 to C-1 Lots 204, 206 and 208, Block 23 and Lots 210, 212 and 214, Block 22, except parts taken for highway purposes, all in Duluth Proper Second Division and that portion of 13th Avenue West south of Michigan Street and north of the I-35 right-of-way;

(d) Vacate that portion of 13th Avenue West south of Michigan Street and north of I-35 right-of-way. -- Received

98-0622-07 Building official submitting appeal of the board of zoning appeals' denial of a request to construct a 23 foot by 26 foot addition to the west side of an existing insurance office building on a property located in an R-3 apartment residential zoning district at 217 North 59th Avenue West. -- Committee 2 (planning)

98-0622-08 Engineering division submitting June 1, 1998, monthly project status report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0622-09 Alcoholic beverage board minutes of April 15, 1998, meeting. -- Received

98-0622-10 Duluth housing trust fund board minutes of: (a) April 16; (b) May 14, 1998, meetings. -- Received

98-0622-11 Duluth transit authority minutes of April 29, 1998, meeting. -- Received

98-0622-12 Environmental advisory council minutes of May 6, 1998, meeting. -- Received

98-0622-13 Heritage preservation commission minutes of April 8, 1998, meeting. -- Received

98-0622-14 Housing and redevelopment authority minutes of April 28, 1998, meeting. -- Received

98-0622-15 Lawful gambling commission minutes of May 12, 1998, meeting. -- Received

98-0622-16 Neighborhood advisory council minutes of: (a) March 17; (b) April 22, 1998, meetings. -- Received

98-0622-17 Planning commission minutes of May 12, 1998, meeting. -- Received

98-0622-18 Sanitary sewer board for WLSSD minutes of June 1, 1998, meeting. -- Received

98-0622-19 Seaway Port authority of Duluth: (a) Minutes of: (1) April 22; (2) April 27, 1998, meetings; (b) March 31, 1998, balance sheet and income statement. -- Received

98-0622-20 Special board of review minutes of May 18, 1998, meeting. -- Received

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RESOLUTION RECONSIDERED

Councilor Hardesty moved to reconsider Resolution 98-0513, by Councilor Prettner Solon, approving the revised neighborhood matching grants fund program guidelines and authorizing agreements for Tier II grants with certain organizations for various neighborhood improvement projects for Round II 1998 neighborhood matching grants fund in a total amount of \$64,000, for discussion, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Rapaich, Swapinski and President Hogg -- 5

Nays: Councilors Edwards, Hales, Keenan and Prettner Solon -- 4

Councilor Hardesty stated that she is requesting reconsideration of this resolution in light of some new information that has been received that was not available to a variety of parties involved when the council made its decision to approve the resolution. She further noted that the specific projects included in the resolution that she is raising concern about are the parking improvements and enlargement of a pleasure rink at the Woodland Community Club.

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

Ken Gilbertson, representing the parks and recreation commission, reviewed that the Woodland Community Club presented the commission with a concept that would remove some trees, add two hockey rinks, convert an existing hockey rink to a pleasure rink, add an access road and enlarge the parking lot. He stated that the commission approved the project in concept because it was believed to be a good idea and had the involvement of a lot of volunteers. Mr. Gilbertson continued by saying that the commission's approval is contingent upon going through the appropriate steps to answer questions about what kind of forestation will be affected; whether it will affect water runoff; and how it will affect the parks and recreation department staffing with regard to maintenance of the Cobb School pleasure rink, which has not been done. He reviewed that the commission was told by the presenters that the forest is scrub trees and brush, but after further examination, is actually a mature stand of 60 to 80 year old maple and basswood trees which, if cut, will probably result in problems with water runoff. He advised councilors of what the impact of cutting trees will have on water runoff and how the parks and recreation department will be affected, due to the added maintenance that will be required. Mr. Gilbertson stated that this should be considered before trees are cut so that appropriate measures can be taken to prevent future problems from occurring.

Responding to councilors, Mr. Gilbertson stated that the project was forwarded on to the council without having met the contingencies; and that what process was necessary to be followed for full approval was not discussed with the presenters. He emphasized that the main concerns raised at the commission meeting were neighbors, water runoff and impact to the Cobb School rink.

Nancy Nelson, member of the tree commission, conveyed that the commission has not had an opportunity to address this project, but was told by the city forester that the project is moving forward and involves the cutting down of some high quality, mature, hardwood forest. She raised the following concerns: the forest is obviously used by area neighbors because walking trails do exist; developments like this eat away at the undeveloped, high quality forests that exist on city properties and are considered to be natural urban wildernesses that make Duluth a special place to live; the cumulative affect of small projects that destroy these forests is devastating to the aspects that make Duluth special; there is no clear, established process for the review of projects like this; communication between the boards and commissions and city departments that should be reviewing them is not very good; and no satisfactory answers have been forthcoming as to whether there is an acceptable alternative plan for the project. Ms. Nelson requested, as the only solution available, that the council hold off on approving funding for the project to allow the tree commission time to work with the Woodland Community to try to find an alternative way for them to get what they need without destroying the forest. She requested the council to assist in the establishment of a process and provide for communication to eliminate the need for reaction to projects like this that move forward without public input.

Councilor Keenan stated that he is disappointed that the council and administration have not done what is necessary to develop a process to be followed, and defined exactly what the role of the city's boards and commissions are. He continued by saying that the role of broad based

policy making is not sufficient for boards and commissions whose membership is made up of talented and knowledgeable individuals in the specific areas who want to make the city better. Councilor Keenan said he believes that the council has created more reactionary situations by not allowing for input up front. He challenged the administration to use the expertise of members of boards and commissions to thoroughly scrutinize projects that involve environmental issues.

Responding to Councilor Hales, Mr. Larson, director of public works, reviewed that the process followed for this project did involve a number of meetings before the grant was applied for; that a number of city departments were involved; that it involved the volunteers from the Woodland Community Center and the Woodland Hockey Association; that the planning department reviewed the concept as a part of the site development; that the engineering department will be involved later when plans are submitted; that no permit has been issued to either of the associations for the work; that the associations have contracted with a local consulting firm to prepare a plan and when that is submitted; and when the project is reviewed and at that point, the city will know better what the impact will be on the forest and the drainage. He continued by saying that two permits are required – a fill permit, which triggers a number of planning decisions, and also a driveway, or curb cut permit for the parking lot, which does give the city the authority to review the plans. Mr. Larson stated that he has been told by representatives of the community club that no work has taken place and that there is no intent to do any until this matter is straightened out. However, they expressed concern because the construction season is very short. He noted that of the two agreements necessary for this project, one has been fully executed. Mr. Larson acknowledged that if this project is delayed, it will be required to comply with the erosion control ordinance that was recently passed by the council.

President Hogg noted that representatives of the project have also raised concern that in the timing of the project, a good amount of fill will be necessary and that there is city work going on now that would make fill easily available that might not be available later.

Don Holm, representing the Woodland Community Club noted that the different city departments have been invited to their meetings to get its input regarding this project. He questioned the legality of reconsideration of this resolution since one of the agreements has already been fully executed. Mr. Holm reviewed the requirements agreed to, on behalf of the community club, to obtain a conditional use permit for fill. He noted that the free fill is no longer available since the street project is almost complete.

Responding to Councilor Swapinski, Mr. Holm stated that both projects will require trees to be cut down. However, the number of trees cut will be minimal because the surrounding trees will be beneficial to the finished project.

Responding to Councilor Hardesty, Mr. Larson stated, with regard to the permitting process, that the only thing that could prevent the project from proceeding is if the fill requirements are not complied with. With regard to the fulfillment of contingencies placed upon approval by the parks and recreation commission, he stated that the commission is advisory only and does not have veto power over the project.

Councilors expressed concern that some areas of the process were not addressed appropriately by the administration, but noted that there is a need for what the project proposes to provide and it is worthwhile. Councilors requested the administration to work with the necessary boards or commissions to establish a process to utilize their input when the different areas of expertise are affected.

Responding to councilors, City Attorney Dinan stated that, in his opinion, both of the agreements are tied together and since both have not been executed, the city could reconsider this resolution without liability.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Gilbert expressed his hope that this project will be allowed to proceed and not be set back as a result of the time it takes to establish a process for future projects.

Councilor Swapinski moved to separate the two Woodland projects from the resolution, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Swapinski and President Hogg -- 4

Nays: Councilors Edwards, Hales, Keenan, Prettner Solon and Rapaich -- 5

Councilor Hardesty stated that it is unfortunate that this project was brought to the council prematurely before the affected boards and commissions had an opportunity to fully consider it. She continued by saying that the environment is important and the city needs to establish a process to protect it before it is too late. She requested that, without stopping the project to address the issues and concerns raised regarding this project, careful monitoring take place through the permitting process.

President Hogg stated he is troubled that the council went ahead and approved this resolution by accepting assurances that all requirements had been met without documentation, which have now been proven to be untrue. He said he will not support proceeding with this project until all concerns have been resolved.

Councilor Hales suggested that the city's permitting process be reviewed so as to add requirements for permits that have to do with the environmental issues. She stated that because there was no process in place at the time this project was approved to receive grant funds, it should be prevented from proceeding.

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

Yeas: Councilors Gilbert, Hardesty, Swapinski and President Hogg -- 4

Nays: Councilors Edwards, Hales, Keenan, Prettner Solon and Rapaich -- 5

Councilor Hardesty noted that letters from the administration regarding this project were sent to the affected boards and commissions on May 29 and that the issue was presented to the council for approval at its June 8 meeting. She requested that in the future the administration plan project presentations that require council approval in such a way as to ensure that the various boards and commissions have had time to consider the issue.

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

Resolution 98-0513 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the revised neighborhood matching grants fund program guidelines dated June, 1998, are hereby approved.

FURTHER 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. 98-0622-21, for the following amounts and projects listed:

Round II, 1998 Neighborhood Matching Grants Fund

Tier II grants (over \$3,000 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$20,000	Duluth Heights Community Club	Duluth Heights Community Club*
\$20,000	parking addition at Woodland Community Club	Woodland Community Center, Inc.*

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$20,000	pleasure rink at Woodland Community Club	Woodland Amateur Hockey Association
\$ 4,000	20 picnic tables and a pot luck	neighbor network transforming the hillside
\$64,000	Total grants (Tier II)	

*Project is approved for funding contingent upon appropriate city permit being approved.

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 grant amount of each Tier II agreement authorized by this resolution shall not exceed \$20,000, and further provided that the total grant amount of each Tier II agreement shall not exceed the amount of matching funds contributed by the grantee.

Resolution 98-0513 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon and Rapaich -- 6

Nays: Councilors Hardesty, Swapinski and President Hogg -- 3

Approved June 22, 1998

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Hogg called the public hearing regarding the city's application to DTED for DMR Consulting Group, Inc., to order (Public Document No. 98-0622-40).

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At this time, 8:02 p.m., President Hogg adjourned the public hearing and the regular order of business was resumed.

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement covering years 1997 and 1998 between the city of Duluth and Duluth police local, which agreement is in the same form and contains the same terms and conditions as that contract on file with the city clerk as Public Document No. 98-0622-22.

Resolution 98-0558 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

RESOLVED, that the proper city officers are hereby authorized to employ from Sea Service of Superior, Wisconsin, necessary barges, vessels and crews for the Fourth of July fireworks display for a consideration of \$6,310.13 to be paid from Fund No. 100-015-2030, Object SP06, Activity TOUR.

Resolution 98-0605 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 1998-1999 license period, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Order of Owls, Nest #1200, 118 East First Street.
Resolution 98-0476 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Action Target, Inc., be and hereby is awarded a contract for furnishing and installing one turning target range system for the police department in accordance with specifications on its low specification bid of \$19,552.86, terms net 30, FOB job site, \$16,737.45 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C702 and \$2,815.41 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5580.

Resolution 98-0553 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license for the period ending April 30, 1999, subject to department approvals and the payment of sales and property taxes:

Tu V Tran (China Buffet), 114 West First Street.
Resolution 98-0576 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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, 1998, subject to departmental approvals and the payment of sales and property taxes:

Lee & Tina, Inc. (Jade Fountain), 305 North Central Avenue, transferred from Jade Fountain, Inc., same address, with Sick Cheung Leet, president and 50 percent stockholder, Kwok Chun Mak, secretary/treasurer and 50 percent stockholder and George Wong, president.

Resolution 98-0577 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Kustom Signals, Inc., be and hereby is awarded a contract for furnishing and delivering seven mobile radar units for the police department in accordance with specifications on its low specification bid of \$8,470, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V803.

Resolution 98-0582 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Century Fence Company be and hereby is awarded a contract for installation of new perimeter fencing and removal of existing fencing at the Lake Superior zoological gardens in accordance with specifications on its low specification bid of \$28,035, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C707.

Resolution 98-0585 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Streicher's be and hereby is awarded a contract for furnishing and delivering miscellaneous police vehicle accessories for the police department in accordance with specifications on its low specification bid of \$14,110.50, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V803.

Resolution 98-0587 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of project architect which were approved by the civil service board on April 7, 1998, and which are filed with the city clerk as Public Document No. 98-0622-23, are approved; that the said classification shall be 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 36, pay rate of \$3,411 to \$4,073 per month, 1996 labor contract.

Resolution 98-0543 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas chief engineer which were approved by the civil service board on June 2, 1998, and which are filed with the city clerk as Public Document No. 98-0622-24, are approved; that said classification shall be 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 1130, pay rate of \$4,205 to \$5,128 per month.

Resolution 98-0547 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Alyce Hagberg for a term expiring July 1, 2000, replacing Gordon Switzer.

Resolution 98-0551 was unanimously adopted.
Approved June 22, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

SISTER CITY COMMISSION

Susan E. Poupore for a term expiring March 30, 2001, replacing Isobel Rapaich. Resolution 98-0598 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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Resolution 98-0512, by Councilor Prettner Solon, authorizing appointment by the Duluth economic development authority (DEDA) of 1/3 the representatives on the housing study committee and authorizing an agreement with Arrowhead Regional Development Commission (ARDC) for the Duluth housing study project in an amount not to exceed \$28,500, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution for future discussion, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of that portion of Fifth Avenue West from the Railroad Street connection to the harbor line legally described as: That part of Fifth Avenue West in the recorded plat of Munger's Subdivision of Duluth and those parts of Section 27 and Section 34, Township 50 North, Range 14 West, bounded by the following described lines: On the east by the easterly line of Fifth Avenue West and the southerly extension of said easterly line; on the south by the U.S. Government harbor line in the Bay of Superior as approved by the secretary of Army on July 18, 1966; on the west by the westerly line of Fifth Avenue West and the southerly extension of said westerly line; on the north by the line described as follows: Commencing at the northeast corner of Lot 4, Block 4, Munger's Subdivision of Duluth, thence westerly, along the north line of said Lot 4, a distance of 80.00 feet; thence easterly, along a straight line, to the southeast corner of said Lot 4 and said southeast corner being the beginning of the line to be described; thence continue easterly, along the last described line, to the easterly lines of Fifth Avenue West and said line there terminating; 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 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fifth Avenue West from the Railroad Street connection to the harbor line described above and as more particularly described on Public Document No. 98-0622-25.

BE IT FURTHER RESOLVED, that the city retain the vacated right-of-way for utility and roadway easement purposes.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0563 was unanimously adopted.
 Approved June 22, 1998
 GARY L. DOTY, Mayor

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established a 1998 CDBG contingency account to provide for expanded costs or additional funding for CDBG programs and projects; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting of June 9, 1998, passed a resolution recommending a transfer of funds from the contingency account to two other project accounts as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfer in the Federal Program Fund 262 - 1998 HUD funded community development accounts as set forth below:

1998 Duluth HUD funded CDBG program

<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Amount of increase or decrease</u>	<u>Revised</u>
6142	Contingency`	\$ 81,315	\$ (57,000)	\$ 24,315
6108	Sidewalk safety program (West Duluth)	\$ 1,000	\$ 19,000	\$ 20,000
6113	Sidewalk safety and residential access (Fifth Avenue West)	\$ 12,000	\$ 38,000	\$ 50,000

Resolution 98-0564 was unanimously adopted.
 Approved June 22, 1998
 GARY L. DOTY, Mayor

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a 20 foot wide utility easement legally described as: Ten feet along the rear of Lots 11, 12, 13, 40, 41 and 42, Block 3, Oatka Beach Addition to Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning 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 9, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above and as more particularly described on Public Document No. 98-0622-26.

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

Resolution 98-0565 was unanimously adopted.
 Approved June 22, 1998
 GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for site development at Morgan Park Community Center consisting of timber stairway, sidewalks, bituminous pavement, playground preparation, lighting, picnic tables, benches, bocce ball court and horseshoe pits in accordance with specifications on its low specification bid of \$99,948 terms net 30, FOB job site, payable out of Community Development Fund 262, Dept./Agency 620, Object 6008.

Resolution 98-0569 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established a 1997 CDBG contingency account to provide for expanded costs or additional funding for CDBG programs and projects; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting of June 9, 1998, passed a resolution recommending a transfer of funds from the contingency account to another project account as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfer in the Federal Program Fund 262 - 1997 HUD-funded community development accounts as set forth below:

1997 Duluth HUD Funded CDBG Program

Account	Project	Original	Amount of increase or decrease	<u>Revised</u>
6036	Contingency	\$ 40,421	\$ (13,000)	\$ 27,421
6008	Goodfellowship Country Club Phase II	\$140,000	\$ 13,000	\$153,000

Resolution 98-0571 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the CHUM Drop-In Center improvement project pursuant to city council Resolution 96-0924(b).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a physical improvement agreement substantially in the form of the copy on file with the office of the city clerk as Public Document No. 98-0622-27, with CHUM, to implement the above project; payment for said services shall not exceed \$50,000, payable out of the 1997 Federal Program Fund 262 - community development - CHUM Account No. 6013.

Resolution 98-0574 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR PRETTNER SOLON:

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. 98-0622-28, to the contracts listed below, extending the term of each agreement for an additional 12 month period at no change in project cost:

City Contract No. C17992 - Central Hillside Community Club

City Contract No. 18046 - Lower Chester Hockey Association

Resolution 98-0584 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to improve Lincoln Park as part of the Duluth Skyline Parkway system; and

WHEREAS, the city desires to hire a consulting engineer to complete design, drawings, estimates and construction management for the Lincoln Park restoration and rehabilitation project; and

WHEREAS, R.L.K.-Kuusisto, Ltd., has submitted a proposal for 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 R.L.K.-Kuusisto, Ltd., to provide the city with such landscape architectural services.

BE IT FURTHER RESOLVED, that the cost of said landscape architectural services, estimated at \$20,000, will be payable from the Community Development Fund 262, Dept./Agency 621, Object 6109.

Resolution 98-0592 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR 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 Galen and Catherine Sundeen; 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 Galen and Catherine Sundeen.

Resolution 98-0602 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has determined that it will, with the Duluth economic development authority and the state of Minnesota, provide assistance to a project known as Lake

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Superior Center, which project is a fresh water aquarium and educational facility to be located in the Bayfront area of the city of Duluth; and

WHEREAS, the city's participation in the project includes financial assistance to the project and the conveyance by the city to Lake Superior Center authority of certain property, in return for which the city will receive certain property from Lake Superior Center authority or its predecessors in title, as described in the property exchange agreement between the parties, dated November 23, 1994, City Contract No. 17206; and

WHEREAS, the result of the property exchanges between the parties will be the creation of the parcels shown on Exhibit A (Public Document No. 98-0622-29(a)), including the Lake Superior Center parcel, the Duluth economic development authority development parcel, the city Bayfront Festival Park parcel and the city Bayfront Park Annex parcel; and

WHEREAS, Lake Superior Center authority has determined that in order to proceed with construction of its project it needs to obtain title insurance to the Lake Superior Center parcel; and

WHEREAS, an application for the title insurance for Lake Superior Center parcel has revealed that there is a portion of the Lake Superior Center parcel for which an exception to the title exists and ownership may be subject to the claims of unknown persons who are strangers to the title; and

WHEREAS, Lake Superior Center authority does not have the power of eminent domain under its enabling legislation, however, the city of Duluth does have the power of eminent domain under state law, which power can only be exercised by approval of the Duluth City Council; and

WHEREAS, Lake Superior Center authority has agreed that it will pay all costs of condemnation, including any award entered by a court pursuant to a condemnation action, should a person come forward with a claim of title to any portion of the Lake Superior Center parcel requiring the commencement of a condemnation proceeding by the city of Duluth.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council finds that the acquisition of the property described on Exhibit B (Public Document No. 98-0622-29(b)) is necessary for the Lake Superior Center project and that the acquisition of the property for Lake Superior Center is for a public purpose that is in the best interest of the city of Duluth as a whole and its citizens.

FURTHER RESOLVED, that the proper city officials are hereby authorized to do all things necessary on behalf of the city to exercise the power of eminent domain to acquire the property described on Exhibit B if necessary.

FURTHER RESOLVED, that in order for the project to proceed in an expeditious and timely manner and to meet time frames necessary for the completion of the project, the city is hereby further authorized to exercise the so-called quick-take provisions of Minnesota statutes to acquire possession of the property described on Exhibit B as quickly as is authorized by law.

Resolution 98-0607 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that M.T.I. Distributing Company be and hereby is awarded a contract for furnishing and delivering O.E.M. irrigation machine parts for Toro golf course equipment for the Lester and Enger golf courses in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB shipping point, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5229.

Resolution 98-0555 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved June 22, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the Seaway Port authority of Duluth providing for a sharing of the cost of financing improvements to the DECC dock necessary to allow for the docking of passenger cruise ships, which agreement is on file in the office of the city clerk as Public Document No. 98-0622-30, at a cost to the city of not to exceed \$64,000, which shall be payable from the Tourism Tax Fund 258-030-1327-5441.

RESOLVED FURTHER, that \$64,000 from the tourism tax reserve is hereby allocated to the Tourism Tax Fund 258-030-1327-5441 for the DECC dock project.

RESOLVED FURTHER, that Resolution 98-0256, adopted on March 16, 1998, is hereby rescinded.

Resolution 98-0557 was unanimously adopted.

Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Greater Duluth Community Tennis Association for the purpose of establishing a summer tennis instructional program for the western portion of the city of Duluth, a copy of which agreement is filed with the city clerk as Public Document No. 98-0622-31, and to pay said association not more than \$500 in conjunction therewith from City General Fund No. 100-400-1812-5319.

Resolution 98-0562 was unanimously adopted.

Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the city is hereby authorized to accept a testamentary gift from Hubert D. Wheeler in the amount of \$25,000 with the condition that such gift be set aside as a separate fund for use by the city's park department for maintenance of Wheeler Field.

Resolution 98-0601 was unanimously adopted.

Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept Rotary Club No. 25 funding in the amount of \$1,000 and enter into an agreement with the Ordean Foundation, accepting \$1,500. This money will be used to purchase equipment and supplies to establish a vision lab to enhance learning for participants at the employment opportunity center.

FURTHER RESOLVED, that monies received under these grants shall be deposited in Fund 269, Budget Item 6285.

Resolution 98-0548 was unanimously adopted.

Approved June 22, 1998
GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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Resolution 98-0610, by Councilors Hardesty, Gilbert, Prettner Solon and Rapaich, requesting the human rights commission to establish a drafting committee to prepare a proposed human rights ordinance, was introduced for discussion.

Councilor Hardesty advised the council that some of the sponsors of this resolution would like to meet with the human rights commission before passing this resolution.

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

Kevin Galazen, representing the human rights commission, presented a letter (Public Document No. 98-0622-38(b)) signed by members of the commission, supporting the idea of creating a human rights ordinance.

Mark Danielson, member of the human rights commission, referenced his letter (Public Document No. 98-0622-38(a)) of support for the resolution.

Responding to Councilor Hales, Mr. Danielson explained that when the commission met, there were not enough members present for a quorum and that the members in attendance decided to write the letter of support. He stated he was not at the meeting, so he wrote a letter himself. Mr. Danielson continued by saying that the commission has not discussed this issue and did not request the council to consider it.

Alan Netland, representing A.F.S.C.M.E. and the Central Labor Body, noted that both organizations support the resolution.

Councilor Hardesty noted that this issue has not been formally presented to the human rights commission, and that it has been initiated in response to recommendations of the fair housing task force in a report regarding fair housing standards and an implementation plan that the commission hopes to have in place in the fall. She continued by saying that the report recommends that there be a human rights ordinance and a person in the community who can help handle problems with fair housing issues and other kinds of discrimination. Councilor Hardesty stated that it is the sponsoring councilors' hope that the members of the human rights commission, who are well versed and have expertise in the area, can work to draw up an ordinance for Duluth in concert with the fair housing task force as they take public testimony for the implementation of the fair housing implementation plan.

President Hogg stated that he supports this resolution. However, he believes it is important to meet with the human rights commission before giving them this task.

Councilor Hardesty moved to to table the resolution for a committee meeting, which motion was seconded and carried upon a unanimous vote.

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Resolution 98-0561, by Councilor Gilbert, requesting the city to provide the council with certain information regarding the city's golf operation, was introduced for discussion.

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

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BY COUNCILOR GILBERT:

RESOLVED, that N.C.R. Corporation be and hereby is awarded a contract for furnishing a 12 month maintenance agreement for a payment processor for the water and gas department and sewer division in accordance with specifications on its low specification bid of \$5,764, terms net 30, FOB destination; \$1,441 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5404; \$2,882 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5404 and \$1,441 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0515, Object 5404.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0586 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Goodin Company be and hereby is awarded a contract for furnishing and delivering approximately 17 water hydrants and 275 repair parts for the water and gas department in accordance with specifications on its low specification bid of \$17,716.22, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0589 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnesota Pipe and Equipment be and hereby is awarded a contract for furnishing and delivering approximately 43 Waterous hydrants and 1,500 repair parts for the water and gas department in accordance with specifications on its low specification bid of \$51,162.49, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0590 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city desires to review the inflow and infiltration program and has put forth a request for proposals for professional services to assist in this process; and

WHEREAS, Short Elliot Hendrickson, Inc., has represented that it is qualified and willing to perform the services set forth in its proposal to assist the city in reviewing the city's inflow and infiltration program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement, filed as Public Document No. 98-0622-32, for professional services in the inflow and infiltration program in the city of Duluth. The compensation under this agreement shall not exceed \$65,000 and these payments shall be made from Fund 530-500-0581-5303.

Resolution 98-0497 was unanimously adopted.
Approved June 22, 1998
GARY L. DOTY, Mayor

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Resolution 98-0554, by Councilor Swapinski, awarding contract to Hermantown Lumber Company for various sizes of lumber in accordance with specifications on its low specification bid of \$29,832.84, was introduced for discussion.

Councilor Swapinski moved to amend the resolution by replacing the name "Hermantown Lumber Company" with "Woodruff Lumber and Milling" and replacing the amount "\$29,832.84" with "\$28, 406.40" in the title and body of the resolution; and in the body of the resolution by adding after the words "cut red pine" the words "and Douglas Fir."

Responding to councilor questions, Mr. Larson explained that Woodruff Lumber and Milling had submitted an alternate bid to supply Douglas Fir instead of red pine for a cost of \$28,406.40,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

which was overlooked because the wood that was bid was not red pine, as specified in the bid. He continued by saying that the issue was brought to the attention of the purchasing agent this morning, and that it is the city's recommendation to accept the lower bid as it is advantageous to the city to purchase Douglas Fir because it is a better quality, more substantial and expensive wood than red pine is. Mr. Larson noted that red pine was specified because it is generally the cheapest wood available and it was desired to keep costs minimal. He added that the supplier has a large inventory that it needs to liquidate.

President Hogg expressed concern and questioned the legality of the council's being requested to approve this amendment without being given a copy of the alternate bid or any written explanation from the administration.

Responding to Councilor Swapinski, Mr. Larson stated that to delay voting on the issue this evening will not affect the project.

Councilor Swapinski moved to table the resolution for the administration to submit a written explanation, which motion was seconded and unanimously carried.

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for construction of Keene Creek pedestrian/bicycle trail for the engineering division in accordance with specifications on its low specification bid of \$392,760.20, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C414.

MAY IT BE FURTHER RESOLVED, that the 1987 West Duluth plan identified the need for neighborhood access to the waterfront. A natural route exists along Keene Creek for a portion of the trail between Irving Recreation Center and Grassy Bay. Lake Superior Paper Industries, Inc., and Moline Machinery have provided easements for trail location where needed on their property. This project is one phase of several that will create a trail system in West Duluth that follows Keene Creek from the city limits above Skyline Parkway to Grassy Bay.

Resolution 98-0559 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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 \$10,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5319.

Resolution 98-0567 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to extend a sanitary sewer main from the intersection of Eden Lane and Belmont Road to serve Lots One through Six of Boulevard Terrace Addition (City Job No. 9050SA98).

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 98-0570 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers hereby authorize Amendment No. 1 to Agreement No. 17418 with LHB Engineers & Architects, Inc., for the sum of not to exceed \$55,186, for providing certain additional professional engineering services to the city of Duluth in connection with Keene Creek Nature Trail, Phase II, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 98-0622-33.

Resolution 98-0591 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for Lincoln Park central area; 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 \$84,000, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9904, Object 5530.

Resolution 98-0593 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for Kenwood area/Niagara Street; and

WHEREAS, Seaway Engineering Company has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Seaway Engineering Company to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$27,465, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Organization 9902, Object 5530.

Resolution 98-0594 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for Upper Woodland West area; and

WHEREAS, Seaway Engineering Company has submitted a proposal for engineering services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Seaway Engineering Company to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$119,660, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9908, Object 5530.

Resolution 98-0595 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for Duluth Heights Lower area; and

WHEREAS, R.R.E.M./M.S.A. division 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./M.S.A. division to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$84,941, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9901, Object 5530.

Resolution 98-0596 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for UMD/Chester Park Lower 1 area; and

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

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

to enter into an agreement with L.H.B. Engineers and Architects to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$98,975, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9906, Object 5530.

Resolution 98-0597 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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Resolution 98-0600, by Councilor Swapinski, ordering the improvements of Maxwell Avenue from Marshall Street to Hastings Drive and Hastings Drive from Maxwell Avenue to 200 feet west of Ewing Avenue (Hartley Estates Phase 3) to include a residential design street with curb and gutter, sanitary sewer and water and gas mains, at an estimated cost of \$296,626, was introduced for discussion.

Councilor Swapinski moved to table the resolution until the title to the property has been filed, which motion was seconded and unanimously carried.

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BY COUNCILOR HALES:

RESOLVED, that Innovative Surveillance Technology, Inc., be and hereby is awarded a contract for furnishing and delivering a portable video surveillance system with microwave receiver for the police department in accordance with specifications on its low specification bid of \$14,436.08, terms net 30, FOB destination, payable out of Police Grant Programs Fund 215, Dept./Agency 200, Organization 2440, Object 5580.

Resolution 98-0552 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement, filed as Public Document No. 98-0622-34, to accept grant monies from the Minnesota department of safety, Minnesota auto theft prevention program, to reimburse the police department for the salary and benefits of one police officer, overtime, equipment, training, operating expenses and a \$15,000 reimbursement to the St. Louis County sheriff for program participation. All revenue received under this agreement shall be deposited in Duluth Police Grant Fund 215, Agency 200, Org. 2440.

Resolution 98-0560 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the Duluth YWCA is hereby awarded a total of \$12,000 in East Hillside/Endion weed and seed grant funds for summer youth programming in accordance with its proposal on file in the office of the city clerk as Public Document No. 98-0622-35.

RESOLVED FURTHER, that the Duluth YWCA shall spend this \$12,000 award as follows:

Rebuild Kids Corner van engine	\$2,500
Salaries for Grant/Endion summer camp staffing	\$8,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Mentor Duluth space children's furnishings	\$1,000
Supplies and equipment for Endion/Grant	\$ 500

and shall be reimbursed by the city for such expenditures upon presentation of vouchers satisfactory in form to the city auditor, with payment being made from Fund 215, Agency 200, Org. 2445.

Resolution 98-0572 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the Duluth Children's Museum/Playfair Discovery Center is hereby awarded \$10,000 in East Hillside/Endion weed and seed grant funds for summer youth programming in accordance with its proposal on file in the office of the city clerk as Public Document No. 98-0622-36.

RESOLVED FURTHER, that the Duluth Children's Museum/Playfair Discovery Center shall spend this \$10,000 award to start two new sites for the Discovery Center and to add additional visits at some of the center's existing sites and shall be reimbursed by the city for such expenditures upon presentation of vouchers satisfactory in form to the city auditor, with payment being made from Fund 215, Agency 200, Org. 2445.

Resolution 98-0573 was unanimously adopted.

Approved June 22, 1998

GARY L. DOTY, Mayor

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Resolution 98-0599, by Councilor Hales, authorizing a fee increase to \$200 for animals sold to an institution for testing and experimentation, was introduced for discussion.

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

Edwin Haller, University of Minnesota-Duluth (UMD) faculty member of the school of medicine, stated opposition to the resolution and read a letter (Public Document No. 98-0622-37(d)) stating his specific objections. In conclusion, he noted that the increase in cost is excessive, unfair and unjustified and is discriminatory and punitive in that it only applies to the sale of animals to institutions.

In response to councilors' questions, Mr. Haller reported statistical numbers related to animals obtained from the local pound and stated that if this fee is increased, research will go on. However, research animals will not be purchased from the local pound because the increased costs will have to be passed on to the taxpayer. He continued by saying that the university has the responsibility to provide the service of training, which cannot be done without the use of research animals, and that raising the price for institutions is discriminatory because the sale price of animals to private parties is less. Mr. Haller noted that it is unreasonable to increase student lab fees to compensate for the additional cost of research animals.

Patrick Valentine, member of the Animal Allies Humane Society of Duluth, referenced the organization's letter (Public Document No. 98-0622-37(a)) and noted that its concern is that the animal shelter is being used as a place where animals are procured for experimentation and research purposes. He continued by saying that animals that end up at the animal shelter are there because they are neglected by their owners and not because they are menaces to society. Mr. Valentine stated that the organization is aware that there are state statutes that pertain to this issue, but that it supports the proposed increased fee and suggests that owners who bring their animals to the shelter should have the option of signing a form that permits the shelter to sell the

animal to a research facility.

Rebecca Larimer, director of the North Woods Animal Alliance, reviewed a letter (Public Document No. 98-0622-37(e)) and noted that their group encourages an end to the practice known as pound seizure in the city of Duluth and urges the council to consider the human interests involved as its basis for doing so. She continued by saying that the citizens of Duluth have entrusted the city shelter to be a safe place where animals that can no longer be kept will be protected and treated humanely. She explained how victims and pets are affected in circumstances of domestic abuse, and that victims are unwilling to give their pets to a shelter that offers them for sale to research facilities. In conclusion, Ms. Larimer stated that most often pets in animal shelters are not there because they are unwanted, and that the animal shelter is not intended to be a holding facility for laboratory animals.

Dianna Begay stated support for the termination of pound seizure in the city. She agreed that increasing the fee to \$200 is an improvement. However, it does not compensate the animals for the price they pay in pain and suffering when acquired by research facilities. She questioned how, when teaching children about kindness, empathy and compassion towards animals and people, it can be justified that the torturing of one animal is cruelty, but to torture 100 animals in a research facility is science. Ms. Begay urged councilors not to make the lives and suffering of pets in shelters more tragic because the owners they love can no longer keep them. In conclusion, she stated that it is a sign of human failure to have anti-cruelty laws that enable humane officers to remove animals from situations of abuse and mistreatment only to send them to a pound that will sell them to research facilities to become abused and mistreated all over again.

Patty Moyer, representing the animal humane board, reviewed recommendations submitted by the board (Public Document No. 98-0622-37(f)) which are an increase in the fee regarding sale of animals to research facilities, and that animals should only be offered for sale to research facilities with the owner's written permission. She stated that the \$200 fee is justifiable and explained how animal shelter costs were calculated to arrive at the proposed fee; and that the second recommendation complies with the enabling state statute which states "animals should not be made available to research facilities at the owners request." She clarified that lost or stray animals may not be sold to research facilities if there is no owner statement to permit such action. Ms. Moyer disputed statements made by Mr. Haller that the fee proposal is discriminatory and explained that the primary purpose of the shelter is to reunite lost and stray animals with their owners, or to assist owners in humane euthanasia of animals that can no longer remain in their homes or the placement of the animals in good homes by means of adoption, thus the fee for animal adoption will not be increased. In conclusion, she stated that the purpose of this resolution is to recover expenses necessary to operate the the animal shelter and is not intended to prevent the sale of animals used for research.

Responding to councilor questions, Ms. Moyer stated that new policies of the animal shelter provide for the screening of individuals wishing to adopt animals and establishes requirements that must be met in order to adopt; that current policy requires documentation as to the identification of individuals purchasing animals. She stated that the present policy at the pound does not require a written statement of consent when an owner brings a pet to the shelter. However, it is the board's position that the owner be given options regarding its care, and that in the absence of an owner, a lost or stray animal should not be surrendered to a research facility. Regarding lost or stray animals, she expressed concern that the state statute can be interpreted in different ways and acknowledged that the inclusion of language regarding the absence of consent in the resolution would be helpful.

Tori Frye, representing Animal Allies Humane Society, stated support for the resolution.

She noted that animals in the animal shelter are lost or displaced pets, and as pets, deserve humane treatment and ultimately humane disposition. She advised the council that the society does make spay or neuter certificates available to those individuals wishing to adopt a pet who are in need of financial assistance. She continued by saying that the fee increase will effectively limit the practice of pound seizure within the city and urged the council to include abolition of the pound seizure mandate at the state level in the next legislative agenda.

Responding to Councilor Hales, Ms. Frye stated that Minnesota and Utah are the only two states in the nation that mandate pound seizure.

Greg Bachhuben reviewed his background in the area of training persons in the field of emergency medical assistance. He emphasized that the use of animals is a critical part of the training he provides, and that when animals are used, they are heavily sedated so as to feel no pain, and when the training is finished, are immediately and humanely euthanized. He stated that without animal training, physicians and nurses would lack the hands on training necessary to be effective in their field. Mr. Bachhuben asked that the next time there is an incident requiring the services of emergency medical personnel, that the council consider what level of expertise the personnel will be equipped with to enable them to help save a life.

Jeff Urbaniak reviewed his past experience as a member of the animal humane board and noted that the goal of the board at the time was to try to better serve the animals in the city. As background information, he explained that the board did support raising all fees significantly to financially support a city run spay/neuter program. He continued by saying that the board proposed that some kind of disclosure, check off, or consent form be available for owners to sign or, at least, the posting of a sign at the pound to notify owners that their pet may be sold to a public research facility. Mr. Urbaniak noted that the state statute provides for such disclosure or notification and that the city facility is presently in noncompliance. Responding to comments made by Mr. Bachhuben, he suggested that for their hands-on training, UMD medical students and emergency medical trainees make themselves available on a 24 hour basis to treat injured animals that are brought to the pound. In conclusion, Mr. Urbaniak stated that the city facility is a place where pet owners expect that their animals will be safe and that if they are not placed in a new home, will be humanely euthanized.

Councilor Swapinski moved to amend the resolution by adding the following paragraphs at the end of the resolution:

“RESOLVED FURTHER, that the city council hereby requests that the Duluth animal shelter only surrender animals to institutions when the owners of such animals have given their approval to do so after having been given information regarding the type and nature of the research that may be performed on them.

RESOLVED FURTHER, that the city council requests that the Duluth animal shelter not surrender any animals to institutions when the ownership of such animals cannot be determined,” which motion was seconded for discussion.

Councilor Swapinski stated that the intent of his amendment is to strengthen the original resolution and includes language that has been recommended by the animal humane board. He continued by saying that it is his hope that someone from the state legislative delegation will propose an amendment to existing state legislation to abolish the practice of pound seizure. Councilor Swapinski stated that because of state legislation, the proposed resolution is the only means the council has to address this issue at the present time.

Responding to President Hogg, Mr. Dinan stated that the wording of Councilor Swapinski’s amendment is reasonably consistent with the state statute, but noted that the resolution is just a request to the pound for a change in policy and has no legal bearing as to the state statute.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Responding to Councilor Hardesty, Councilor Hales stated that she is aware that UMD has a female dog that has just given birth to puppies, which have been made available for sale to other research facilities, and that the passing of this resolution will not eliminate all potential animal research. She continued by saying that the animal humane board has studied and put a lot of thought into the proposed resolution. Councilor Hales emphasized that the resolution only raises the price for animals and is merely a housekeeping issue.

Councilor Gilbert stated that even though it may be somewhat out of step with the state law, he is comfortable with the wording of the amendment because the resolution only states the council's desire in the setting of policy.

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

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Edwards -- 1

Councilor Swapinski's amendment passed upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 6

Nays: Councilors Edwards, Hales and President Hogg -- 3

Councilor Hales stated that it is her desire that the council request that abolition of pound seizure be included in the legislative agenda for 1999.

Councilor Edwards noted the importance of animal research and stated that the second paragraph of Councilor Swapinski's amendment is unreasonable. Councilor Edwards moved to strike the last paragraph from the resolution, which motion was not seconded.

President Hogg stated that he believes that the last paragraph of the resolution is in violation of state law and that by passing this resolution, the council is requesting staff at the animal shelter to violate state law. He noted that he supports the increase of the fee to demonstrate the council's objection to pound seizure, but that he cannot support language that requests the city to violate the law.

Resolution 98-0599, as amended, was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that pursuant to Section 6-36 of the Duluth City Code, the Duluth animal shelter is authorized to increase its fees to the amount of \$200 for animals sold to institutions. Institution means a school or college of agriculture, veterinary medicine, medicine, pharmacy or dentistry, or an educational or scientific establishment properly concerned with investigation or instruction concerning the structure or functions of living organisms or the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

RESOLVED FURTHER, that the city council hereby requests that the Duluth animal shelter only surrender animals to institutions when the owners of such animals have given their approval to do so after having been given information regarding the type and nature of the research that may be performed on them.

RESOLVED FURTHER, that the city council requests that the Duluth animal shelter not surrender any animals to institutions when the ownership of such animals cannot be determined.

Resolution 98-0599, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 7

Nays: Councilor Edwards and President Hogg -- 2

Approved June 22, 1998

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 GILBERT

98-018 - AN ORDINANCE REQUIRING THE REMOVAL OF SOLID WASTE AND RECYCLING CONTAINERS FROM CURBSIDE LOCATIONS WITHIN 24 HOURS AFTER COLLECTION HAS OCCURRED, AMENDING SECTIONS 24-18 AND 24-19 OF THE CITY CODE.

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The following entitled ordinance was read for the second time:

BY PRESIDENT HOGG

98-016 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET TO APPROPRIATE MONIES FOR THE STORM-WATER UTILITY.

President Hogg moved to table the ordinance since a committee meeting is scheduled to discuss the issue, which motion was seconded and carried upon a unanimous vote.

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The meeting was adjourned at 10:35 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special Meeting of the Duluth City Council held on Thursday, July 9, 1998, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Absent: Councilor Hardesty -- 1

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MOTIONS AND RESOLUTIONS

BY COUNCILOR EDWARDS:

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:

Wizner Company (Norman's Bar), 113 West First Street, for July 10, 1998 (rain date July 11, 1998), with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

T. A. & D., Inc. (Pioneer Bar), 323 West First Street, for July 10, 1998 (rain date July 11, 1998), with the music ceasing at 11:00 p.m. and the serving ceasing at 12:30 a.m.

Resolution 98-0579 was unanimously adopted.

Approved July 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 on First Street between Third and Fourth Avenue West and First and Second Avenue West, on July 10, 1998, in conjunction with the Downtown Sidewalk Days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

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.

Resolution 98-0581 was unanimously adopted.

Approved July 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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:

Woodland Fast Pitch Association (Miller Genuine Draft Fastpitch), Anoka and Woodland Avenue, for July 11 and 12, 1998, with Brett Klosowski, manager.

Resolution 98-0638 was unanimously adopted.

Approved July 9, 1998

GARY L. DOTY, Mayor

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 13, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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The minutes of council meetings held on March 2, 16, 23 and 30, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0713-01 Minnesota state auditor submitting communication pertaining to the Duluth housing trust fund board. -- Received

98-0713-36 John M. Ek submitting communication pertaining to the proposed special use permit for a seasonal bait supply service for property located at 114 South Arlington Avenue (98-0627R). -- Received

98-0713-03 Mike Hambrock submitting communication pertaining to proposed ordinance regarding solid waste containers being removed from curbside within 24 hours (98-018-O). -- Received

98-0713-02 Seaway Port authority of Duluth submitting tax increment financing district reports for the Rices Point and Airpark tax increment financing districts. -- Received

98-0713-37 The following submitting communications pertaining to the proposed resolution upholding the planning commission's action and denying a variance to the local street design standards for 25th Avenue East between East First Street and East Fourth Street (98-0667R): (a) Mark A. Fugelso; (b) Debra Kellner, Duluth Preservation Alliance; (c) Dolly Schnell. -- Received

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REPORTS OF OFFICERS

98-0713-04 Assessor submitting:

(a) Assessment roll levied to defray in full the expense of solid waste collection during the period March 1, 1997, to June 1, 1998, for which the licensed collector has not been reimbursed;

(b) Letter of sufficiency regarding petition to vacate Enterprise Avenue in the plat of Airpark, adjacent to Lots 1, 2, 3 and 4 of Block 3 and Lots 5, 6, 7 and 8 of Block 2, Airpark Division. -- Received

(c) Confirmation of assessment roll levied to defray the assessable portion of Contract No. 5291; Fourth Street Alley from 44th Avenue West to 45th Avenue West, assessable \$33,088.94, storm sewer, \$7,400. -- Clerk

98-0713-05 Community development and housing division submitting HRA housing rehabilitation report for March, April and May, 1998. -- Received

98-0713-38 Finance department director submitting comprehensive annual financial report for the fiscal year ended December 1, 1997. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0713-06 Alcoholic beverage board minutes of May 20, 1998, meeting. -- Received

98-0713-07 Civil service board minutes of May 5, 1998, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- 98-0713-08 Duluth transit authority minutes of: (a) May 27; (b) June 4, 1998, meetings. -- Received
- 98-0713-09 Environmental advisory council minutes of June 3, 1998, meeting. -- Received
- 98-0713-10 Housing and redevelopment authority minutes of May 26, 1998, meeting. -- Received
- 98-0713-11 Parks and recreation commission minutes of May 13, 1998, meeting. -- Received
- 98-0713-12 Planning commission minutes of: (a) May 27; (b) June 9, 1998, meetings. -- Received
- 98-0713-13 Sanitary sewer board for WLSSD minutes of June 15, 1998, meeting. -- Received
- 98-0713-14 Seaway Port authority of Duluth minutes of May 20, 1998, meeting. -- Received
- 98-0713-15 Special assessment board: (a) Minutes of June 9, 1998, meeting; (b) Report for the proposed improvement of East Superior Street from 63rd Avenue East to 380 feet easterly. -- Received
- 98-0713-16 Technical design advisory committee for DWMX-D minutes of: (a) May 19; (b) June 16, 1998, meetings. -- Received
- 98-0713-17 Tree commission minutes of June 8, 1998, meeting. -- Received

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REPORTS OF COUNCILORS

- 98-0713-18 Councilor Prettner Solon submitting National League of Cities community and economic development steering committee spring meeting summary. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Joseph Balach reviewed the issue of Becks road bypassing Gary-New Duluth and also reviewed the environmental impact study done for the project. He stated his concern that traffic is still speeding through Gary and, after discussion with the public works department, nothing has been done to reduce the speed or amount of traffic.

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 98-0512, authorizing appointment by the Duluth economic development authority (DEDA) of 1/3 of the representatives on the housing study committee and authorizing an agreement with Arrowhead Regional Development Commission (ARDC) for the Duluth housing study project in an amount not to exceed \$28,500, from the table, which motion was seconded and unanimously carried.

President Hogg voiced his concern regarding the resolution because there was a misunderstanding on how the appointments were made to the committee. He felt that DEDA is a political body telling the city council how the committee will be set up and that is not a good process to follow. President Hogg questioned if it is appropriate for DEDA to be involved in housing issues at all. He continued by saying that he is not going to support the resolution, as he thinks the council is being mandated to by DEDA.

Councilor Prettner Solon replied that DEDA is asking for equal representation for the amount of money being spent on the committee. She continued by saying that housing is a responsibility and initiative of DEDA, as it is addressed in DEDA's mission statement. Councilor

Prettner Solon explained that DEDA wants to be involved in the study because the last housing study done by DEDA is old and needs to be updated.

Councilor Rapaich reviewed that the appointments to the committee by DEDA do not have to be DEDA commissioners but people involved in the housing industry.

Councilor Hales emphasized the importance of the committee and stated she has no problem with input from DEDA by appointing one more member. She continued by saying that there have been three meetings already, and if the resolution passes, they will have to restructure the committee to include three more members and start over again. Councilor Hales stated there should be a way to compromise on the resolution.

Councilor Prettner Solon stated she fails to understand the objection to additional appointments to the committee. She explained that there is a need to have the Housing and Redevelopment Authority of Duluth (HRA) and the Local Initiative Support Corporation (LISC) on the committee as they oversee much of the housing in Duluth and would provide useful information to the committee.

Councilor Hales voiced concern that if LISC is included on the committee as a nonprofit housing agency, then more of the nonprofit housing organizations will want to be on the committee. She also stated that since they are not a policy setting body in Duluth, they should not be on the committee.

Councilor Keenan also stated the importance of this study and suggested a compromise to this resolution so that the study can continue. He moved to amend the resolution as follows:

(a) In the first paragraph, after the word "ARDC," amend the rest of the sentence to read: "upon DEDA appointing one additional representative on the housing study committee";

(b) In the second paragraph and resolution title, delete the words "1/3 of the representatives" and insert the words "one additional representative," which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

Councilor Hardesty stated that they need to have the right people on the committee to ask the right questions. She continued by saying that the council does not always know who should be included and if groups say they are being excluded, the council needs to look at including them in the discussion.

Resolution 98-0512, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, DEDA, pursuant to Resolution 98D-61 adopted June 16, 1998, approved reimbursement of 1/3 of the cost of the Duluth housing study agreement between the city and ARDC, upon DEDA appointing one additional representative on the housing study committee.

NOW, THEREFORE, BE IT RESOLVED, that the city hereby approves the appointment by DEDA of one additional representative on the housing study committee;

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0713-19, ARDC to conduct a Duluth housing study in an amount not to exceed \$28,500, payable from Community Development Fund 262, Agency 621, Obj. 6140; 1/3 of said amount to be reimbursed by DEDA and 1/3 by the Duluth Housing Trust Fund, Inc., on a pro rata basis.

Resolution 98-0512, as amended, was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

Approved July 13, 1998

GARY L. DOTY, Mayor

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Councilor Hardesty moved to remove Resolution 98-0610, requesting the human rights commission to establish a drafting committee to prepare a proposed human rights ordinance, from the table, which motion was seconded and unanimously carried.

Resolution 98-0610 was adopted as follows:

BY COUNCILORS HARDESTY, GILBERT, PRETTNER SOLON, RAPAICH AND SWAPINSKI:

WHEREAS, the city council would like to consider the adoption of a human rights ordinance for the city of Duluth; and

WHEREAS, the city council feels that it is important that such human rights ordinance be prepared by individuals with expertise in drafting legislation and by individuals who are familiar with human rights issues.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby requests the city's human rights commission to select a drafting committee to prepare a human rights ordinance for the city and to send such proposed ordinance to the city council for consideration by October 1, 1998.

Resolution 98-0610 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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Councilor Swapinski moved to remove Resolution 98-0554, awarding contract to Hermantown Lumber Company for various sizes of lumber in accordance with specifications on its low specification bid of \$29,832.84, from the table, which motion was seconded and unanimously carried.

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

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Councilor Swapinski moved to remove Resolution 98-0600, ordering the improvements of Maxwell Avenue from Marshall Street to Hastings Drive and Hastings Drive from Maxwell Avenue to 200 feet west of Ewing Avenue (Hartley Estates Phase 3) to include a residential design street with curb and gutter, sanitary sewer and water and gas mains (City Job No. 9047RS98) at an estimated cost of \$349,902.75, from the table, which motion was seconded and unanimously carried.

Resolution 98-0600 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, by Resolution of Intent No. 98-0518, the council did request the administration to prepare plans and specifications for the improvement of Maxwell Avenue from Marshall Street to Hastings Drive and Hastings Drive from Maxwell Avenue to 200 feet west of Ewing Avenue (Hartley Estates Phase 3) to include residential design street with curb and gutter, sanitary sewer and water and gas mains (City Job No. 9047RS98); and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; the special assessment board has conducted a meeting with the owner of the property being assessed; 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 \$349,902.75 payable from the Special Assessment Fund 810; Agency 038, Organization 5179, Object 4325; that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefited; which land and premises are described in the report of the special assessment board and which report is on file in the office of the city clerk as Public Document No. 98-0713-15(a), and which description is hereby incorporated herein by reference to said Public Document No. 98-0713-15(a); 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 requirements of Section 60 of the Charter.

Resolution 98-0600 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

BE IT RESOLVED, that the city approves and ratifies the acts of city officials to implement the corrected pay plan in the 1997-1998 collective bargaining agreement between the city and Duluth police local, which correction is on file with the city clerk as Public Document No. 98-0713-20.

Resolution 98-0639 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the City and its residents, that the City should issue its \$6,790,000 General Obligation Street Improvement Bonds, Series 1998C (the "Bonds"), 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.

2. Issuance and Sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the Official Terms of Offering, which is attached hereto as Exhibit A. Each and all of the terms and provisions set forth in the Official Terms of Offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the City Council shall meet at the time and place fixed herein to consider proposals for the purchase of the Bonds.

3. Negotiated Sale. Evensen Dodge, Inc., independent financial advisor to the City, is hereby authorized to 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 98-0649 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR EDWARDS:

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 with any specific restrictions:

Arrowhead Zoological Society, Inc., 7210 Fremont, for July 25 and 26, 1998, with Sam Maida, manager.

Copasetic Softball Team, Wheeler Field, for July 25 and 26, 1998, with Paul King, manager.

Resolution 98-0578 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 on portions on Ramsey Street and 58th Avenue West between Grand Avenue and Central Avenue, on August 7, 1998, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

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.

Resolution 98-0580 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture be and hereby is awarded a contract for furnishing and delivering various Herman Miller office components including work stations, panels, shelves, etc., for the city treasurer division in accordance with specifications on its low specification bid of \$17,229.80, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E813.

Resolution 98-0616 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground replacement equipment at Lilliput Tot Lot for the park maintenance division in accordance with specifications on its low specification bid of \$12,090.95, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C811.

Resolution 98-0617 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground replacement equipment at Jollystone Park for the park maintenance division in accordance with specifications on its low specification bid of \$13,792.82, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C811.

Resolution 98-0618 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering snow equipment for the new motor graders (front lifts, wings, blades, brackets) for the fleet services division in accordance with specifications on its low specification bid of \$67,087.95, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2008, Object V809.

Resolution 98-0636 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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:

PK & JS, Inc. (Twins Bar), 501 East Fourth Street, for July 24, 1998 (rain date July 25, 1998), with the music ceasing at 11:00 p.m. and the serving ceasing at 11:30 p.m.

Rustic Bar Inc. (Rustic Bar), 401 North Central Avenue, for August 7, 1998 (rain date August 8, 1998), with the music ceasing and the serving ceasing at midnight.

D & D Enterprises of Cloquet, Inc. (Mr. D's Bar & Grill), 5622 Grand Avenue, for August 7, 1998 (rain date August 8, 1998), with the music and the serving ceasing at midnight.

Dwayne & Kimberly, Inc. (Kom On Inn), 332 North 57th Avenue West, for August 7, 1998 (rain date August 8, 1998), with the music and the serving ceasing at midnight.

Resolution 98-0675 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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Resolution 98-0606, by Councilor Rapaich, confirming appointment of Michael Orman to Duluth airport authority replacing Mark Erickson, was introduced for discussion.

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

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BY COUNCILOR RAPAICH:

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

NEIGHBORHOOD ADVISORY COUNCIL

Myrna Matheson (Endion) for a term expiring March 1, 2000, replacing John Hamel who resigned.

Resolution 98-0661 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved July 13, 1998
GARY L. DOTY, Mayor

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Resolution 98-0674, by Councilor Rapaich, confirming appointments of Bonnie Jorgenson replacing Jennifer Peterson and Judy LeMire replacing Shari Bjorlin to citywide citizens advisory committee, was introduced for discussion.

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

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BY COUNCILOR 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 #</u>	<u>Applicant name</u>	<u>Legal description</u>	<u>Location</u>
98079	John Donahue and Laurel Sanders	that portion of Lot 92 that lies north of Cass Street, Fond du Lac (10-1690- 470)	north side of Cass Street between 130th and 131st Avenues West (Fond du Lac)
98080	Michelle Andreiko	Lot 25, Block 9, Gary First Division (10-1800-1390)	west side of 97th Avenue West between Reis Street and Crestline Court (Gary New-Duluth)
98081	David and Peggy Timo	northerly 30 feet of Lot 9, Block 4, Highland Gardens First Division (10-2180- 340)	east side of Stanford Avenue and north of Maple Grove Road (Duluth Heights)
98082	St. Louis County	easterly 1/2 of Lot 443, Block 118, Duluth Proper Second Division (10-1180- 2930)	north side of Fourth Street between 27th Avenue West and Grand Forks Avenue (Lincoln Park/West End)
98083	Old Apostolic Lutheran Church	Lots 7, 12, 13, and westerly 1/2 of Lots 18 and 19, Block 6, Norton's Lakewood Gardens (10- 3530-1240, 1290, 1300, 1350, 1360)	north side of Shelby Road between 79th and 80th Avenues East (North Shore)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98086	Bill Stauber	Lots 1-8, 19-27, Block 13, Merchant's Park (10-3220- 2980)	north side of 11th Street between 26th and 27th Avenues West (Lincoln Park)
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BE IT FURTHER RESOLVED, that the board of county commissioners of St. Louis County is hereby requested to reclassify and reconvey a free conveyed parcel from the city of Duluth and make the parcel available for sale.

<u>File #</u>	<u>Applicant name</u>	<u>Legal description</u>	<u>Location</u>
98073	Michael Vidmar	westerly 16 feet except northerly 80 feet of the easterly 33 1/3 of Lot 19, Block 91, Duluth Proper Third Division (10-1350- 18904)	upper side of Seventh Street west of First Avenue West (Central Hillside)

Resolution 98-0583 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Mr. James M. Ronning has offered to donate to the city of Duluth a tower structure presently owned by him which had historically been located on the ship canal at the Minnesota Entry; and

WHEREAS, the relocation of the tower structure to Bayfront Park would result in a significant historical and aesthetic benefit to that park facility.

RESOLVED, that the proper city officials are hereby authorized to accept the donation of the aforesaid tower facility from Mr. James M. Ronning and to take custody and control thereof.

RESOLVED, FURTHER, that the city of Duluth hereby expresses its appreciation to Mr. James M. Ronning for this donation to the enhancement of Bayfront Park.

Resolution 98-0620 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of the copy of file in the office of the city clerk as Public Document No. 98-0713-21, to the Depot arts program project agreement with St. Louis County Heritage and Arts Center (the center) extending the term of the agreement to June 30, 1999, with no change in compensation under the terms of the agreement.

Resolution 98-0623 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, Craig Keuten has submitted to the city council a request for a special use permit for a seasonal bait supply service at property described as Lots 19 and 20, Block 1, Car Line Gardens Division to Duluth and located at 114 South Arlington Avenue as authorized by Section 50-35(i) commercial, recreational or amusement development for temporary or seasonal periods; 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 Craig Keuten to allow for the operation of a seasonal bait supply service at 114 South Arlington Avenue, subject to the following conditions:

- (a) The use of the property not exceed the extent of the operation as it existed on May 1, 1998;
- (b) There be no retail sales conducted or permitted on the property;
- (c) This permit will not be used or transferred to subsequent owners of the property without an amendment to this permit;
- (d) This permit shall be valid for a period of four years from the effective date of this resolution, at which time the permittee may apply for another four year period.

Resolution 98-0627 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional service agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0713-22, with HRA for low income housing tax credit compliance monitoring; the fees for said services to be paid by project owners as set forth in the agreement.

Resolution 98-0640 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Duluth tenants union project pursuant to city council Resolution No. 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a service agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0713-23, with the Damiano Center to implement the above project; payment for said services shall not exceed \$17,000, payable out of the 1998 Federal Program Fund 262-community development-Duluth Tenants Union Account No. 6130.

Resolution 98-0641 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, certain real property owned by the United States, located in the County of St. Louis, state of Minnesota, has been declared surplus and is subject to assignment for disposal for public health purposes by the secretary of health and human services under the provisions of Section 203(k)(1) of the Federal Property and Administrative Services Act of 1949, as amended, and rules and regulations promulgated pursuant thereto, more particularly described as follows: Lot 226, Lake Avenue, Upper Duluth, St. Louis County, Minnesota; and

WHEREAS, the city of Duluth needs and can utilize said property for public health purposes in accordance with the requirements of said Act and the rules and regulations promulgated thereunder of which this council is fully informed, including commitments regarding use and time such use shall commence.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth shall make application to the secretary of health and human services for, and secure the transfer to it, of the above-mentioned property for said use upon and subject to such exceptions, reservations, terms, covenants, agreements, conditions and restrictions as the secretary of health and human services, or his/her authorized representative, may require in connection with the disposal of said property under said Act and the rules and regulations issued pursuant thereto.

BE IT FURTHER RESOLVED, that the city of Duluth has legal authority, is willing and is in a position financially and otherwise to assume immediate care and maintenance of the property and that Gary L. Doty, the mayor of the city of Duluth, is hereby authorized for and on behalf of the city of Duluth to do and perform any and all acts and things which may be necessary to carry out the foregoing resolution, including the preparing, making and filing of plans, applications, reports and other documents; the execution, acceptance, delivery and recordation of agreements, deeds and other instruments pertaining to the transfer of said property; and the payment of any and all sums necessary on account of the purchase price thereof, including fees or costs incurred in connection with the transfer of said property for surveys, title searches, appraisals, recordation of instruments or escrow costs, together with any payments by virtue of nonuse or deferral of use of the property.

BE IT FURTHER RESOLVED, that if the city of Duluth is unable to place the property into use within the time limitations indicated below (or determines that a deferral of use should occur), it is understood that the city of Duluth will pay to the department of health and human services for each month of nonuse beginning 12 months after the date of the deed or 36 months where construction or major renovation is contemplated, the sum of 1/360 of the market value for each month of nonuse.

BE IT FURTHER RESOLVED, that if the application is approved, a copy of the application and standard deed conditions will be filed with the permanent minutes of the council.

Resolution 98-0650 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that C. Anderson Demolition, Inc., be and hereby is awarded a contract for demolition of one structure located at 302 East Seventh Street for the building inspection division in accordance with specifications on its low specification bid of \$5,600, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 020, Organization 1201, Object 5453.

Resolution 98-0656 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement No. 18229, substantially in the form of Public Document No. 98-0713-24, on file in the office of the city clerk, with the Duluth state convention center administrative board, for the organization and promotion of the Fourthfest on July 4, 1998, at Bayfront Festival Park, in an amount of \$25,000, payable from Special Projects and Events Account 100-015-2030.

Resolution 98-0659 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amended and restated lease agreement, substantially in the form of Public Document No. 98-0713-25, on file in the office of the city clerk, with the Canal Company for the lease of the pilot house of the vessel George Hindman for a period of five months each year over a five year lease term, as further specified in the amended and restated lease agreement.

FURTHER RESOLVED, that all rental payments paid to the city pursuant to the amended and restated lease agreement shall be deposited into Fund 100-500-1950-4612.

Resolution 98-0660 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Skyline Parkway route traverses the entire city from the Lester River in the east to Becks Road in the west; and

WHEREAS, construction of Skyline Parkway began in 1890 and was designed as a part of the city park system and as a tourist route; and

WHEREAS, this route is located at an elevation approximately 600 feet above the lake level providing a wide variety of scenic vistas of the city and waterfront of Lake Superior and the St. Louis River; and

WHEREAS, the roadway contains a large number of historic bluestone bridges and retaining walls over its length; and

WHEREAS, this route connects to the North Shore Scenic Byway on the northeast and the Veterans Memorial Scenic Byway on the southwest; and

WHEREAS, the scenic character offers potential for enhancing and enlarging the tourism industry which is a vital part of the economic base of the city; and

WHEREAS, the route has a significant scenic character important to the people who live here and to tourists who visit and travel through the area; and

WHEREAS, maintaining and enhancing the scenic character of this route will contribute to the pleasure of those who travel it and the potential for attracting additional travelers; and

WHEREAS, application is being made to seek a state of Minnesota designation of the route as a scenic byway; and

WHEREAS, this designation will be conducive to effective marketing of the route as a tourist attraction and will contribute to obtaining special funding for enhancement and restoration projects within the parkway corridor.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

NOW, THEREFORE, BE IT RESOLVED, the city council of the city of Duluth, Minnesota, supports the effort to obtain scenic byway designation by the state of Minnesota.

Resolution 98-0662 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0667, by Councilor Prettner Solon, upholding a planning commission action and denying a variance to the local street design standards for 25th Avenue East between East First Street and East Fourth Street, was introduced for discussion.

John Strongitharm, deputy fire marshal, informed the council that the newly purchased fire truck is 18 feet wide when operational and keeping the street at a narrower width would make it harder for the truck to work at a fire.

Mark Winson, city engineer, stated that there was a neighborhood meeting last Fall where the engineering division presented three different proposals for the width of the street and sidewalk. He reviewed that the street width is part of the policy of the planning commission that was set up five years ago and that his job is to implement that policy.

Councilor Keenan stated he is looking for the historical nature of the streets to be maintained and supports the 20 feet width. He continued by saying that by making the street wider there is less boulevard space for sidewalks and placing snow. Councilor Keenan also stated that there are many streets in Duluth with different street widths.

Councilor Edwards expressed concern that the sidewalks will be too narrow for children to walk on. She stated she wants to keep the integrity of the neighborhood.

Councilor Hardesty reviewed that the fire, engineering and planning departments, along with the planning commission, are all telling the council the same thing and supports the decision of the planning commission.

Councilor Gilbert urged the councilors to table this resolution so that a process can be set up for keeping the historical nature of the streets.

Resolution 98-0667 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth has proposed to improve 25th Avenue East between East First Street and East Fourth Street under the city's street improvement program; and

WHEREAS, J.M. and Susan Streitz and Geoffrey and Gudrun Witrak requested a variance from the city of Duluth local street design standards promulgated by the city engineer (the standards) and have submitted to the city council an appeal for a variance from the standards for that portion of 25th Avenue located between East First Street and East Fourth Street; and

WHEREAS, said variance request was duly referred to the city planning commission for a study, report and public hearing and the planning commission has subsequently reported to the city council that the variance was denied; and

WHEREAS, the city council planning committee conducted a hearing on June 29, 1998, and heard testimony from residents and city personnel as to the merits of the variance.

RESOLVED, that the Duluth City Council finds the following:

(a) The project, as presently designed, attempts to preserve improved, landscaped and fenced areas behind the existing sidewalks which includes 18 feet of the street right of way;

(b) The standards provide that "Under certain circumstances and through granting of variances, reconstructed streets may be less than 26 feet but in no case shall they be less than 22 feet wide";

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(c) Adjacent collector streets are not aligned in a way that encourages traffic to short-cut through a neighborhood;

(d) No mature trees are affected by the 22 foot design;

(e) The character of the immediate neighborhood would not be affected by the 22 foot roadway width in that the two feet of increase in the roadway width will be recovered by the narrowing of the sidewalks on both sides of the street from five feet to four feet so that the total project width will not change from the design of 30 feet;

(f) Because this portion of 25th Avenue East is predominantly a side street (side yard) for the majority of the residences along the sides, the houses are predominantly two and three story structures and the access to these structures for fire protection purposes is preferred from the avenue, the fire department would have insufficient room, from a practical standpoint, to fully deploy supports for significant elements of its fire fighting equipment if the variance from the standards is approved;

(g) The requested variance from the standards will not materially ease the problem of snow storage along this portion of 25th Avenue East.

AND FURTHER RESOLVED, that the planning commission action of May 27, 1998, is upheld, the requested variance from the standards is hereby denied and Twenty- Fifth Avenue East between First Street and Fourth Street is to be reconstructed as a 22 foot wide roadway with four foot wide sidewalks on each side.

Resolution 98-0667 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Prettnr Solon, Rapaich and President Hogg -- 5

Nays: Councilors Edwards, Gilbert, Keenan and Swapinski -- 4

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city has received an ice grant award in the amount of \$50,000 from the state of Minnesota through its Minnesota amateur sports commission (MASC), utilizing state general fund monies; and

WHEREAS, the city proposes to utilize the grant award, in addition to other funding sources, to undertake renovation of Fryberger Arena; and

WHEREAS, the total cost of the renovation project at Fryberger Arena is in the estimated total amount of \$90,000, which amount would be paid as follows: \$50,000 from the city consisting of the Mighty Ducks grant from the state of Minnesota and the remaining estimated amount of \$40,000 from the Duluth Amateur Hockey Association (DAHA); and

WHEREAS, DAHA has agreed to undertake the 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 hereby authorized to enter into Agreement No. _____, substantially in the form of Public Document No. 98-0713-26, on file in the office of the city clerk, with the Duluth Amateur Hockey Association, for the design and construction of the renovation of Fryberger Arena, at a cost to the city of \$50,000, payable from capital improvement fund.

Resolution 98-0663 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0664, by Councilor Keenan, authorizing city to enter into an agreement with the Duluth Amateur Hockey Association for the renovation of Peterson Arena at an estimated total cost of \$50,000, was introduced for discussion.

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

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BY COUNCILOR KEENAN:

RESOLVED, that Contract Tile and Carpet, Inc., be and hereby is awarded a contract for furnishing and installing carpeting in the Enger golf clubhouse and deck in accordance with specifications on its low specification bid of \$9,754, terms net 30, FOB job site, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5530.

Resolution 98-0665 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, Margaret R. Orlich has made a testamentary gift to the Duluth Public Library of 50 percent of the residue of her estate; and

WHEREAS, probate of the estate of Margaret R. Orlich has not yet been completed, but the estate is authorized to make an interim distribution of funds upon request of a beneficiary.

NOW, THEREFORE, BE IT RESOLVED, that the city hereby accepts the testamentary gift of Margaret R. Orlich.

RESOLVED FURTHER, that the city is hereby authorized to request an interim distribution of funds from the estate to the Duluth Public Library in the amount of \$175,000.

RESOLVED FURTHER, that all funds received from this gift shall be deposited in Fund 740-300-SG70-4690 - Orlich estate.

Resolution 98-0673 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement the amendment to the mutual aid agreement with the city of Superior, Wisconsin, on file with the city clerk as Public Document No. 98-0713-27.

Resolution 98-0511 was unanimously adopted.

Approved July 13, 1998

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 is on file in the office of the city clerk as Public Document No. 98-0713-28, with the Minnesota department of economic security to provide services under the job training partnership act as defined in the program year 1998-99 local plan update from July 1, 1998, through June 30, 1999, 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 268, Budget Items 6213, 6214, 6215, 6216, 6218 and 6221.

Resolution 98-0611 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved July 13, 1998
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 Independent School District No. 709 for the services of five teachers to provide instructional services to summer youth employment training program clients for the summer youth employment program's academic enrichment component for the period June 15, 1998, through July 31, 1998, at costs not to exceed \$40,000. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0713-29.

FURTHER RESOLVED, that costs incurred shall be charged to Fund 268, Budget Item 6216.

Resolution 98-0612 was unanimously adopted.

Approved July 13, 1998
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 and Research Center, Inc., grant in the amount of \$225,574 for the period July 1, 1998, through June 30, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0713-30.

FURTHER RESOLVED, that monies received shall be deposited in Fund 270, Budget Item 6327.

Resolution 98-0613 was unanimously adopted.

Approved July 13, 1998
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 East Hillside/Endion coalition to operate the East Hillside/Endion alternative youth programs project through community resource program funds at a cost not to exceed \$114,517. Contract dates will run from June 1, 1998, through December 31, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0713-31.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund 275, Budget Item 6008.

Resolution 98-0621 was unanimously adopted.

Approved July 13, 1998
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, \$104,846 from the Minnesota department of economic security to operate the Title V senior community service employment program from July 1, 1998, through June 30, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0713-32.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

FURTHER RESOLVED, that amounts received will be deposited in Fund No. 271, Budget Item No. 6326.

Resolution 98-0622 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, proper city officials are hereby authorized to amend City Contract No. 17946 to accept an additional \$76,830 in funds from the Minnesota department of economic security to continue operation of the Minnesota youth program for the period July 1, 1997, through June 30, 1999. This amendment brings total funding amount to \$347,646. A copy of this amendment shall be on file in the city clerk's office as Public Document No. 98-0713-33.

FURTHER RESOLVED, that monies received under this grant shall continue to be deposited in Fund 268, Budget Item 6205.

Resolution 98-0624 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a joint powers agreement between the city of Duluth and Independent School District No. 709 for the improvement of the Central field/Grant recreation area; said agreement filed as Public Document No. 98-0713-34.

Resolution 98-0626 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are authorized to enter into an agreement with Gary Van Beusekom to provide independent monitoring services for the job training programs division for \$11,520, terms net 30, FOB job site, payable out of Fund 268, Budget Items 6213, 6214, 6216, 6217, 6222 and 6223; Fund 269, Budget Items 6278 and 6279; and Fund 275, Budget Item No. 6008.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0713-35.

Resolution 98-0645 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Resolution 98-0614 to Duluth-Superior Blacktop for furnishing bituminous materials be amended to increase the amount by \$22,817.63 for a new total of \$164,356.13; \$10,543.50 payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227; \$10,543.50 payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227; \$865.32 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227; \$865.32 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0585, Object 5227.

Resolution 98-0614 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Premier Lawn Service/Painting be and hereby is awarded a contract for preparing surface and painting approximately 2,282 gas meter piping sets in the Chester, Woodland, Kenwood and Morley Heights neighborhoods for the water and gas department in accordance with specifications on its low specification bid of \$18,575.48, terms net 30, FOB job sites, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0631 was unanimously adopted.

Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Chesley and Sons be and hereby is awarded a contract for masonry work at Lakewood Water Treatment Plant consisting of repointing brick mortar, cleaning entire masonry structure, cleaning gutters and removing swallow nests for the water and gas department in accordance with specifications on its low specification bid of \$85,458.55, terms net 30, FOB jobsite, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0634 was unanimously adopted.

Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that U.S. Filter/Waterpro, Inc., be and hereby is awarded a contract for furnishing and delivering approximately four gas gate valves for the gas division in accordance with specifications on its low specification bid of \$10,783.04, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-0635 was unanimously adopted.

Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that D.M.D. - Measurement Operation be and hereby is awarded a contract for furnishing and delivering Roots gas meters and repair parts for the gas division in accordance with specifications on its low specification bid of \$12,780, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5220.

Resolution 98-0643 was unanimously adopted.

Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires to complete a steam line extension to the new Lake Superior center; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to accomplish this project; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$28,581, will be payable from the Steam District No. 1 Fund 540, Dept./Agency 920, Organization 1490, Object 5580.

Resolution 98-0644 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Benna Ford be and hereby is awarded a contract for furnishing and delivering one compact car; one 1/2-ton 4 x 4 pickup truck; one 3/4-ton 4 x 4 pickup truck; all vehicles with alternate fuel systems (compress natural gas [CNG] for the water and gas department in accordance with specifications on its low specification bid of \$79,138.76, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0651 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0540, by Councilor Swapinski, establishing user fees for the stormwater utility, was introduced for discussion.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY PRESIDENT HOGG

98-016 (9373) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET TO APPROPRIATE MONIES FOR THE STORMWATER UTILITY.

President Hogg moved to remove the ordinance from the table for consideration at this time, which motion was seconded and unanimously carried.

- - -

Councilor Gilbert stated his appreciation for the great job done by the public works department, but added that there is still some work that can be done; there needs to be a continuing review done on this system. He stated that he is hearing from residents that do not have city sewer and septic and feel that they do not need to pay for this as there is no runoff into the storm sewers. Councilor Gilbert went on to say that this fact is not reflected in the resolution and needs to be looked at in the future, as he feels the residents have a valid concern. He suggested the city look at a multiple tier system for charging residents.

Resolution 98-0540 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that pursuant to Section 43-66 of the recently enacted storm water utility ordinance, there is hereby established a user charge as provided in said ordinance based upon the impervious surface of user property within the city for the purpose of recovering from users

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and persons benefiting from the system the capital costs, debt service, operation and maintenance costs of storm water facilities in the city. The rate for one equivalent residential unit (ERU = 1,708 impervious square feet) shall be \$3.75 per month.

Resolution 98-0540 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

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

- - -

BY COUNCILOR SWAPINSKI:

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 Job No. 9024SW98).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$260,000 payable from the Special Assessment Fund 810, Agency 038, Organization 5312, Object 5530; that approximately \$25,000 of the cost of said improvements be defrayed by general obligation of the city, payable from the permanent improvement fund; that approximately \$5,000 of the cost of said improvement be payable from Capital Fund 450, Agency 015, Organization 1997, Object C708 for American Disabilities Act curb cuts and sidewalk ramps; that approximately \$10,000 be payable from the sanitary sewer utility fund 530; that approximately \$10,000 be payable from the Water Utility Fund 510; that approximately \$10,000 be payable from the Gas Utility Fund 520; that approximately \$20,000 be payable from West Duluth community development Account 262; and that approximately \$140,000 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 98-0550 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay \$10,756.56 to First Unitarian Church in settlement of all claims arising out of a sewer backup on March 2, 1998; payment to be made from self insurance fund.

Resolution 98-0566 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for construction of Second Street Alley from 14th Avenue East to 15th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$16,889.55, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5305, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0630 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0632, by Councilor Swapinski, awarding contract to A.S.D.C.O., Inc., for sewer repair materials in accordance with specifications on its specification bid of \$8,989.93, was introduced for discussion.

Councilor Hales stated that she would be abstaining from voting on the resolution.

Resolution 98-0632 was adopted as follows:

BY COUNCILOR SWAPINSKI:

RESOLVED, that A.S.D.C.O., Inc., be and hereby is awarded a contract for furnishing and delivering sewer repair material consisting of 500 bags Euclid eucopatch, 50 60-pound pails Euclid damit water plug and 25 one-gallon containers of Euclid flexcon for the sewer division in accordance with specifications on its specification bid of \$8,989.93, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0570, Object 5227.

Resolution 98-0632 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: None -- 0

Abstention: Councilor Hales -- 1

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for the 1998 citywide street patch program for the engineering division in accordance with specifications on its low specification bid of \$399,780, terms net 30, FOB job site, payable out of Permanent Improvements Fund 411, Dept./Agency 035, Organization 2130, Object 5530.

Resolution 98-0633 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Interstate Detroit Diesel, Inc., be and hereby is awarded a contract for furnishing and delivering a standby generator for the sewer division in accordance with specifications on its low specification bid of \$12,939.75, terms net 30, FOB destination, payable out of Sewer, Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 98-0637 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Woodruff Lumber & Milling Company be and hereby is awarded a contract for furnishing and delivering rough cut spruce, pine and fir, hardwood shims and plywood for the old Duluth Armory in accordance with specifications on its low specification bid of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$28,475.28, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5220.

Resolution 98-0642 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Klassic Constructors be and hereby is awarded a contract for 1998 storm sewer patch program at various city locations for the engineering division in accordance with specifications on its low specification bid of \$63,340.80, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0585, Object 5447.

Resolution 98-0646 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete preblast condition survey engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for preblast condition surveys of structures within 200 feet of blasting sites for street and utility work in conjunction with the 1998 street improvement project for upper Endion East area; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$25,000, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9803, Object 5530.

Resolution 98-0647 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete design engineering services; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for survey, geotechnical and design of 1999 street improvement project for Upper Lester Park area; and

WHEREAS, R.L.K.-Kuusisto, Ltd., 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.L.K.-Kuusisto, Ltd., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$65,842, will be payable from the Street Improvement Program Fund 440, Dept./Agency 038, Organization 9907, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0648 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

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 Testings, Inc., and Twin Ports Testing, Inc., have 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., and 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, total estimated at \$50,000 (approximately \$25,000 per each vendor), will be payable from the various funds, dept./agencies, organizations, objects.

Resolution 98-0652 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a survey and design for the replacement of Bridge L8157 located at Vermillion Road over Tischer Creek; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to accomplish this project; and
WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for engineering services in connection with this project.

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$17,151, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2132, Object 5303.

Resolution 98-0653 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a survey and design for the rehabilitation of Bridge 69812 located at 27th Avenue West and Courtland Street; and
WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to accomplish this project; and
WHEREAS, L.H.B. Engineers and Architects has submitted a proposal for engineering services in connection with this project.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$9,280, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2131, Object 5303.

Resolution 98-0654 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete a survey and design for the rehabilitation of Bridge L6114 located at Ninth Street over Chester Creek; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required to accomplish this project; and

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

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

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$71,118, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2133, Object 5303.

Resolution 98-0655 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground replacement equipment at Morgan Park Recreation Center for the community development division in accordance with specifications on its low specification bid of \$22,782.41, terms net 30, FOB destination, payable out of Community Development Fund 262, Dept./Agency 620, Object 6008.

Resolution 98-0658 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0603, by Councilor Hales, to establish angle parking in the parking bay located on the east side of Kenwood Avenue between Maryland Street and Victoria Street and to prohibit parking from 2:00 a.m. to 6:00 a.m. November 1 through May 31, was introduced for discussion.

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

Jim Landwehr reviewed with the council that several neighbors, the principal of Edison School and councilors Swapinski and Gilbert met to discuss the angle parking proposal in front of Edison School. He continued by saying that all the parties agreed that they do not support the resolution. Mr. Landwehr stated the main issue is safety as there are no sidewalks there and people would be backing out into the road.

Administrative Assistant Nollenberger suggested that with the new information from the neighborhood the council should send the resolution back to the administration for them to review the proposal.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Hales moved to refer the resolution back to the administration for further review, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR HALES:

RESOLVED, that Clarey's Safety Equipment be and hereby is awarded a contract for furnishing and delivering approximately ten carbon cylinders for SCBA's (self contained breathing apparatus) for the fire department in accordance with specifications on its low specification bid of \$8,875, terms net 20, FOB destination, payable out of General Fund 100, Dept./Agency 100, Organization 1505, Object 5580.

Resolution 98-0615 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officials are authorized to pay to Christine MacDougall and her attorney, Paul Schweiger, \$7500 in full and final settlement of the claim which arose out of an automobile accident occurring on February 7, 1997; payment to be made from the self insurance fund.

Resolution 98-0619 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, communities across the United States have designated August 4, 1998, as a national night out to celebrate community and neighborhood awareness and unity; and

WHEREAS, the purpose of the national night out is to generate support and participation in local anticrime efforts, to strengthen neighborhood spirit and police community partnerships, to heighten crime and drug prevention awareness and to send a message to criminals that neighborhoods are fighting back; and

WHEREAS, the Duluth City Council wishes to express its support for the national night out and the goals and purposes behind it.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for a national night out on August 4, 1998, and encourages the administration and the various neighborhoods throughout the city to facilitate and participate in the event by spending a night out with their neighbors.

Resolution 98-0625 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the Minnesota department of economic security for expenditures related to the juvenile alcohol curfew offender program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police and job training departments. All reimbursements to be deposited in Fund 268, Agency 031, Org. 6225, Revenue Source 4230.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0628 was unanimously adopted.
Approved July 13, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0629, by Councilor Hales, accepting a grant from the U.S. department of justice, office of community oriented policing services, for \$300,000 to reimburse partial salary of four police officers under the COPS Universal Hiring Program M - 1998; said grant period being from April 1, 1999, to March 31, 2002, was introduced for discussion.

Councilors Edwards, Hales and President Hogg stated they will not support the resolution as there is no plan to absorb the costs of these positions into the budget once the grant money runs out.

Resolution 98-0629 was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the U.S. department of justice, office of community oriented policing services, to partially reimburse the police department for the salary and benefits of four police officers.

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. 1620, Revenue Source 4210.

Resolution 98-0629 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 6

Nays: Councilors Edwards, Hales and President Hogg -- 3

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

WHEREAS, the Minnesota human rights department presently has a representative available in Duluth only about twice a year to handle complaints of violations of the state human rights law; and

WHEREAS, various organizations in Duluth have identified the need for a greater degree of enforcement of human rights laws in the city; and

WHEREAS, the Minnesota human rights department has indicated that it is now in a position of being able to provide a greater presence in Duluth and to process complaints of human rights violations in a more expeditious manner than in the past.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests the Minnesota human rights department to provide an office in Duluth for processing human rights complaints and to staff such office on a regular basis.

Resolution 98-0677 was unanimously adopted.

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

98-019 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2 AND 3, BLOCK 12, WOODLAND PARK 2ND DIVISION, TO JAMES LATTNER, FOR A CONSIDERATION OF

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$36,212.00, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (WOODLAND BRANCH LIBRARY).

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

98-018 - AN ORDINANCE REQUIRING THE REMOVAL OF SOLID WASTE AND RECYCLING CONTAINERS FROM CURBSIDE LOCATIONS WITHIN 24 HOURS AFTER COLLECTION HAS OCCURRED, AMENDING SECTIONS 24-18 AND 24-19 OF THE CITY CODE.

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

Ken Cich urged support of the ordinance, as currently in his neighborhood trash cans sit on his neighbors' lawns all week and people continually throw garbage in the cans and then the trash blows up and down the street. He stated that this is a problem that people are tired of; it is also a health issue.

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

- - -

The meeting was adjourned at 10:15 p.m.

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

- - -

ORDINANCE NO. 9373

BY PRESIDENT HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET TO APPROPRIATE MONIES FOR THE STORMWATER UTILITY.

The city of Duluth does ordain:

Section 1. That Ordinance 9358, passed and approved December 15, 1997, is hereby amended by appropriating an additional \$1,829,088 to be paid from revenues generated from user charges of the stormwater utility. These funds will be appropriated as follows:

Fund 535 stormwater utility.....\$1,829,088

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: July 13, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed July 13, 1998

Approved July 13, 1998

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 23, 1998, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Keenan, Rapaich, Swapinski and President Hogg -- 7

Absent: Councilors Hardesty and Prettner Solon -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0723-01 Evensen Dodge, Inc., financial consultants, submitting: (a) Official statement; (b) Presale Analysis; (c) Tabulation of bids, pertaining to the sale of \$6,790,000 general obligation street improvement bonds, Series 1998C. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 98-0691, providing for the issuance, sale and delivery of \$6,790,000 general obligation street improvement bonds, Series 1998C, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, by President Hogg, were introduced for discussion.

Kathy Kardell, Evensen Dodge, Inc., vice president, reviewed the outcome of the bids on the bond issue.

Resolution 98-0691 was adopted as follows:

BY COUNCILOR HOGG:

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 "1998 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 or paid from Community Development Block Grants:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
97-0292 amended by 98-2885	8/1/97 4/27/98	\$1,609,000	Lower Lakeside Norton Park West Endion Upper East Upper Lincoln Upper Woodland East 2 Cody - South Kenwood - Upper Street overlay/crack sealing program

1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$6,790,000 General Obligation Street Improvement Bonds, Series 1998C, to be dated August 1, 1998, as the date of original issue (the "Bonds") for financing a portion of the costs of the 1998 Street Improvement Program.

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$6,790,000 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 Piper Jaffray, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$6,708,791.40, plus accrued interest on the total principal amount from August 1, 1998, 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 A. The Bonds to be issued hereunder shall be dated August 1, 1998, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2000	\$470,000	See Exhibit A	2008	\$430,000	See Exhibit A
2001	390,000		2009	450,000	
2002	405,000		2010	475,000	
2003	420,000		2011	495,000	
2004	435,000		2012	520,000	
2005	380,000				
2006	395,000		2014	1,115,000	
2007	410,000				

B. The Bonds maturing on February 1 in the year 2014 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01B at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

(1) For Bonds maturing on February 1, 2014 (the "2014 Term Bonds"):

Year	Principal Amount
2013	\$545,000

The remaining \$570,000 stated principal amount of the 2014 Term Bond shall be paid at maturity on February 1, 2014.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 The Bonds maturing in the years 2000 through 2007 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption, pursuant to Section 2.01B, in the year 2008 and in 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, 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 August 1, 1999. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION STREET IMPROVEMENT BOND
SERIES 1998C

R-_____ \$_____

<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
	February 1, _____	August 1, 1998	

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 August 1, 1998, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable

semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1999. 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 \$6,790,000, 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 23, 1998 (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 maturing in the year 2014 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2000 through 2007 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, 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. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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>
8/___/98	Cede and Co. c/o The Depository Trust Company 55 Water Street New York, NY 1	_____

ASSIGNMENT

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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 1998 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 in the amount of \$6,790,000, less discount allocated thereto, into the 1998 Street Improvement Account (the "1998 Street Account") within the Street Improvement Fund in the Capital Projects Fund. The proper City officers are authorized and directed to pay out of the 1998 Street 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. The costs of issuance of the Bonds shall be paid from the 1998 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 "1998 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 1998 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$0, 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, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies to the extent of 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 the special assessments from the properties described in Section 1.02 hereof and said taxes are hereby appropriated and shall be paid when collected into the 1998 Improvement Bond Account within the Special Assessment Debt Service Fund. If the balances in the 1998 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 1998 Improvement Bond Account when the balances therein are sufficient.

3.05 Proceeds of the Bonds on deposit in the 1998 Street Account and 1998 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.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor 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 Bonds herein authorized have been duly entered on his 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 relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested 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 otherwise known to them. All of 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 officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

representation of the facts and representations made therein as of the date of the official statement.

Resolution 98-0691 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Rapaich, Swapinski and President Hogg -- 7

Nays: None -- 0

Absent: Councilors Hardesty and Prettner Solon -- 2

Approved July 23, 1998

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, July 27, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Hales, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Absent: Councilors Gilbert and Rapaich -- 2

- - -

The minutes of council meetings held on April 13 (special), 13 (regular) and 27, 1998, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0727-01 William P. Maney petitioning for bituminous resurfacing of 32nd Avenue West from Superior to Carlton Streets. -- Assessor

98-0727-25 Enid Ehle submitting letter pertaining to construction of an addition to a nonconforming use in an R-3 apartment residential district (98-0703R). -- Received

98-0727-02 Housing and redevelopment authority submitting audit report for year ended September 30, 1997. -- Received

- - -

REPORTS OF OFFICERS

98-0727-03 Assessor submitting letter of sufficiency regarding petition for bituminous resurfacing of 32nd Avenue West from Superior Street to Carlton Street. -- Received

98-0727-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling licenses (raffle) from St. Mary's Medical Center for September 18, 1998. -- Received

98-0727-05 Engineering division submitting July, 1998, monthly project status report. -- Received

98-0727-06 Parks and recreation department director submitting Lake Superior zoological society minutes of March 25, 1998, meeting. -- Received

98-0727-07 Purchasing agent submitting emergency order to Eisenmann Brothers for repairs to police Chevrolet Blazer. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0727-08 Lawful gambling commission minutes of: (a) June 9; (b) June 12, 1998, meetings. -- Received

98-0727-09 Sanitary sewer board for WLSSD minutes of July 6, 1998, meeting. -- Received

98-0727-10 Special assessment board minutes of July 7, 1998, meeting. -- Received

98-0727-11 Tree commission minutes of July 6, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kerry Leider, director of facilities for Independent School District No. 709, spoke regarding the inadequate parking facilities at Kenwood School. He reviewed that school district staff collaborated with city engineering staff to design the proposed Howard Gnesen Road improvements which provides for 21 parking spaces and was recommended by the engineering division for presentation to the council recently. Mr. Leider requested the council to consider again the issue as recommended by the engineering division because the parking spaces are badly

needed to alleviate the present parking conditions. He reviewed the history of parking at the school and noted that if construction of the parking spaces coincides with construction of the road improvement, additional costs will not have to be borne by the school district or city. He explained how the proposed plans address concerns raised by neighbors and the issue of safety.

Responding to councilors, Mr. Leider stated that it is the desire of the school district to go forward with construction of the road improvement, including parking, as was originally recommended by the engineering division.

- - -

Dwayne Torfin requested the council to deny issuance of a license to the Wabasha Bookstore for an adult book store at 105 East First Street on the grounds that it does not comply with existing City Code regulations contained in sections 5-17(h) and 5-21(d) regarding pedestrian plazas. He stated his objections to the relocation of the bookstore to the proposed site. Mr. Torfin reviewed that the planning commission is presently drafting an ordinance which addresses the problems of relocation of these types of businesses to new areas. He encouraged the council to consider the proposed ordinance with all due haste to prevent the grandfathering in of this business at the proposed location.

Discussion ensued regarding the status of the drafting of the ordinance, who has authority regarding issuance of the license to relocate and why existing regulations do not apply to the Wabasha Bookstore specifically.

- - -

George Saksa, Debbie Bailey and Tom Weld, spoke regarding the new parking and skating facilities presently being constructed jointly by Woodland Community Club and Woodland Hockey Association. Speakers expressed concern and complained about the safety of area children in getting to the facility; that there was inadequate public notification or process for residents to participate in discussion regarding the planning of this project; there is no need for an additional public skating facility because one already exists at Cobb School; who will bear responsibility to maintain the facilities; cost for the city to maintain two public skating facilities will be excessive; draft plans, not final plans, were all that were ever submitted to residents for review.

The council and Assistant City Attorney Smedberg discussed at length the legality of contracts for this project given the circumstances and lack of public notification and process and what options are available to halt the project so that a public process can occur to plan a facility that is acceptable to all.

Councilor Hales noted that the administration chose to underfund maintenance and improvements for city parks while encouraging groups and neighborhoods to take ownership by doing their own planning and fundraising. She continued by saying that while the groups of volunteers involved in drawing up the proposals have genuinely good intentions to improve their neighborhoods, there will not always be 100 percent consensus with residents, which creates some problems. She suggested that the council revisit the policy regarding the neighborhood matching grants program and that the city take back its responsibility for public buildings and property. Councilor Hales encouraged the establishment of a format so that all people can communicate and come to some resolution when working on this type of project.

Acting Administrative Assistant Hartl suggested that a written process could be developed to be used during the permitting process to address the issues raised regarding public notification and input for projects such as this. He continued by saying that he has requested the Woodland Community Club to slow down its construction process until the upcoming community meeting can be held.

Councilors discussed whether a special meeting should be scheduled to reconsider and terminate the project and what the consequences of that action may be.

Councilor Edwards stated that she voted in favor of the project based on the premise that the neighborhood was in favor of it and that she is disturbed to find out that the neighborhood had no prior knowledge of the project. She continued by saying that because there was no notice for public input, she believes there may be a breach of contract. Councilor Edwards supported a special council meeting.

Councilor Keenan stated that he has been told the community club has no intention of delaying the project after the Wednesday community meeting is held.

Councilor Prettner Solon and President Hogg warned that even though the project has been approved, the city can refuse to reimburse for expenses incurred and that it is the responsibility of the community club members to resolve the issue with the neighbors.

Councilor Hales warned that a negative message is being conveyed to volunteers who have spent a great deal of time in the planning of this project which is expected to benefit the entire neighborhood.

Mayor Doty stated that a representative of the Woodland Community Club has agreed that work on the project will not proceed until after the council meeting to be held on Monday.

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0606, confirming appointment of Michael Orman to Duluth airport authority replacing Mark Erickson, from the table, which motion was seconded and unanimously carried.

President Hogg moved to refer Resolution 98-0606 back to the administration, which motion was seconded and unanimously carried.

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President Hogg moved to remove Resolution 98-0674, confirming appointments of Bonnie Jorgenson replacing Jennifer Peterson and Judy Lemire replacing Shari Bjorlin to citywide citizens advisory committee, from the table, which motion was seconded and unanimously carried.

Resolution 98-0674 was adopted as follows:

BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Bonnie Jorgenson (at large) for a term expiring March 1, 2001, replacing Jennifer Peterson.

Judy LeMire (at large) for a term expiring March 1, 1999, replacing Shari Bjorlin who resigned.

Resolution 98-0674 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

Councilor Keenan moved to remove Resolution 98-0414, requesting the charter commission to recommend adoption of an ordinance amending Section 8 of the Duluth city charter to eliminate provisions requiring resolutions to be read at council meetings, from the table, which motion was seconded and unanimously carried.

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

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Keenan moved to remove Resolution 98-0480, approving certain principles recommended by the environmental advisory commission, from the table, which motion was seconded and unanimously carried.

Resolution 98-0480 was adopted as follows:

BY COUNCILOR KEENAN:

WHEREAS, the city's environmental advisory commission has recommended that the city council adopt certain principles which would guide its decisions on matters which affect the environment; and

WHEREAS, the city council has reviewed these principles and agrees that they provide a good framework for council decisions on matters affecting the environment; and

WHEREAS, the city council has determined the definition of sustainable development is meeting the needs of the present without compromising the ability of future generations to meet their own needs.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the following principles for future council decisions on matters affecting the environment:

(a) Encourage and develop connections between environmental quality and economic vitality. Encourage development that reduces adverse effects on ecology and the natural resource capital base and supports employment opportunities for our citizens;

(b) Identify, emphasize and maintain landscape characteristics that provide a sense of place for the community and region;

(c) Include long term and cumulative impacts in decision making and work to protect the diverse natural settings and diversity of Duluth for future generations;

(d) Ensure environmental quality and understand environmental linkages when decisions are made regarding growth management, sustainable land use, transportation, energy, water, affordable housing, indoor and outdoor air quality and economic development;

(e) Use resources efficiently and reduce demand for natural resources like energy, land and water, rather than expanding supply;

(f) Prevent pollution through planned, proactive measures rather than only corrective action. Enlist the community to focus on solutions rather than symptoms;

(g) Act locally to reduce adverse global impacts of rapid growth of population and consumption, such as ozone depletion and global warming and support and implement innovative programs that maintain and promote Duluth's leadership as a sustainable city;

(h) Foster stewardship through educational efforts of citizens and businesses that promote greater understanding of the ecosystem, the problems and opportunities facing it and policies and programs designed to improve, protect and manage it. Facilitate citizen participation in city policy decisions and encourage everyone to take responsibility for their actions that otherwise adversely impact the environment.

Resolution 98-0480 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR KEENAN

98-0720 - RESOLUTION ADDING A NEW RULE 7A TO THE STANDING RULES OF THE CITY COUNCIL.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY PRESIDENT HOGG:

RESOLVED, that the assessment roll levied to defray the assessable portion of Contract No. 5291; Fourth Street Alley from 44th Avenue West to 45th Avenue West, assessable \$33,088.94, storm sewer \$7,400, and the same is hereby confirmed.

Resolution 98-0672 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0701, by President Hogg, authorizing the execution of an employment agreement with Henry Sinda for the position of administrative assistant of the city, was introduced for discussion.

Councilor Swapinski stated that conversations he has had with individuals in the International City and County Managers' Association regarding the issue of Mr. Sinda's past employment have revealed that reports by the news media are incorrect. He stated support for the appointment.

Resolution 98-0701 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the proper city officers are hereby authorized to execute an employment agreement with Henry Sinda for the position of administrative assistant of the city, which agreement is on file in the office of the city clerk as Public Document No. 98-0727-12.

Resolution 98-0701 was unanimously adopted.

Approved July 27, 1998, pursuant to Section 12 of the Duluth City Charter.

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BY COUNCILOR EDWARDS:

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

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

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

<u>Licensee</u>	<u>Gambling site</u>	<u>Date application filed</u>
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National Multiple Sclerosis	Red Lion	July 10, 1998
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Resolution 98-0682 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Zeller Contracting, Inc., be and hereby is awarded a contract for furnishing and installing the Lester River Park pedestrian bridge for the city architect division in accordance with specifications on its low specification bid of \$13,335, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C705.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0696 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering approximately eight street light poles for the traffic operations division in accordance with specifications on its low specification bid of \$21,012.45, terms net 30, FOB factory, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E832.

Resolution 98-0698 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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:

Curly's Bar, Inc. (Curly's Bar), 2013 West Superior Street, for July 31, 1998 (rain date: August 1, 1998), with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Modern Hotel, Inc. (Roby's Bar), 2023 West Superior Street, for July 31, 1998 (rain date: August 1, 1998), with the music ceasing at 11:00 p.m. and the serving ceasing at midnight.

Resolution 98-0714 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 with any specific restrictions:

Beerhunters Softball Tournament, Wheeler Field, for August 1 and 2, 1998, with Ronald Heurung, manager.

Resolution 98-0715 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Pulstar Distributing, Inc., be and hereby is awarded a contract for furnishing and delivering antenna materials and parts for the police department in accordance with specifications on its low specification bid of \$8,060.37, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E825.

Resolution 98-0716 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

PARKS AND RECREATION COMMISSION

Karen Erickson (at large) for a term expiring February 13, 1999, replacing Laurie Berner, who resigned.

George Weller (District 4) for a term expiring February 13, 2001, replacing Joseph Leek. Resolution 98-0678 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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

ANIMAL HUMANE BOARD

Mary Valentine for a term expiring October 31, 2003, replacing Alberta Dille who resigned.

Resolution 98-0679 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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

HERITAGE PRESERVATION COMMISSION

William Scalzo for a term expiring May 31, 2000, replacing Warren Czaia who resigned.

Resolution 98-0683 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0684, by President Hogg, confirming appointments of Roberta Dwyer and Gary Eckenberg replacing Allen Willman and Koua Vang to citywide citizens advisory committee, was introduced for discussion.

President Hogg moved to table the resolution for interviews, which motion was seconded and unanimously carried.

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BY PRESIDENT HOGG:

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

TREE COMMISSION

Robert Ballou for a term expiring August 31, 2000, replacing Nancy Spellerberg who resigned.

Resolution 98-0685 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0706, by President Hogg, confirming appointments of Howard Martz and John Morrison replacing Marsha Edgerton and Marcus Snow and reappointments of Stanley Gershgol and Terry Morgan to board of zoning appeals, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

President Hogg moved to split the resolution to consider separately the new appointments and the reappointments, which motion was seconded and unanimously carried.

President Hogg moved to table Resolution 98-0706(a), confirming appointments of Howard Martz and John Morrison replacing Marsha Edgerton and Marcus Snow to board of zoning appeals, which motion was seconded and unanimously carried.

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Resolution 98-0706(b), confirming reappointment of Stanley Gershgol and Terry Morgan to board of zoning appeals, was adopted as follows:

BY PRESIDENT HOGG:

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

BOARD OF ZONING APPEALS

Stanley Gershgol (planning commission) for a term expiring July 31, 2002.

Terry K. Morgan for a term expiring July 31, 2002.

Resolution 98-0706(b) was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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

COMMISSION ON AGING

Dorothy M. Peterson for a term expiring July 1, 2000, replacing Catherine Phillips.

Resolution 98-0707 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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

MILLER CREEK JOINT POWERS BOARD

Robert Eaton and David Zentner for terms expiring January 31, 1999.

John LeVasseur for a term expiring January 31, 2000.

Raoul Miller for a term expiring January 31, 2001.

Resolution 98-0711 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 28, 1996, the city established the Neighborhood Housing Services, of Duluth, Inc. (NHS), project pursuant to city council Resolution No. 96-0924.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of the copy of file in the office of the city clerk as Public Document No. 98-0727-13 with NHS to implement the above project; payment for said services not to exceed \$168,000, payable out of the 1997 Federal Program Fund 262 - NHS Housing Revitalization Account No. 6004.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

FURTHER RESOLVED, that the agreement shall allow NHS to use loan interest repayment funds from the 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 98-0609 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade public 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 \$12,500 to the McQuade public access project for the period July 1, 1998, through June 30, 1999.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are authorized to execute an agreement with the Minnesota department of natural resources to assist with the administrative responsibilities of the McQuade public access committee under the direction of the township of Duluth in an amount not to exceed \$12,500 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 the office of the city clerk as Public Document No. 98-0727-14.

Resolution 98-0668 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

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 authorized budget for Margaret Colombo has been expended; and

WHEREAS, the committee will continue to need such services for the next six months; and

WHEREAS, the Minnesota department of natural resources has provided funding to the committee; and

WHEREAS, the McQuade protected access committee recommends the agreement with Margaret R. Colombo be amended for her continued services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing Agreement No. 17222 with Margaret R. Colombo for public information services in an amount not to exceed \$4,500 payable from Fund 100, Agency 105, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 98-0727-15 on file in the office of the city clerk. The term of the contract shall be from July 1, 1998, to December 31, 1998.

Resolution 98-0669 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade protected access committee continues to make progress on the project; and

WHEREAS, administrative services will be required for the next six months in order for the committee to complete its current work; and

WHEREAS, an existing agreement with Cheryl Erickson has been completed; and

WHEREAS, the authorized project budget by Cheryl Erickson has been expended; and

WHEREAS, the McQuade protected access committee recommends Cheryl Lynn Erickson be contracted for her services.

NOW, THEREFORE, BE IT RESOLVED, that proper city officials are hereby authorized to increase existing Agreement No. 17153 with Cheryl Lynn Erickson for administrative services by an amount not to exceed \$7,550 payable from Fund 100, Agency 015, Org. Misc. 2020, Obj. Ms. 26; said agreement to be substantially in the form of Public Document No. 98-0727-16 on file in the office of the city clerk. The effective term of the contract shall be from July 1, 1998, to December 31, 1998.

Resolution 98-0670 was unanimously adopted.

Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Wireless North has submitted to the city council a request for a special use permit for a communication tower on property described as follows: That part of the Southwest Quarter of Northeast Quarter, Section Eight, T50N, R14W described as follows: Commencing at the Southwest Corner of said Southwest Quarter of Northeast Quarter, thence northerly along the west line of said Southwest Quarter of Northeast Quarter a distance of 346.74' to the northeasterly right-of-way line of Rice Lake Road (C.S.A. H. No. 4); thence continue northerly along said west line a distance of 500.00 feet; thence deflect 90° 00' 00" to the right in an easterly direction a distance of 25.00 feet to the point of beginning of the parcel of land to be described; thence continue easterly along the last described line a distance of 50.00 feet; thence deflect 90° 00' 00" to the left in a northerly direction a distance of 50.00 feet; thence deflect 90° 00' 00" to the left in a westerly direction a distance of 50.00 feet; thence deflect 90° 00' 00" to the left in a southerly direction a distance of 50.00; and located at 4402 Rice Lake Road; 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 Wireless North to allow for the construction and operation of a communications tower on the above described property generally located at 4402 Rice Lake Road on the condition that improvements be limited to, constructed and maintained in accordance with plans as identified as Public Document No. 98-0727-17; that the tower receive authorization by the FAA prior to the issuance of permit and that improvements be maintained in accordance with the terms of Section 51-32 of the City Code.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0686 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city council did, on August 14, 1995, adopt Resolution 95-0720 granting a special use permit to Dr. Timothy Smith for a medical and dental clinic in a residential zone for property at 1630 Kenwood Avenue on the condition that the project authorized thereby be constructed and maintained in accordance with the plans identified as Public Document No. 95-0814-24; and

WHEREAS, Dr. Timothy Smith has submitted to the city council a request to amend said special use permit to reflect new building designs for said medical and dental clinic at 1630 Kenwood Avenue; and

WHEREAS, said permit amendment 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 of said amendment 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 be granted to Dr. Timothy Smith pursuant to Resolution No. 95-0720 is hereby amended to allow the construction and operation of a dental clinic at 1630 Kenwood Avenue, on the condition that the project be constructed and maintained in accordance with plans submitted by Sjoquist Architects, Inc., as identified as Public Document No. 98-0727-18.

BE IT FURTHER RESOLVED, that the term of this amended special use permit shall be for a period of 40 years from the date of this action.

Resolution 98-0687 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Life House, Inc., has submitted to the city council a request for a special use permit for a residential care facility serving seven or more persons on property described as Lots 109, 110, 111, 112, Block 96, Duluth Proper Third Division and located at 631 West Skyline Parkway 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 Life House, Inc., to allow for the operation of a residential care facility serving seven or more persons at 631 West Skyline Parkway, on the following conditions:

(a) That property be used and maintained as identified as Public Document No. 98-0727-19;

(b) That the term of the permit shall be for one year from the effective date of this resolution, at which time application for renewal can be made to the city council;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(c) That the permit shall be to allow two beds to be used for children under the age of four years.

Resolution 98-0688 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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Resolution 98-0689, by Councilor Prettner Solon, vacating 13th Avenue West located south of Michigan Street adjacent to property at 1230 West Michigan Street, was introduced for discussion.

President Hogg moved to table the resolution for information as to how this project will fit into the Michigan Street realignment project, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Enterprise Avenue legally described as: Enterprise Avenue adjacent to Blocks 2 & 3, Airpark 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 14, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Enterprise Avenue described above and as more particularly described on Public Document No. 98-0727-20.

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 the avenue to be vacated.

Resolution 98-0690 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, the city established the Second Harvest Northern Lakes Food Bank project pursuant to Resolution 97-0836(c).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0727-21, with Second Harvest Northern Lakes Food Bank, to implement the above project; payment for said services shall not exceed \$100,000, payable out of the 1998 Federal Program Fund 262 - community development - Second Harvest Account No. 6124.

Resolution 98-0692 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0700, by Councilor Prettner Solon, authorizing Duluth economic development authority (DEDA) to condemn certain property for the technology village project, was introduced for discussion.

Councilor Swapinski stated that he does not support granting eminent domain powers to DEDA and that he will vote against the resolution.

Councilor Prettner Solon stated that she believes DEDA is willing to allow the city to conduct the eminent domain proceedings but noted that the city does not have funds to expend on the issue and DEDA does.

Responding to Councilor Hardesty, Councilor Prettner Solon stated that by approving this resolution, the council is authorizing commencement of eminent domain proceedings and that DEDA is merely paying for it.

Councilor Keenan stated that the council can discuss what DEDA's role is with regard to the eminent domain process, but he urged the council to vote on this particular resolution this evening – noting the importance of the project and that any delay could result in jeopardizing it.

Cynthia Albright, acting planning and development director, reviewed DEDA's history with regard to eminent domain proceedings for other projects.

Resolution 98-0700 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

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

- (a) That the acquisition of below-described property and redevelopment of the property is a proper public purpose which is in the best interests of the city of Duluth;
- (b) That the acquisition of the below-described property is necessary to the proper redevelopment of the Duluth Technology Village project;
- (c) That acquisition of the below-described property without the use of the powers of eminent domain is not practically feasible.

FURTHER RESOLVED, that pursuant to city council Resolution 89-0323, the Duluth economic development authority is hereby authorized to do all things necessary to exercise the power of eminent domain as authorized in Minnesota Statutes 469.101, Subdivision 4, to acquire those parcels of property in St. Louis County, Minnesota, generally described as follows:

Lot 7, Duluth Proper First Division East Superior Street.

FURTHER RESOLVED, that said authority is hereby directed to acquire possession of said property as expeditiously as possible pursuant to the provisions of Minnesota Statutes Chapter 117.

FURTHER RESOLVED, that said authority is hereby authorized to pay the costs of acquisition of said property as established pursuant to Minnesota Statutes Chapter 117 and associated relocation costs, if any, and to pay all costs associated with said acquisition and relocation proceedings.

FURTHER RESOLVED, the city of Duluth has been requested by the Duluth economic development authority to authorize the Duluth economic development authority to proceed to exercise the power of eminent domain to acquire certain property which is necessary for the Duluth Technology Village project, which power of eminent domain cannot be used by the Duluth economic development authority without the prior approval of the Duluth City Council.

Resolution 98-0700 was adopted upon the following vote:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Nays: Councilor Swapinski -- 1
Absent: Councilors Gilbert and Rapaich -- 2
Approved July 27, 1998
GARY L. DOTY, Mayor

- - -

Resolution 98-0703, by Councilor Prettner Solon, reversing the decision of board of zoning appeals to deny the construction of an addition to a nonconforming use (insurance company) in an R-3 apartment residential district, was introduced for discussion.

Councilor Prettner Solon reviewed that because of the constraints in which the board of zoning appeals needs to operate it was not able to grant this variance, but she believes that the board has signaled that it wishes to be reversed in this case. She stated that the city council planning committee unanimously recommends the reversal of the decision.

Resolution 98-0703 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Richard Laumeyer, Lake Superior Agency of the Port Cities, applied to the board of zoning appeals for a variance to construct an addition on an existing office, which is a nonconforming use in a residential zone and is located at 217 North 59th Avenue West; and

WHEREAS, the board of zoning appeals denied the variance to construct the addition; and

WHEREAS, Richard Laumeyer, Lake Superior Agency of the Port Cities, has appealed the decision denying the expansion of a nonconforming use variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the required findings for granting a variance to allow the expansion of an existing office facility in an R-3 apartment residential zone can be made in this case, based on the limits set forth in the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of May 27, 1998, and the variance is hereby approved.

Resolution 98-0703 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city has been repaid \$10,200 in urban revitalization action programs (URAP) funds from an organization that was in default of its contract; and

WHEREAS, the city is desirous of reprogramming the \$10,200 to a previously selected URAP housing development program; and

WHEREAS, SVCNDA provides a voluntary acquisition program and a property rehabilitation program which were previously funded with URAP monies; and

WHEREAS, SVCNDA has demonstrated experience and capacity to administer the voluntary acquisition program and the rehabilitation program.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0727-22 with SVCNDA for operating the voluntary acquisition program and the property rehabilitation program in an amount not to exceed \$10,200 payable from Fund 275, Agency 031, Organization 6050, Object 0090.

Resolution 98-0708 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground equipment at Grant Recreation Center for the community development division in accordance with specifications on its low specification bid of \$40,216.56, terms net 30, FOB destination; \$33,000 payable out of Community Development Fund 262, Dept./Agency 619, Object 6908 and \$7,216.56 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C811.

Resolution 98-0709 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into individual neighborhood matching grants fund agreements for Round III, 1998 neighborhood matching grants fund, payable from Fund 100, Agency 700, Organization 1417, Object 5490, 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. 98-0727-23, for the following amounts and projects listed:

TIER II GRANTS (Over \$3,000 - \$20,000)

<u>Amount</u>	<u>Project</u>	<u>Organization</u>
\$ 6,000	Lincoln Park News-newspaper	Lincoln Park Neighborhood Coalition
\$20,000	Revitalization project	Lakeside/Lester Park Community Club
<u>\$13,438</u>	Uptown Saturday Market	Uptown Saturday Market
\$39,438	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 that the individual project grants do not exceed the amount of match indicated up to \$20,000 for Tier II and \$3,000 for Tier I.

Resolution 98-0710 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Minnesota Outdoor Recreation, Inc., be and hereby is awarded a contract for furnishing and delivering one John Deere Model F1145, four-wheel drive riding rotary mower for the Lester Park Golf Course in accordance with specifications on its low specification bid of \$12,669.31, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0693 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR KEENAN:

RESOLVED, that Larson Chevrolet Oldsmobile, Inc., be and hereby is awarded a contract for furnishing and delivering a one-ton truck with plow, hoist and tipper for the Lester Park golf maintenance division in accordance with specifications on its low specification bid of \$36,604.98, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0697 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Voyageur Bus Company, Inc., be and hereby is awarded a contract for the charter bus service for the summer program special events in accordance with specifications on its low specification bid of \$5,550, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 400, Organization 1812, Object 5419.

Resolution 98-0704 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one four-wheel drive Land Pride TL350 diesel tractor/loader for the Lester Park Golf Course in accordance with specifications on its low specification bid of \$14,697, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0705 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city has received a commitment from the Duluth Area Family Services Collaborative to receive a time study funding grant in the amount of \$11,178.75; and

WHEREAS, said grant shall be used to cover temporary staffing expenses for implementing an integrated summer recreation program at six city recreation facilities.

RESOLVED, that the proper city officers execute an agreement (Public Document No. 98-0727-24) and upon receipt of such reimbursement in the amount of \$11,178.75 from the governing board of the Duluth Area Family Services Collaborative that such reimbursement to be deposited into parks and recreation General Fund Account No. 100 400 1812.

Resolution 98-0719 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officials are authorized to pay to Lester Lalley and his attorney, Michael J. Cuzzo, the sum of \$7,500 in full and final settlement of the claim which arose out of a pedestrian accident occurring on May 9, 1996, near 1230 West Michigan Street; payment to be made from the self-insurance fund.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0676 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering two traffic signal cabinets and controllers for the traffic operations division in accordance with specifications on its low specification bid of \$29,376.96, terms net 30, FOB destination, \$14,688.48 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2128, Object 5530 and \$14,688.48 payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2129, Object 5530.

Resolution 98-0694 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Grussendorf Nursery, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 50 trees for the city tree nursery in accordance with specifications on its low specification bid of \$10,362.45, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 98-0695 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Duluth Superior Blacktop, Inc., be and hereby is awarded a contract for the fine mix overlay program for the engineering division in accordance with specifications on its low specification bid of \$144,679, terms net 30, FOB job site, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organization 9808, Object 5530.

Resolution 98-0712 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for storm sewer replacement at Waverly/Elizabeth, Pitt Street/44th Avenue Alley and 22nd Avenue West/Ensign Street for the engineering division in accordance with specifications on its low specification bid of \$62,514.79, terms net 30, FOB job site, payable out of Storm Water Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 98-0713 was unanimously adopted.
Approved July 27, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Hovland Masonry, Inc., be and hereby is awarded a contract for construction of the 1998 citywide sidewalk repairs program for the engineering division in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

accordance with specifications on its low specification bid of \$185,147, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5312, Object 5530.

Resolution 98-0717 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Nels Nelson and Sons, Inc., be and hereby is awarded a contract for construction of Hartley Estates/Phase III, Maxwell Avenue/Marshall to Hastings Drive and Hastings Drive/Maxwell to Ewing for the engineering division in accordance with specifications on its low specification bid of \$254,883.86, terms net 30, FOB job site, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5311, Object 5530.

Resolution 98-0718 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

BE IT RESOLVED, that the proper city officials are authorized to pay to Melissa Orlowski and Michael T. Tierney, her attorney, the sum of \$26,000 in full settlement of all claims arising from an automobile accident on August 15, 1994, on West Third Street involving a police car; payment from self insurance fund.

Resolution 98-0680 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Resolution 98-0560, adopted on June 22, 1998, is hereby amended to read as follows:

RESOLVED, that Scott Lyons is hereby authorized to execute an agreement, filed as Public Document No. 98-0622-34, to accept grant monies from the Minnesota department of public safety, Minnesota auto theft prevention program in the amount of \$108,610, to reimburse the police department for the salary and benefits of one police officer, overtime, equipment, training, operating expenses and a \$15,000 reimbursement to the St. Louis County sheriff for program participation. All revenue received under this agreement shall be deposited in Duluth Police Grant Fund 215, Agency 200, Org. 2440.

Resolution 98-0681 was unanimously adopted.

Approved July 27, 1998

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

98-020 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 24 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, PROPERTY LOCATED ALONG THE LOWER SIDE OF

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WEST MICHIGAN/SUPERIOR STREET, 150 FEET EITHER SIDE OF 13TH AVENUE WEST (MILLER & HOLMES).

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BY COUNCILOR PRETTNER SOLON

98-021 - AN ORDINANCE TO RENAME A PORTION OF SWAN LAKE ROAD AS SWAN LAKE PLACE (HOLMGREN AND JOHNSON).

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BY COUNCILOR PRETTNER SOLON

98-022 - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXVII CREATING A DULUTH HOUSING COMMISSION.

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BY COUNCILOR PRETTNER SOLON

98-023 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

98-019 (9374) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2 AND 3, BLOCK 12, WOODLAND PARK 2ND DIVISION, TO JAMES LATTNER, FOR A CONSIDERATION OF \$36,212.00, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (WOODLAND BRANCH LIBRARY).

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

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The meeting was adjourned at 9:47 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9374

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 1, 2 AND 3, BLOCK 12, WOODLAND PARK 2ND DIVISION, TO JAMES LATTNER, FOR A CONSIDERATION OF \$36,212; SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 700, ORG. 1418, OBJ. 4640 (WOODLAND BRANCH LIBRARY).

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described to James Lattner, for a consideration of \$36,212, said amount to be deposited in General Fund 100, Agency 700, Org. 1418, Obj. 4640: Lots 1, 2 and 3, Block 12, Woodland Park, 2nd Division.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: August 30, 1998)

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

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: None -- 0

Absent: Councilors Gilbert and Rapaich -- 2

Passed July 27, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

ATTEST:
JEFFREY J. COX, City Clerk

Approved July 27, 1998
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Special Meeting of the Duluth City Council held on Monday, August 3, 1998, 6:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0803-01 George Saksa submitted communication pertaining to the skating rink and parking projects at the Woodland Community Club site (98-0760R). -- Received

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MOTIONS AND RESOLUTIONS

Resolution 98-0760, by Councilor Prettnner Solon, of intent to monitor the skating rink and parking projects at the Woodland Community Club site and to request the involvement of the entire community in that project, was introduced for discussion.

Councilor Prettnner Solon gave a brief summary of the project and neighborhood conflict that has risen because of it. She reported that a community club meeting to discuss the issues of conflict was held and that an effort by the members is being made to update and include neighbors who feel they were left out of the process. Councilor Prettnner Solon read the resolution in its entirety.

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

The following individuals spoke against the project in its entirety: George Soksa; Nick Pappas; Ron Knauss; and Tom Weld. Reasons for opposing the project were as follows: procedures were not done correctly; there has been no assessment made for the need of a different skating facility; the forest should be left undisturbed; project planning only involved individuals who use the facilities; neighbors adjacent to the community club and who will be most negatively affected received no notification which resulted in the exclusion of their input regarding the project; the existing problems of noise, parking, traffic and littering will be made worse; and that there are residents of the community who are not interested or involved in sports who use the forest and its natural resources for other purposes. Requests were made to stop the project; that the recently cleared forest area be replanted; and that alternative sites, such as the Cobb School site, that will not adversely affect the neighbors be considered for the project.

The following individuals spoke in favor of the project: Tom Christensen; Fred Rouse; Dan Holm; and Jerry Demeo. Speakers noted that this project was proposed as a result of a growing number of requests from residents, community club members and the Woodland Hockey Association for a safer pleasure rink that will accommodate family skating and the abatement of existing inadequate parking and traffic problems to accommodate community club events. Individual, detailed reports were given regarding the events that took place, and the process followed, in planning the resulting layout and subsequent funding of the project. It was noted that community club members voted in favor of this project; however, the neighbors with complaints are not members. Explanation was given that flyers were put in neighborhood mailboxes, which, members have since been advised, is illegal. In response to councilors' questions, speakers noted that the athletic field facilities that were recently upgraded are being ruined because of snow plowing to accommodate parking for events held at Fryberger Arena in the winter months; community club meetings and other events cannot be held at the community club in winter months because of inadequate parking conditions due to Fryberger Arena events; expenditures on this

project to date are approximately \$3,500; the delays in construction that this issue has caused have resulted in a shortage of volunteers who can no longer donate their time; loss of fill that could have been obtained for free from a nearby street project that is now almost completed; and loss of donated heavy equipment, due to vandalism, that would not have been on site had this project been allowed to proceed. It was further stated that development of a new process that involves the tree and parks and recreation commissions could benefit future projects such as this, but it is not reasonable or justified to delay this project further for its development and utilization.

Councilor Prettnner Solon stated that the purpose of the resolution is to get construction back on track in a way that is acceptable to all. She noted the confusion caused by the absence of a process to follow and requested that the community development and housing division office appoint a staff member to serve as a contact person when questions arise.

Robert Hartl, acting administrative assistant, stated that the administration is willing to investigate solutions such as a change in traffic signage, no parking areas, access routes and landscaping to address noise and lighting abatement. He noted further that there appears to be a need for written guidelines regarding who should be contacted for regulations and approval of permits, and an acceptable process for neighborhood notification.

Councilor Hales stated that she is concerned that the delay imposed for construction of the project will result in its not being completed before the expiration date of the grant. Councilor Hales moved to amend the resolution as follows:

(a) After the third paragraph, add a new paragraph: "WHEREAS, the Duluth City Council acknowledges that in an effort to address questions and concerns, valuable volunteer time has been lost and adequate time may not be available to complete this project within the grant time lines";

(b) Add the following paragraph at the end of the resolution: "RESOLVED FURTHER, that the Duluth City Council expresses its intent to extend the neighborhood matching grants which are necessary to complete this project by August 31, 1999, if such extensions are necessary to complete this project," which motion was seconded for discussion.

Responding to Councilor Swapinski, Keith Hamre, community development and housing division manager, explained the process for granting extensions of time.

Councilor Hales' amendment carried upon a unanimous vote.

Responding to Councilor Hardesty, Richard Larson, director of public works, stated that the city will explore the possibility of a new access road to the facilities, but noted that there may be barriers that will prevent that due to topography, traffic safety and the need to cut down more trees.

Councilor Gilbert stated that the city is doing a disservice to developers and organizations by not providing written guidelines and procedures.

Councilor Keenan stated that he is aware of the need for a safer, larger pleasure rink at the community club. He noted barriers that make access to the community club for some Woodland neighborhood children unsafe and he encouraged the city to maintain additional rinks and facilities for their use.

President Hogg noted that it is his belief that a process was followed during the most recent community club meeting at which council members were present. He added that he observed cooperation and a mutual respect between individuals supporting both sides of this issue and that he believes all will benefit from mistakes made regarding this issue.

Resolution 98-0760, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the Duluth City Council has been presented with some questions and concerns from various segments of the neighborhood concerning the skating rink and parking project being implemented at the Woodland Community Club site by the Woodland Community Club under the city's neighborhood matching grant program; and

WHEREAS, the Woodland Community Club and the Woodland Amateur Hockey Association have made a good faith effort to involve the entire community in this project and to work out any problems with the project; and

WHEREAS, the Woodland Community Club and Woodland Amateur Hockey Association are forming a project committee to deal with traffic safety and a committee to deal with landscaping concerns involved in the project; and

WHEREAS, the Duluth City Council acknowledges that in an effort to address questions and concerns, valuable volunteer time has been lost and adequate time may not be available to complete this project within the grant time lines.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its intent to monitor the Woodland Community Club above mentioned projects and not to interfere with the funding of these projects as long as there is evidence of broad based community involvement in the projects and as long as project committees adequately deal with issues of traffic safety and landscaping for the project.

RESOLVED FURTHER, that the Duluth City Council expresses its intent to extend the neighborhood matching grants which are necessary to complete this project by August 31, 1999, if such extensions are necessary to complete this project.

Resolution 98-0760, as amended, was unanimously adopted.

Approved August 3, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 8:10 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 10, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Rapaich, and President Hogg -- 7

Absent: Councilors Hardesty and Swapinski -- 2

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The minutes of the council meeting held on May 11, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0810-01 Jack Armstrong submitting petition to rezone from R-1-B to R-3, parcels in Section 19, T50N, R14W of the Fourth Principal Meridian (4072 Haines Road). -- Assessor

98-0810-02 Peter Gemuenden submitting petition to vacate a portion of 12th Avenue West between Lots 101 and 102, Duluth Proper, Third Division. -- Assessor

98-0810-12 Robert Letourneau submitting petition to vacate Second Avenue East between the alley and Eighth Street. -- Assessor

98-0810-03 Minnesota state auditor submitting audit report for Duluth airport authority for the years ended December 31, 1997, and 1996. -- Received

98-0810-11 Elizabeth Dahl submitting references to laws regarding preservation and protection of cultural resources (unplatted burial grounds) (98-0180R). -- Received

98-0810-28 Nancy Holmgren and Franklin Johnson submitting letter requesting a street name change for residences at 2411 and 2419 Swan Lake Road to Swan Lake Place (98-021-O). -- Planning Commission

98-0810-14 Paul Miller, et al. (15 signatures), submitting communication regarding parking concerns at Edison School (98-0603R). -- Received

98-0810-15 Nicholas Ostapenko submitting letter regarding solid waste assessments (98-0759R). -- Received

98-0810-16 DeWayne Torfin (supported by 39 signatures) submitting communication pertaining to the relocation of the Wabasha Bookstore (98-0700R). -- Received

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REPORTS OF OFFICERS

98-0810-04 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from St. John's Church (bingo) on: (a) November 1; (b) December 6, 1998. -- Received

98-0810-13 Treasurer submitting report, required by Resolution 97-0594, identifying all gifts donated to the city of Duluth for \$5,000 or less during the period August 1, 1997, through July 31, 1998. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0810-05 Alcoholic beverage board minutes of: (a) June 17; (b) July 6, 1998, meetings. -- Received

98-0810-06 Board of zoning appeals minutes of June 30, 1998, meeting. -- Received

98-0810-07 Civil service board minutes of: (a) June 2; (b) June 18, 1998, meetings. -- Received

98-0810-08 Environmental advisory council minutes of July 1, 1998, meeting. -- Received

98-0810-09 Housing and redevelopment authority minutes of June 30, 1998, meeting. --
Received
98-0810-10 Sanitary sewer board of the WLSSD minutes of July 20, 1998, meeting. --
Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

DeWayne Torfin reviewed that he has submitted a communication to the councilors voicing objection to the relocation of the Wabasha Bookstore for various reasons and asked for a full evidentiary hearing for license revocation. He continued by saying that 39 store owners signed the communication and encouraged the councilors to address this issue.

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Philip Meany voiced objection about the McQuade protected access boat launch project and encouraged the councilors not to tear up the shoreline for development that is not needed.

Clyde Ritchie stated objection to the project and urged councilors to uphold a 1915 ordinance of the Congdon trust which holds the land in perpetuity.

Will Rhodes voiced objection to the project as there is no environmentalist on the project's committee, and a survey of the citizens shows they are not for the project. He continued by saying that the water is too shallow for the boat launch and the artificial breakwalls will not last long and will have to be rebuilt.

Alden Lind reviewed that he has spoken several times against this project. He also stated that the committee has not received all the money from the legislature that they claim to have received.

Ron Bagstad stated that he is opposed to the boat launch and sent out a survey in Duluth Township asking if there was support for the project. He said that 1/3 responded, saying that they did not want the boat launch.

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Bradley Jensen spoke in support of the communication that asks for the revocation of the license of the Wabasha Bookstore; explaining that it is too close to the schools and demeaning to women and children.

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 98-0684, confirming appointments of Roberta Dwyer and Gary Eckenberg replacing Allen Willman and Koua Vang to citywide citizens advisory committee, from the table, which motion was seconded and unanimously carried.

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

Resolution 98-0684(a), confirming the appointment of Roberta Dwyer, was adopted as follows:

BY COUNCILOR RAPAICH:

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

CITYWIDE CITIZENS ADVISORY COMMITTEE

Roberta P. Dwyer (at large) for a term expiring March 1, 2001, replacing Allen Willman.

Resolution 98-0684(a) was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Rapaich moved to table Resolution 98-0684(b), confirming the appointment of Gary Eckenberg, which motion was seconded and unanimously carried.

- - -

Councilor Rapaich moved to remove Resolution 98-0706(a), confirming appointments of Howard Martz and John Morrison replacing Marsha Edgerton and Marcus Snow to board of zoning appeals, from the table, which motion was seconded and unanimously carried.

Resolution 98-0706(a) was adopted as follows:

BY COUNCILOR RAPAICH:

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

BOARD OF ZONING APPEALS

Howard Martz for a term expiring July 31, 2002, replacing Marsha Edgerton.

John Morrison for a term expiring July 31, 2001, replacing Marcus Snow who resigned.

Resolution 98-0706(a) was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

Councilor Prettner Solon moved to remove Resolution 98-0689, vacating 13th Avenue West located south of Michigan Street adjacent to property at 1230 West Michigan Street (Miller and Holmes, Inc.), from the table, which motion was seconded and unanimously carried.

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

Paul Kilgor, representing Miller and Holmes, Inc., reviewed that this resolution addresses part of a renovation plan to move the existing convenience store to the west and urged support of the project. He continued by saying that this vacation petition and the rezoning petition have the planning commission's approval with conditions that are acceptable to Miller and Holmes, Inc., and urged support of the resolution and ordinance.

Resolution 98-0698 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 13th Avenue West south of Michigan Street and north of the I-35 right-of-way legally described as: That portion of 13th Avenue West adjacent to Lot 208, Block 23, and Lot 210, Block 22, Duluth Proper, 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 July 14, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the property described above and as more particularly described on Public Document No. 98-0810-17.

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 avenue to be vacated.

Resolution 98-0689 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

BY COUNCILOR PRETTNER SOLON

98-020 (9375) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 24 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, PROPERTY LOCATED ALONG THE LOWER SIDE OF WEST MICHIGAN/SUPERIOR STREET, 150 FEET EITHER SIDE OF 13TH AVENUE WEST (MILLER & HOLMS).

Councilor Prettner Solon moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

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

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Councilor Keenan moved to remove Resolution 98-0441, of intent to construct a drainage ditch and storm sewer in Kingston Alley from 51st Avenue East to 52nd Avenue East (City Job No. 9044ST98); and Resolution 98-0442, ordering the construction of a drainage ditch and storm sewer in Kingston Alley from 51st Avenue East to 52nd Avenue East (City Job No. 9044ST98) at an estimated cost of \$10,000, from the table, which motion was seconded and unanimously carried.

Councilor Keenan moved to return the resolutions back to the administration, which motion was seconded and unanimously carried.

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UNFINISHED BUSINESS

BY COUNCILOR KEENAN:

RESOLVED, that a new Rule 7A is hereby added to the standing rules of the city council to read as follows:

“Rule 7A. Consent Agenda.

At the consent of all city council members present at a city council meeting, any number of resolutions may be combined on a consent agenda and approved by one city council vote provided that:

(a) The written resolutions, including a statement of purpose, have been presented to each city councilor 12 hours before the meeting in the manner provided by Section 8(i) of the City Charter;

(b) The city clerk shall read the title of each resolution on the consent agenda into the record.”

Resolution 98-0720 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 98-0810-18) 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

a cost to the city of not to exceed \$12,000, which shall be payable from the General Fund 100-015-2020-5319.

RESOLVED FURTHER, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 98-0810-18) with David M. Griffith & Associates, Ltd., to produce an appropriate cost allocation plan for the city water and gas utilities services provided to the sanitary sewer utility and storm water management utility at a cost to the city of not to exceed \$4,950, which shall be payable equally from the four utility funds.

Resolution 98-0749 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 98-0810-19, which is levied to defray in full the expense of solid waste collecting during the period of March 1, 1997, to June 1, 1998, for which the licensed collector has not been reimbursed as provided for in Chapter 24 of the Duluth City Code, is hereby confirmed.

Resolution 98-0759 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the city is hereby authorized to participate in an actuarial study of various options to merge police and fire consolidation accounts with the Public Employees Retirement Association police and fire fund and to charge the city's share of the cost of such study to the city's PERA police and fire consolidation accounts.

Resolution 98-0766 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Praxair Distribution, Inc., be and hereby is awarded an annual contract for furnishing welding and industrial gases and cylinder rental for the various departments/divisions in accordance with unit prices as specified on its low bid of approximately \$8,500, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0732 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that B & H Photo Video be and hereby is awarded a contract for furnishing and delivering eight Panasonic SVHS camcorders for the public access cable television in accordance with specifications on its low specification bid of \$12,345.48, terms net 30, FOB destination, payable out of Public Access Equipment Maintenance Fund 205, Dept./Agency 015, Object 5580.

Resolution 98-0733 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR EDWARDS:

RESOLVED, that JayEn, Inc., be and hereby is awarded a contract for installing base station antennas and feedlines for the police department in accordance with specifications on its low specification bid of \$6,400, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E815.

Resolution 98-0734 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 (Canal Park Inn), 250 Canal Park Drive, for August 14, 15 and 16, 1998, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

Lyric Block Development Corporation (Porters/Sneakers/Greenery), 200 West First Street, for August 14 and 15, 1998, with the music ceasing at 12:30 a.m. and the serving ceasing at 1:00 a.m.

Resolution 98-0743 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a temporary on sale intoxicating liquor license, subject to any specific restrictions, and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 19, 1998, an application fee of \$200, and William Roberts, manager.

Temple Israel Synagogue, 21 North 4th Avenue West, for August 21, 1998, an application fee of \$200, and Dan King, manager.

Resolution 98-0744 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the off sale intoxicating liquor license for the period ending August 31, 1998, subject to departmental approvals, and further subject to approval of the liquor control commissioner:

North American Investors, Inc., (Liberty Liquor), 210 North Central Avenue, transferred from North American Investors, Inc., same address, with Charles Stauduhar, 60 percent stockholder, Christopher Juntunen, 20 percent stockholder, and Joseph Makela, 20 percent stockholder.

Resolution 98-0745 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR EDWARDS:

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, 1998, subject to departmental approvals:

CW Chips Grill & Bar, Inc. (CW Chips Bar & Grill), 610 East Fourth Street, transferred from Charlies Grill & Bar, Inc., same address, with Charles H. Lemon, 50 percent stockholder, and Mary Lemon, 50 percent stockholder.

Resolution 98-0746 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 with any specific restrictions:

Duluth Softball Players Association, Wheeler Field, for August 17 through 23, 1998, with John Vaydich, manager.

Waltman Tessier Softball Tournament, Wheeler Field, for August 28, 29 and 30, 1998, with John McAdamis, manager.

Resolution 98-0747 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale seasonal dance license for the period ending August 31, 1998, subject to departmental approvals:

Lucky Break, Inc. (Mr. Lucky's Bar & Billiards), 610 East Fourth Street.

Resolution 98-0748 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 15, 1998, state primary election and November 3, 1998, for the state general election:

POLLING PLACE LIST

POLLING PLACE

ADDRESS

- | | |
|--|-------------------------------|
| 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 | 45th Avenue East and 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 |

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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|---|------------------------------------|
| 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 Middle School (auditorium) | Clover and Eighth Street |
| 13. U.M.D. Kirby Student Center (garden room) | 10 University Drive |
| 14. Edison 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 | 1830 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. Central Hillside Community Center | 12 East Fourth Street |
| 23. Rainbow Senior 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. Temple Baptist Church (lower level) | 2202 West Third 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. USDA Forest Service | 8901 Grand Avenue Place |
| 40. Goodfellowship Community Center
(warming area) | 1242-88th Avenue West |
| 41. Stowe School (gym) | 715 - 101st Avenue West |
| 42. Fond du Lac Recreation Center | 131st Avenue West and Highway 23 |

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 15, 1998, and November 3, 1998, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 15, 1998, and November 3, 1998, 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 that are not covered by the insurance of the property owner or property operator, and arise out of the claimants' activities in the polling place for the purpose of voting, but subject to municipal liability limits contained in state law.

Resolution 98-0751 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 15, 1998, and the State general election on November 3, 1998, as listed in Public Document No. 98-0810-20.

RESOLVED FURTHER, that pursuant to Minnesota Statutes, 204B.31(d), election judges shall be compensated at the rate of \$6 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.325 per mile; payable from General Fund 015-1512-5441.

Resolution 98-0752 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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Resolution 98-0724, by Councilor Rapaich, confirming appointments of Donna Scorse replacing John Bray, Frank Messina replacing Barbara Soder and Renae Switzer replacing James Laumeyer to Duluth transit authority, was introduced for discussion.

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

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BY COUNCILOR RAPAICH:

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

TREE COMMISSION

Barbara Koth and Nancy S. Nelson for terms expiring August 31, 2001.

Resolution 98-0725 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WATER AND GAS SERVICE HEARING BOARD

Marsha Edgerton and Donald Mantay for term expiring September 1, 2001.

Resolution 98-0726 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed changes to the rates of pay for the civil service classifications of traffic maintenanceperson, light equipment operator, heavy equipment operator, collection system maintenance worker, utility service journeyperson, water & gas maintenance journey-person, meter mechanic, water & gas equipment operator and water & gas shovel operator (to be combined into one classification), and appliance mechanic journeyperson, which are filed with the city clerk as Public Document No. 98-0810-21, are approved; that said classifications shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay ranges will change as follows: traffic maintenanceperson and light equipment operator from pay range 25, pay rate of \$2,266 to \$2,673 per month to pay range 26, pay rate \$2,357 to \$2,784 per month; heavy equipment operator from pay range 26, pay rate \$2,357 to \$2,784 per month to pay range 27, pay rate \$2,457 to \$2,908 per month; collection system maintenance worker, and utility service journeyperson from pay range 25, pay rate \$2,266 to \$2,673 per month to pay range 28, pay rate \$2,566 to \$3,038 per month; water & gas maintenance journeyperson from pay range 25E, pay rate \$2,673 per month to pay range 28, pay rate \$2,566 to \$3,038 per month; meter mechanic from pay range 26, pay rate \$2,357 to \$2,784 per month to pay range 29, pay rate \$2,673 to \$3,171 per month; water & gas equipment operator from pay range 26, pay rate \$2,357 to \$2,784 per month to pay range 29, pay rate \$2,673 to \$3,171 per month and water & gas shovel operator from pay range 27E, pay rate \$2,908 per month to pay range 29, pay rate \$2,673 to \$3,171 per month, with the understanding that the two classifications will be combined; and appliance mechanic journeyperson from pay range 28E, pay rate \$3,038 per month to pay range 30, pay rate \$2,784 to \$3,327; and that said changes shall be deemed effective on January 1, 1996, in accordance with Section 44.4 of the basic unit bargaining agreement.

Resolution 98-0730 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed specifications for the new civil service classification of water and gas warehouse leadworker, which were approved by the civil service board on January 7, 1997, and which are filed with the city clerk as Public Document No. 98-0810-22, 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 32, pay rate \$3,038 to \$3,612 per month.

Resolution 98-0736 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed specifications for the new civil service classification of water and gas warehouse assistant, which were approved by the civil service board on November 4,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

1997, and which are filed with the city clerk as Public Document No. 98-0810-23, 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 29, pay rate \$2,673 to \$3,171 per month.

Resolution 98-0737 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed specifications for the new civil service classification of fleet services lead storekeeper, which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0810-24, 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 32, pay rate \$3,038 to \$3,612 per month.

Resolution 98-0738 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of supervisor of equipment, including a title change to fleet services leadworker, which were approved by the civil service board on February 3, 1998, and which are filed with the city clerk as Public Document No. 98-0810-25, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from pay range 29, pay rate of \$2,673 to \$3,171 per month to pay range 32, pay rate of \$3,038 to \$3,612 per month.

Resolution 98-0739 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the McQuade public access committee has received partial project funding from the state legislature under the bonding program; and

WHEREAS, the committee continues to coordinate activities toward the completion of the project; and

WHEREAS, because additional administrative funding is needed to support these activities, the Western Lake Superior Trollers Association has offered to contribute \$800 toward the fund raising 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 \$800 donation to be used toward the payment of expenses as directed by the McQuade public access committee, such funds to be deposited in Fund 100, Agency 015, Org. 1514, Rev. Source 4690, Activity MS-26.

Resolution 98-0722 was unanimously adopted.

Approved August 10, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to acquire by free conveyance from Duluth Teacher's Credit Union property described below in St. Louis County, Minnesota, for public purpose:

the northerly 30 feet of Lot 11, West Second Street, Duluth Proper First Division.

Resolution 98-0723 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0741, by Councilor Prettner Solon, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale to the city of Duluth a certain tax forfeited parcels now withheld from sale in conservation, was introduced for discussion.

Councilor Keenan moved to table the resolution for more information, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Keenan and President Hogg -- 4

Nays: Councilors Hales, Prettner Solon and Rapaich -- 3

Absent: Councilors Hardesty and Swapinski -- 2

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to Resolution No. 95-0393, adopted on May 1, 1995, the city of Duluth, entered into an agreement with the Duluth Art Institute Association, Inc., Duluth, Minnesota, in which the agency agreed to operate the Art Institute Tuition Assistance project, payable from the 1994 Federal Program Fund 263 - community development - Art Institute Tuition Assistance Project Account 6271; and

WHEREAS, pursuant to Resolution No. 96-0974 adopted November 25, 1996, the parties entered into an amendment to the agreement; and

WHEREAS, both 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, substantially in the form on file in the office of the city clerk as Public Document No. 98-0810-26, to the agreement with the agency which extends the agreement to December 31, 1998, at no change in compensation under terms of the agreement.

Resolution 98-0742 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established a 1997 CDBG contingency account to provide for expanded costs or additional funding for CDBG programs and projects; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting of July 28, 1998, passed a resolution recommending a transfer of funds from the contingency account to another project account as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfer in the Federal Program Fund 262-1997 HUD-funded community development accounts as set forth below:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>Account</u>	<u>Project</u>	<u>1997 Duluth HUD Funded CDBG Program</u>		<u>Revised</u>
		<u>Original</u>	<u>Amount of increase or decrease</u>	
6036	Contingency	\$ 27,421	\$ (26,000)	\$ 1,421
6009	Lincoln Park streetscape	\$114,000	\$ 26,000	\$140,000

Resolution 98-0755 was unanimously adopted.
 Approved August 10, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to complete a street lighting project; and
 WHEREAS, the city desires to hire a consulting engineer to design the Hillside business
 area ornamental lighting project on Fourth Street from Mesaba Avenue to 14th Avenue East; and
 WHEREAS, R.L.K.-Kuusisto, Ltd., has submitted a proposal for electrical 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.L.K.-Kuusisto, Ltd., to provide the city with such electrical
 engineering services.

BE IT FURTHER RESOLVED, that the cost of said electrical engineering services,
 estimated at \$13,400, will be payable from the Community Development Fund 262, Dept./Agency
 621, Object 6110.

Resolution 98-0756 was unanimously adopted.
 Approved August 10, 1998
 GARY L. DOTY, Mayor

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Resolution 98-0735, by Councilor Keenan, amending Resolution 98-0542 awarding contract
 to Dean's Trucking, Inc., for various sands, to increase the amount by \$12,053.02 for a new total
 of \$17,261.52, was introduced for discussion.

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

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to pay to State Farm Fire and
 Casualty Insurance Company the sum of \$83,307.27 in final settlement of all claims arising out
 of damage to Great Lakes Gospel Church on January 28, 1998, caused by a burst water main;
 payment from self-insurance fund.

Resolution 98-0754 was unanimously adopted.
 Approved August 10, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that various vendors (Capp, Inc., - \$22,978.43; Pameco Corporation -
 \$17,217.26; Dey Distributing, Inc., - \$14,244.58; Sid Harvey Midwest, Inc., - \$5,725.74; Auer

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Steel, Inc., - \$9,327.12) be and hereby are awarded contracts for furnishing and delivering 1998/1999 furnace repair parts for the gas service division in accordance with specifications on their low specification bids of \$69,493.13, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0565, Object 5219.

Resolution 98-0757 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, it appears that it may be necessary to resurface 32nd Avenue West from Superior Street to Carlton Street with bituminous (City Job No. 9083RS98).

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 98-0721 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 7,500 cubic yards of washed winter sand for the street maintenance division in accordance with specifications on its low specification bid of \$67,126.25, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

Resolution 98-0731 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Resolution 98-0527 to Seaway Engineering Company for furnishing construction engineering services, design phase, be amended to include the construction staking, observation (inspection) and testing for Hartley Estates/Phase III, and to increase the amount by \$27,925 for a new total of \$53,565, payable out of Special Assessment Fund 810, Dept./Agency 038, Organization 5311, Object 5530.

Resolution 98-0753 was unanimously adopted.

Approved August 10, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Hovland Concrete, Masonry, Design, Inc., be and hereby is awarded a contract for the Lincoln Park district streetscape improvements/Phase II for the city architect division in accordance with specifications on its low specification bid of \$365,782, terms net 30, FOB job site, payable out of Permanent Improvements Fund 411, Dept./Agency 035, Organization 2165, Object 5530.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0762 was unanimously adopted.
Approved August 10, 1998
GARY L. DOTY, Mayor

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Resolution 98-0603, by Councilor Hales, to establish angle parking in the parking bay located on the east side of Kenwood Avenue between Maryland Street and Victoria Street and to prohibit parking from 2:00 a.m. to 6:00 a.m. November 1 through May 31, was introduced for discussion.

Councilor Gilbert moved to amend the resolution by adding the following paragraph:

“RESOLVED FURTHER, that the city council intends to consider a resolution designating this parking bay as a time limit parking zone during school hours pursuant to Section 33-84 of the City Code,” which motion was seconded and unanimously carried.

Resolution 98-0603, as amended, was adopted as follows:

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-94 of the City Code, 1959, as amended, the following angle parking is hereby established: Parking bay on the East side of Kenwood Avenue between Maryland Street and Victoria Street.

FURTHER RESOLVED, that in accordance with the provisions of Section 33-97 of the City Code, 1959, as amended, a no parking 2:00 a.m. to 6:00 a.m. November 1 through May 31 also be established in this parking bay.

RESOLVED FURTHER, that the city council intends to consider a resolution designating this parking bay as a time limit parking zone during school hours pursuant to Section 33-84 of the City Code.

Resolution 98-0603, as amended, was unanimously adopted.

Approved August 10, 1998
GARY L. DOTY, Mayor

- - -

Editor's Note: Resolution 98-0603 was reconsidered and overturned at the August 24, 1998, council meeting.

- - -

BY COUNCILOR HALES:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, a no parking zone is hereby established for the east side of Central Avenue from Grand Avenue to Cody Street.

Resolution 98-0727 was unanimously adopted.

Approved August 10, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the mayor is hereby authorized to execute an agreement (Public Document No. 98-0810-27) to accept grant monies in the amount of \$58,930 from the state of Minnesota acting through its auto theft prevention board, to reimburse the police department for salary and overtime, equipment, training, operating expenses and a \$15,000 reimbursement to the St. Louis County sheriff, all involved in the implementation of the Minnesota gang strike force anti-vehicle theft project. All revenue received under this agreement shall be deposited in Duluth Police Grant Fund 215, Agency 200, Org. 2449.

Resolution 98-0750 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved August 10, 1998
GARY L. DOTY, Mayor

- - -

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 \$18,000, terms net 30, FOB fire halls, payable out of General Fund 100, Dept./Agency 100, Organization 1503, Object 5319.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for one additional year subject to budget allocations and the agreement of both parties.

Resolution 98-0758 was unanimously adopted.

Approved August 10, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that Lake Superior Office Furniture be and hereby is awarded a contract for furnishing and installing office furniture components for the police department in accordance with specifications on its low specification bid of \$8,493.68, terms net 30, FOB destination, \$4,581 payable out of General Fund 100, Dept./Agency 200, Organization 2432, Object 5580; \$92.71 payable out of General Fund 100, Dept./Agency 200, Organization 1620, Object 5241; and \$3,819.97 payable out of General Fund 100, Dept./Agency 200, Organization 2431, Object 5580.

Resolution 98-0761 was unanimously adopted.

Approved August 10, 1998
GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

98-024 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE NORTHERN 30 FEET OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, TO DULUTH TEACHER'S CREDIT UNION.

- - -

BY COUNCILOR HALES

98-025 - AN ORDINANCE AMENDING ORDINANCE NO. 7411 TO PROVIDE THAT THE CONCURRENT USE PERMIT GRANTED THEREIN SHALL BE ASSIGNABLE TO SUBSEQUENT OWNERS OF THE PROPERTY.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

98-021 (9376) - AN ORDINANCE TO RENAME A PORTION OF SWAN LAKE ROAD AS SWAN LAKE PLACE (HOLMGREN AND JOHNSON).

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

- - -

BY COUNCILOR PRETTNER SOLON

98-022 - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXVII CREATING A DULUTH HOUSING COMMISSION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon moved to table the ordinance for a committee meeting on September 8, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON

98-023 - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

Councilor Prettner Solon moved to table the ordinance for a committee meeting on September 8, which motion was seconded and unanimously carried.

- - -

The meeting was adjourned at 8:35 p.m.

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

- - -

ORDINANCE NO. 9375

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 24 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, PROPERTY LOCATED ALONG THE LOWER SIDE OF WEST MICHIGAN/SUPERIOR STREET, 150 FEET EITHER SIDE OF 13TH AVENUE WEST (MILLER & HOLMS).

The city of Duluth does ordain:

Section 1. That Plate No. 24 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]

[see page 458]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 13, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Rapaich and President Hogg -- 7

Nays: None -- 0

Absent: Councilors Hardesty and Swapinski -- 2

Passed August 10, 1998

Approved August 10, 1998

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9376

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE TO RENAME A PORTION OF SWAN LAKE ROAD AS SWAN LAKE PLACE (HOLMGREN AND JOHNSON).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 1. That the following public thoroughfare shall be renamed Swan Lake Place: That portion of old Swan Lake Road lying northeasterly of a line from the easterly corner of Lot 3, Block 8, Plat of Ponderosa Groves to the southeast corner of Lot 2, Block 7 and extending northwesterly approximately 700 feet according to the plat of Ponderosa Groves, according to the plat thereof on file with the registrar for St. Louis County, Minnesota.

Section 2. That the city clerk, upon passage of this ordinance, shall:

(a) Notify the director of public works to proceed with erection of street signs relating to such change;

(b) Notify the property owners within 300 feet of the street;

(c) Notify the following agencies and utilities of the specific changes:

(1) Business office of U.S. West Communications;

(2) Manager of delivery and collection, main post office;

(3) County auditor, St. Louis County;

(4) President, Minnesota Power;

(5) Chief, Duluth fire department;

(6) Chief, Duluth police department;

(7) Director, department of water and gas;

(8) City assessor;

(9) Voter registration department;

(10) Minnesota department of transportation;

(11) St. Louis County 911 agency.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 13, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Rapaich and President Hogg -- 7

Nays: None -- 0

Absent: Councilors Hardesty and Swapinski -- 2

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 10, 1998
Approved August 10, 1998
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 24, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Absent: Councilor Swapinski -- 1

- - -

The minutes of the council meeting held on May 26, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0824-01 Lillian E. Stocke submitting petition to vacate Virginia Avenue south of Arrowhead Road and north of Buffalo Street; Kentucky Avenue south of Arrowhead Road and north of Buffalo Street; Kennebec Avenue south of Cleveland Street and north of Buffalo Street; Cleveland Street east of Apple Ridge Drive and west of Kennebec Avenue; Buffalo Street east of Broadway Avenue and west of Kennebec Avenue. -- Assessor

98-0824-02 Minnesota state auditor submitting: (a) Management and compliance report; (b) Comprehensive annual report for Western Lake Superior Sanitary District for the year ended December 31, 1997. -- Received

98-0824-10 Edison Charter School submitting communication pertaining to proposed parking on Kenwood Avenue (98-0603R). -- Received

98-0824-11 Woodland Community Club submitting communication pertaining to the proposed development at Woodland Community Club (98-0760R). -- Received

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REPORTS OF OFFICERS

98-0824-03 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Arthritis Foundation (raffle) on October 14, 1998; (b) St. Michael's Church (bingo and raffle) on November 8, 1998. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0824-04 Environmental advisory council minutes of July 1, 1998, meeting. -- Received

98-0824-05 Heritage preservation commission minutes of June 10, 1998, meeting. -- Received

98-0824-06 Lawful gambling commission minutes of: (a) June 9; (b) June 12; (c) July 14, 1998, meetings. -- Received

98-0824-07 Planning commission minutes of: (a) June 24; (b) July 14, 1998, meetings. -- Received

98-0824-08 Sanitary sewer board of the WLSSD minutes of August 3, 1998, meeting. -- Received

98-0824-09 Seaway Port authority of Duluth: (a) Minutes of June 18, 1998, meeting; (b) June business development reports; (c) April 1998 balance sheet and income statement. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Terry Clayton, representing Minnesota-Wisconsin Playground Company, spoke regarding the awarding of a contract for playground equipment that was recently bid by the city. He

explained that he has been made aware that his company's bid will not be considered because of a problem the city experienced with a manufacturer of some equipment that was supplied by his company in 1993. Mr. Clayton stated that his company wishes to reestablish a good relationship with the city. However, because of what he believes are technicalities in the bid specifications, the equipment being bid is solely manufactured and distributed by one source and eliminates his company's ability to submit a bid. He objected to existing city bidding standards that are specific to proprietary items and requested that the city rewrite the equipment specifications and rebid it.

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RESOLUTION RECONSIDERED

Councilor Gilbert moved that Resolution 98-0603, establishing angle parking in the parking bay located on the east side of Kenwood Avenue between Maryland Street and Victoria Street and to prohibit parking from 2:00 a.m. to 6:00 a.m. November 1 through May 31, be reconsidered, which motion was seconded and unanimously carried.

The rules were suspended upon a unanimous vote to also consider at this time Resolution 98-0789, by Councilor Gilbert, establishing a no parking zone on the west side of Kenwood Avenue between Maryland Street and South Road.

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

The following speakers objected to the change from parallel to angle parking: Bill Stovern; Paul Miller; Carleen Miller; Gerry Mizuko; Lucille Rich; Jim Landwehr; Evelyn Wirtanen; and Marie Kelleher. Reasons for opposition were as follows: child safety is jeopardized because young children have to walk through the congestion in the area; sidewalks from the neighborhood to the school do not exist; angular parking is not conducive to traffic and congestion occurs throughout the day and especially at peak school times; new traffic patterns attributed to recent improvements make it more difficult to see students; angular parking conditions on Kenwood Avenue inhibit necessary access to handicapped residents by the STRIDE bus; angular parking requires cars to back out into Kenwood Avenue traffic, which comes from two directions; there is no place for traffic to turn around; traffic near the school is chaotic with cars parking everywhere; a petition (Public Document No. 98-0810-14) submitted which represents area neighbors supports parallel parking; attention was called to Public Document No. 98-0824-10 regarding the position of Edison School; it was noted that informational neighborhood meetings held included discussion about parallel parking, not angular parking; and that parking regulations were changed from parallel to angular without neighborhood notification. It was suggested that a connection of Maryland Street to Victoria Street, behind the school, be constructed to accommodate the necessity for vehicles to turn around; and an objection was made to the no parking restriction on Kenwood Avenue from Maryland Street to Victoria Street from 2:00 a.m. to 6:00 a.m. November 1 through May 31.

Councilor Gilbert recommended that the resolution which establishes angle parking be voted down to allow the parties to meet and develop a workable plan that is acceptable to all.

Councilor Keenan stated that the issues of traffic patterns and congestion also need to be addressed. Regarding Resolution 98-0879, Councilor Keenan supported action now so individuals know if parking is allowed on the west side of Kenwood Avenue.

Councilor Prettner Solon stated support for the neighborhood and suggested that the resolution be tabled so that further attention can be given to the issue.

Jim Benning, city project engineer, noted that the school district supports angular parking, and he noted that reconstruction of the roadway was designed to accommodate it.

Various councilors supported sending both resolutions back to the administration to allow for all parties to work together to resolve all issues related to traffic and parking.

Councilor Gilbert recommended that both resolutions be addressed at the same time to obtain the best overall decision.

Resolution 98-0603 failed upon a unanimous vote (Public Document No. 98-0824-11).

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President Hogg expressed his support for Resolution 98-0789, but only on a temporary basis until a full report from the administration is received and a final solution can be made.

City Attorney Dinan stated that this resolution can be passed as is and if changes are necessary later, a new resolution can be presented.

Resolution 98-0789 failed upon the following vote (Public Document No. 98-0824-22):

Yeas: Councilors Edwards, Gilbert, Keenan and President Hogg -- 4

Nays: Councilors Hales, Hardesty, Prettner Solon and Rapaich -- 4

Absent: Councilor Swapinski -- 1

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 98-0724, confirming appointments of Donna Scorse replacing John Bray, Frank Messina replacing Barbara Soder and Renae Switzer replacing James Laumeyer to Duluth transit authority, from the table, which motion was seconded and unanimously carried.

Councilor Rapaich moved to separate the resolution into Resolution 98-0724(a), confirming the appointments of Donna Scorse replacing John Bray and Renae Switzer replacing James Laumeyer; and Resolution 98-0724(b), confirming appointment of Frank Messina replacing Barbara Soder, which motion was seconded and unanimously carried.

Councilor Rapaich reviewed that Mr. Messina has not been interviewed yet.

Resolution 98-0724(a) was adopted as follows:

BY COUNCILOR RAPAICH:

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

DULUTH TRANSIT AUTHORITY

Donna Scorse (District 3) for a term expiring June 30, 2001, replacing John Bray.

Renae Switzer (at large) for a term expiring June 30, 2001, replacing James Laumeyer.

Resolution 98-0724(a) was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

Councilor Rapaich moved to table Resolution 98-0724(b), which motion was seconded and unanimously carried.

- - -

Councilor Keenan moved to remove Resolution 98-0735, amending Resolution 98-0542 awarding contract to Dean's Trucking, Inc., for various sands, to increase the amount by \$12,053.02 for a new total of \$17,261.52, from the table, which motion was seconded and unanimously carried.

Councilor Keenan reviewed that the replacement resolution better defines the details of the product and its costs.

Resolution 98-0735 was adopted as follows:

BY COUNCILOR KEENAN:

RESOLVED, that Resolution 98-0542 to Dean's Trucking, Inc., for furnishing various sands for the golf courses, be amended to increase the amount by \$12,053.02 for a new total of \$17,261.52, payable out of Golf Fund 503, Dept./

Agency 400, Organization 0500, Object 5229.
Resolution 98-0735 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that McGann Associates be and hereby is awarded a contract for furnishing and installing two Federal APD MG 1000 SST ticket dispensers, auditing computer and remote fee display for the city-owned casino parking ramp in accordance with specifications on its low specification bid of \$33,703.95, terms net 10, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E834.

Resolution 98-0768 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 1997, Chapter 129, Article 1, Section 12 and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

Resolution 98-0769 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues 68 on sale intoxicating liquor renewal licenses, 63 on sale Sunday intoxicating liquor renewal licenses, 18 on sale dancing renewal licenses and eight additional bar renewal licenses for the period beginning September 1, 1998, and ending August 31, 1999, 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. 98-0824-12.

Resolution 98-0777 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1998, and ending August 31, 1999, 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. 98-0824-13.

Resolution 98-0778 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1998, and ending August 31, 1999, 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. 98-0824-14.

Resolution 98-0779 was unanimously adopted.

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves eight on sale club liquor licenses and seven on sale Sunday licenses for the period beginning September 1, 1998, and ending August 31, 1999, 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. 98-0824-15.

Resolution 98-0780 was unanimously adopted.

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1998, subject to departmental approvals and the payment of sales and property taxes:

Players Grandstand, Inc. (Players Sports Bar), 4024 Grand Avenue, transferred from Shish-Ka-Bar, Inc., 2 West First Street, with Paul Riesland, 50 percent stockholder and Bill Rouleau, 50 percent stockholder.

Resolution 98-0781 was unanimously adopted.

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, the alcoholic beverage board of the city of Duluth has held a public hearing on August 12, 1998, to determine whether or not there is good cause to grant the Theatre in the State, Inc., an on sale intoxicating liquor and on sale Sunday 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 and on sale Sunday license shall be granted to Theatre in the State, Inc. (Norshor Theatre), 211 East Superior Street, provided that all delinquent real estate taxes on the premises be paid by August 31, 1998, or that an agreement to pay them as provided in Section 8-65 be filed by August 31, 1998, and subject to departmental approvals.

Resolution 98-0786 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

TREE COMMISSION

Gregg Lillejord (professional) for a term expiring August 31, 2001, replacing David Auchtor. Resolution 98-0729 was unanimously adopted.

Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that pursuant to Minnesota Statutes Chapter 13, the city council hereby designates Robert Hartl as the responsible authority for the city of Duluth.

RESOLVED, that all prior resolutions designating a responsible authority for the city of Duluth are hereby rescinded.

Resolution 98-0770 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement legally described as: That easement located along the rear ten feet of: Lots 3-5 and 12-14, inclusive; the easterly 25 feet of Lots 2 and 15 and the westerly 36 feet of Lots 6 and 11, all in Block 18, Endion Division of Duluth; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its August 11, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement described above and as more particularly described on Public Document No. 98-0824-16.

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 utility easement to be vacated.

Resolution 98-0775 was unanimously adopted.
Approved August 24, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a limited use permit, a copy of which is on file in the office of the city clerk as Public Document No. 98-0824-17(a), with the state of Minnesota department of transportation for the use of certain highway right-of-way property east of 418 East Superior Street subject to entering into an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 98-0824-17(b) with John Ivey Thomas, the entering into of which is also hereby authorized.

Resolution 98-0787 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Seaway Engineering Company for professional services relating to the design and development of schematic drawings for the Hartley Nature Center project, which agreement is on file in the office of the city clerk as Public Document No. 98-0824-18; payment not to exceed \$25,000, to be funded by the Tourism Tax Fund No. 258.

Resolution 98-0784 was unanimously adopted.

Approved August 24, 1998

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 \$13,966 from the Minnesota state board of colleges and universities, available from July 1, 1998, through March 31, 2001, to provide adult basic education instruction for JTPA eligible participants. A copy of this grant agreement shall be on file in the city clerk's office as Public Document No. 98-0824-19.

FURTHER RESOLVED, that monies received under this grant agreement shall be deposited in Fund 268, Budget Item 6215.

Resolution 98-0771 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Minnesota Food Service Equipment Company be and hereby is awarded a contract for furnishing and installing cafeteria booths, tables and chairs for the city hall cafeteria in accordance with specifications on its low specification bid of \$14,481.20, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5241.

Resolution 98-0767 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that Hammarlund Nursery, Inc., (\$11,135.64) and Northern Lights Landscaping, Inc., (\$13,259.25) be and hereby are awarded contracts for furnishing and delivering approximately 225 trees for the 1999 spring season planting by the city forestry division in accordance with specifications on its low specification total bids of \$24,394.89, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5225.

Resolution 98-0776 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR HALES:

RESOLVED, that Schumacher's, Inc., be and hereby are awarded a contract for furnishing and delivering approximately 575 trees of different species for the city forestry division in accordance with specifications on its low specification bid of \$84,941.10, terms net 30, FOB destination, payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organizations 9801, 9802, 9803, 9804 and 9806, Object 5530.

Resolution 98-0785 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 98-0556, by President Hogg, authorizing execution of an agreement with the firm of Public Policy Partners, L.L.C., d/b/a Durenberger/Foote, to provide Washington legislative services to the city at a cost to the city of \$60,000 plus expenses, was introduced for discussion.

Administrative Assistant Hartl addressed concerns raised by councilors regarding an update on issues.

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

Tom Allnew objected to the hiring of a lobbyist, noting that it is unnecessary and costly.

Councilor Prettner Solon stated that it is important to have a firm in Washington that will look out for the specific interests of Duluth.

Resolution 98-0556 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the firm of Public Policy Partners, L.L.C., d/b/a Durenberger/ Foote, to provide the city with Washington legislative services for a period of one year commencing June 1, 1998, which agreement is on file in the office of the city clerk as Public Document No. 98-0824-20, at a cost to the city of \$60,000 plus certain expenses, which shall be payable from the General Fund 015-1510-5312.

Resolution 98-0556 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0764, by President Hogg, establishing the salary and fringe benefits of the administrative assistant; and Resolution 98-0782, authorizing implementation of a supplemental agreement between the city and the confidential unit, was introduced for discussion.

Responding to questions raised by Councilor Prettner Solon regarding what the future affect and consequences the costs of the agreement with the confidential unit will have on the city, Mr. Hartl noted that the costs associated with seniority does not accrue after 30 days of a leave of absence.

Councilor Prettner Solon expressed concern that a leave of absence may be granted for an indefinite period of time rather than a year at a time.

Mayor Doty reviewed how he selected Mr. Hartl for the position of administrative assistant and noted that it is important to be able to hire good people from within existing operations.

Resolution 98-0764 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the monthly salary of the administrative assistant shall be \$7,125.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED FURTHER, that the administrative assistant shall be entitled to the same fringe benefits as the confidential unit employees of the city, excluding longevity.

Resolution 98-0764 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich and President Hogg

-- 7

Nays: Councilor Prettner Solon -- 1

Absent: Councilor Swapinski -- 1

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0782 was adopted as follows:

BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement between the city of Duluth and its confidential bargaining unit; said agreement to be in substantially the same form and contain the same agreement as that contract on file with the clerk as Public Document No. 98-0824-21.

Resolution 98-0782 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0783, by President Hogg, authorizing the issuance and establishing the terms and providing for the public sale of \$4,545,000 General Obligation tax increment bonds, Series 1998D, and calling for a public hearing on such sale, was introduced for discussion.

Mr. Hartl stated that the administration requests the council to refer this resolution back to the administration.

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

Tom Allnew objected to selling bonds for the Great Lakes Aquarium and advocated that a referendum should be held on the issue.

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

- - -

Resolution 98-0773, by Councilor Prettner Solon, amending Contract No. 17913 relating to the Consolidated Paper litigation with the firm of Maki and Overom, Chartered, increasing the amount payable by \$30,000, was introduced for discussion.

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

Tom Allnew noted that it is the council's responsibility to give direction to the city attorney when it believes there is a need to hire outside legal counsel.

Resolution 98-0773 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a third amendment to City Contract No. 17913 with the firm of Maki and Overom, Chartered, for legal services related to the tax petitions filed by Consolidated Papers, Inc., on behalf of Lake Superior Paper Industries and Superior Recycled Fibers Industries, increasing the amount payable thereunder by \$30,000, payable from Tax Increment Financing District No. 6.

Resolution 98-0773 was unanimously adopted.

Approved August 24, 1998

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR PRETTNER SOLON

98-026 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION, FROM R-3, APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, OF PROPERTY LOCATED AT 118 EAST FOURTH STREET (FOURTH STREET AUTO - GARY LOFALD).

- - -

BY COUNCILOR PRETTNER SOLON

98-029 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 3, 4 AND 5 AND LOTS 14, 15 AND 16, BLOCK 24, DULUTH HEIGHTS SIXTH DIVISION TO LEROY JAEGER, FOR A CONSIDERATION OF \$6,400, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 500, OBJECT 4640 (BASSWOOD AND MYRTLE STREETS).

- - -

BY COUNCILOR GILBERT

98-028 - AN ORDINANCE PERTAINING TO WATER AND GAS REGULATIONS OF THE CITY; AMENDING SECTIONS 48-1, 48-6, 48-23, 48-25, 48-26, 48-27, 48-119, 48-120, 48-121, 48-124, 48-125, 48-142, 48-143, 48-144, 48-144.1, 48-151, 48-154, 48-171, 48-182, 48-183, 48-187, 48-199, 48-200, 48-201, 48-203 AND 48-213, ADDING NEW SECTIONS 48-131.1 AND 48-214, AND REPEALING SECTIONS 48-117, 48-122, 48-123, 48-136, 48-137, 48-138, 48-139, 48-140, 48-141 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR HALES

98-027 - AN ORDINANCE PROHIBITING AGGRESSIVE SKATING, SKATEBOARDING AND BICYCLING ON PUBLIC PROPERTY; ADDING A NEW SECTION 45-6.3 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Patrick Dickhudt expressed his concern about the definition of the words "aggressive skateboarding" and stated that there are not two types of skateboarding. He stated that he believes that all the skateboarding tricks that he performs would be considered to be "aggressive" according to the definition as it is being presented. Mr. Dickhudt suggested that skateboarders be included in solving the problems that result in damage to city property.

Councilors stated it is not their intent to stop skateboarding. However, it is their responsibility to protect public property.

Mr. Hartl reviewed the number of skateboard areas that are currently available in the city.

Councilor Hales stated that this ordinance was drafted with the input of police officers and only affects public areas that are not formal skateboard areas. She emphasized that the areas established for skateboarding will not be affected by this ordinance.

President Hogg reviewed that Police Chief Lyons has stated that this ordinance will only be used in those situations that warrant a need for enforcement.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

98-024 (9377) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE NORTHERN 30 FEET OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, TO DULUTH

TEACHER'S CREDIT UNION.

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

- - -

BY COUNCILOR HALES

98-025 (9378) - AN ORDINANCE AMENDING ORDINANCE NO. 7411 TO PROVIDE THAT THE CONCURRENT USE PERMIT GRANTED THEREIN SHALL BE ASSIGNABLE TO SUBSEQUENT OWNERS OF THE PROPERTY.

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

- - -

The meeting was adjourned at 9:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9377

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE NORTHERN 30 FEET OF LOT 9, WEST SECOND STREET, DULUTH PROPER FIRST DIVISION, TO DULUTH TEACHER'S CREDIT UNION.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described to Duluth Teacher's Credit Union, for no consideration, subject to conditions set forth in Resolution No. 98-0723, on file in the office of the city clerk:

The northerly 30 feet of Lot 9, West Second Street, Duluth Proper First Division.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: October 4, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Swapinski -- 1

Passed August 24, 1998

Approved August 24, 1998

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9378

BY COUNCILOR HALES:

AN ORDINANCE AMENDING ORDINANCE NO. 7411 TO PROVIDE THAT THE CONCURRENT USE PERMIT GRANTED THEREIN SHALL BE ASSIGNABLE TO SUBSEQUENT OWNERS OF THE PROPERTY.

The city of Duluth does ordain:

Section 1. That Section 3 of Ordinance No. 7411, which was passed August 31, 1964,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and which granted a concurrent use permit to Ray F. Oman for the construction of a garage in a portion of the northerly ten feet of South 26th Street, is amended to read as follows:

“Section 3. That the permit herein granted, subject to its terms, may be assigned to the successors in interest of Ray F. Oman to allow the continuing maintenance of the private garage in the above-mentioned street easement until this permit is terminated.”

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 4, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Swapinski -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 24, 1998
Approved August 24, 1998
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 14, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on June 8, 1998, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0914-01 A&L Development, Inc., and DEDA submitting petition to vacate a portion of the right-of-way between Lake Avenue and First Avenue East. -- Assessor

98-0914-02 A&L Development, Inc., and DEDA submitting petition for concurrent use permit for a portion of the right-of-way between Lake Avenue and First Avenue East to facilitate the construction of the new technology center and related pedestrian skywalk and parking facility. -- Planning commission

98-0914-03 Dan Kohl, et al. (four signatures), submitting petition to vacate the pedestrian easement abutting Lot 759, Block 60, Crosley Park Addition. -- Assessor

98-0914-04 RJR Communications, Inc., submitting petition to vacate the northwesterly 135 feet of Canal Park Drive Alley. -- Assessor

98-0914-05 Minnesota state auditor submitting management and compliance report of the Duluth economic development authority for the year ended December 31, 1997. -- Received

98-0914-20 Robert J. Reichert submitting communication pertaining to the amendment to the 1998 budget for stormwater utility (Ordinance No. 9373). -- Received

98-0914-30 Colin Thomsen (supported by 57 signatures) submitting communication pertaining to skateboarding (98-027-O). -- Received

98-0914-21 The following submitting communications pertaining to the proposed Opus development project in the Miller Hill area (98-0774R): (a) Duluth Area Chamber of Commerce; (b) Daniel Queenan (Opus) and John Dietrich (RLK-Kuusisto, Ltd). -- Received

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REPORTS OF OFFICERS

98-0914-22 Mayor Doty submitting: (a) 1999 budget presentation; (b) 1999 budget. -- Received

98-0914-06 Assessor submitting:

(a) Letter of sufficiency pertaining to petition to vacate 28 feet of a 28 foot pedestrian easement on the east side abutting Lot 759 at 4930 Avondale Street. -- Received

(b) Confirmation of assessment rolls levied to defray the assessable portion of 1997 citywide sidewalk program and Bayfront Lift Station. -- Clerk

98-0914-07 Building official submitting appeals of the board of zoning appeals' denials of requests to:

(a) Construct an additional 49 square foot sign on a pole having existing signs equaling 156 square feet on property located at 210 South 27th Avenue West (Kay Biga/Nick Patronas);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(b) Reduce the required parking spaces from 48 to 0 for the conversion of an existing building to retail space on property located at 1009 East Superior Street (Randy Blomquist/Andrew Baertsch). -- Committee 2 (planning)

98-0914-08 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses (raffles) from: (a) Minnesota United Snowmobilers for October 24, 1998; (b) Women's Association of Duluth/Superior Symphony Orchestra for December 5, 1998. -- Received

98-0914-09 Community development and housing division submitting HRA housing rehabilitation report for July, 1998. -- Received

98-0914-10 Engineering division monthly project status report of August, 1998. -- Received

98-0914-11 Purchasing agent submitting emergency purchase orders awarded to: (a) Goodin Company for 12 inch bell joint clamps; (b) Northland Bituminous, Inc., for repavement of 15th Avenue East. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-0914-12 Board of zoning appeals minutes of August 10, 1998, meeting. -- Received

98-0914-13 Duluth airport authority: (a) Minutes of July 21, 1998, meeting; (b) July 31, 1998, balance sheet. -- Received

98-0914-14 Duluth transit authority minutes of: (a) May 27; (b) June 4; (c) June 24, 1998, meetings. -- Received

98-0914-15 Environmental advisory council minutes of August 5, 1998, meeting. -- Received

98-0914-16 Housing and redevelopment authority minutes of July 28, 1998, meeting. -- Received

98-0914-17 Special assessment board minutes of August 11, 1998, meeting. -- Received

98-0914-18 Tree commission minutes of August 10, 1998, meeting. -- Received

98-0914-19 Water and gas service hearing board minutes of August 18, 1998, meeting. -- Received

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RESOLUTIONS TABLED

Councilor Rapaich moved to remove Resolution 98-0684(b), confirming appointment of Gary Eckenberg replacing Koua Vang to citywide citizens advisory committee, from the table, which motion was seconded and unanimously carried.

Resolution 98-0684(b) was adopted as follows:

BY COUNCILOR RAPAICH:

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

Gary Eckenberg (at large) for a term expiring March 1, 1999, replacing Koua Vang who resigned.

Resolution 98-0684(b) was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

Councilor Rapaich moved to remove Resolution 98-0724(b), confirming appointment of Frank Messina replacing Barbara Soder to Duluth transit authority, from the table, which motion was seconded and unanimously carried.

Resolution 98-0724(b) was adopted as follows:

BY COUNCILOR RAPAICH:

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

DULUTH TRANSIT AUTHORITY

Frank Messina (District 2) for a term expiring June 30, 2001, replacing Barbara Soder.

Resolution 98-0724(b) was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

Councilor Hardesty moved to remove Resolution 98-0821, authorizing the city to participate in the joint property tax study project during 1998-99, at a cost to the city of \$10,000, from the consent agenda, which motion was seconded and unanimously carried.

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

- - -

BY PRESIDENT HOGG:

RESOLVED, that the city council hereby expresses its intent to authorize the city to be a guarantor sponsor of the 1999 John Beargrease Sled Dog Marathon, at a cost to the city of \$10,000.

Resolution 98-0808 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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 1999 for Duluth transit authority operations is hereby determined to be the sum of \$1,724,500 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts to the city, as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd. 1, there will be levied for transit operations the sum of \$1,724,500.

Resolution 98-0816 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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 1999 for Seaway Port authority operations is hereby determined to be the sum of \$274,400, which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following section, viz:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing for the Seaway Port authority fund of the city of Duluth the sum of \$274,400.

Resolution 98-0817 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

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 1999 and final city property tax levy for taxes payable in 1999:

Initial hearing

December 7 at 7:00 p.m. in the Duluth City Council chambers.

Resolution 98-0819 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 150 curved and flat grader blades for the fleet services division in accordance with specifications on its low specification bid of \$5,442.15, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0797 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 200 curved grader blades for the fleet services division in accordance with specifications on its low specification bid of \$7,346.37, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0798 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that H & L Mesabi, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 325 plow blades for the fleet services division in accordance with specifications on its low specification bid of \$6,076.55, terms net 30, FOB destination, payable out of Fleet Fund 660, Dept./Agency 015, Organization 1560, Object 5221.

Resolution 98-0799 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Duluth Window Cleaning Company be and hereby is awarded a contract for furnishing window washing services for various city buildings for the property management

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

division and water and gas department in accordance with specifications on its low specification bid of \$5,457.50, terms net 30, FOB job sites, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0801 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Bachman's, Inc., be and hereby is awarded contract for furnishing and delivering trees and shrubs for Lakewalk site improvements for the street/park maintenance division in accordance with specifications on its low specification bid of \$7,062.62, terms net 30, FOB destination, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C716.

Resolution 98-0804 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Don Holm Construction Company, Inc., be and hereby is awarded a contract for construction of the renovations and alterations to Peterson Arena and Fryberger Arena for the city architect division in accordance with specifications on its low specification bid of \$83,950, terms net 30, FOB job site; \$44,700 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C805 and \$39,250 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1998, Object C806.

Resolution 98-0813 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Resolution 98-0188 to Portable John, Inc., for furnishing portable toilet service as needed at various locations, be amended to increase the amount by \$4,500 for a new total of \$19,700, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0830 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that C and M Ford Sales, Inc., be and hereby is awarded a contract for furnishing and delivering one 1999 Ford 9,900 lb. GVW 4 x 4 pickup truck for the property management division in accordance with specifications on its low specification bid of \$26,364.16, terms net 30, FOB shipping point, payable out of Capital Improvements Fund 450 Dept./Agency 015, Organization 2008, Object V811.

Resolution 98-0831 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR EDWARDS:

RESOLVED, that Computer Pro, Inc., be and hereby is awarded a contract for furnishing updated T-1 internet service for the data processing division in accordance with specifications on its low specification bid of \$9,980.41, terms net 30, FOB destination, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0847 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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 25 and 26, 1998, with the music and serving ceasing at 12:30 a.m.

Resolution 98-0855 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of manager, employment and training, which were approved by the civil service board on August 4, 1998, and which are filed with the city clerk as Public Document No. 98-0914-23, are approved, that said classification shall be 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 1085, pay rate of \$3,469 to \$4,231 per month.

Resolution 98-0791 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

COMMISSION ON AGING

Stephen Khalar for a term expiring July 1, 2000, replacing Brian Smith.

Resolution 98-0823 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR RAPAICH:

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

TECHNICAL DESIGN ADVISORY COMMITTEE for the DWMX-D

Timothy Meyer (at large) for the term expiring May 31, 2000, replacing Robert Baeumler, who resigned.

Resolution 98-0824 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

- - -

BY COUNCILOR RAPAICH:

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

WOMEN'S COMMISSION

Cherie Franzen for a term expiring September 17, 2001, replacing Janice Jader who resigned.

Resolution 98-0834 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1998 CDBG accounts; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed resolutions recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfer in the Federal Program Fund 262 - 1998 HUD-funded community development accounts as set forth below:

<u>1998 Duluth HUD Funded CDBG Program</u>				
<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Amount of increase or decrease</u>	<u>Revised</u>
6105	Sliding fee weatherization	\$ 25,000	\$ (25,000)	\$ -0-
6104	Weatherization - regular	\$300,000	\$ 25,000	\$325,000
6110	Hillside Business District streetscape	\$243,000	\$ 50,290	\$293,290
6119	15th/19th Avenue East assessment repayment	\$ 65,000	\$ (50,290)	\$ 14,710
6115	Keene's Creek Park improvements	\$ 1,000	\$ (1,000)	\$ -0-
6117	Town View Villas road construction	\$ 1,000	\$ (1,000)	\$ -0-
6142	Contingency	\$ 24,315	\$ 2,000	\$ 26,315

Resolution 98-0788 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground replacement equipment at Central Hillside sport court recreation center for the community development division in accordance with specifications on its low specification bid of \$31,637.96, terms net 30, FOB destination; \$13,600 payable out of Community

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Development Fund 262, Dept./Agency 620, Object 6913 and \$18,037.96 payable out of Community Development Fund 262, Dept./Agency 620, Object 6011.

Resolution 98-0840 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing and delivering playground replacement equipment at Observation Park recreation center for the community development division in accordance with specifications on its low specification bid of \$22,099.82, terms net 30, FOB destination, payable out of Community Development Fund 262, Dept./Agency 621, Object 6112.

Resolution 98-0841 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Sun Valley Lighting be and hereby is awarded a contract for furnishing and delivering approximately 80 street light poles with fixtures for the Fourth Street lighting project in accordance with specifications on its low specification bid of \$95,594.40, terms net 30, FOB shipping point, payable out of Community Development Fund 262, Dept./Agency 621, Object 6110.

Resolution 98-0842 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1996 and 1997 CDBG accounts; and
 WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 262-1996, 1997, and 1998 HUD-funded community development accounts as set forth below:

<u>96/98 CDBG Program Transfers</u>			
<u>Account revised</u>	<u>Project</u>	<u>Original</u>	<u>Amount of increase or decrease</u>
96	6904 CAP weatherization (sliding fee)	\$ (20,947)	\$ -0-
96	6905 Fairmont Street	\$ (29,228)	\$ -0-
97	6002 CAP weatherization (regular)	\$(340,000)	\$ -0-
97	6003 CAP weatherization (sliding fee)	<u>\$ (75,000)</u>	<u>\$ -0-</u>
		\$ 465,565	

Reprogrammed Use

Amount

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

			<u>Old</u>	<u>change</u>	<u>New</u>
98	6106	Blackmere project	\$26,000	\$ 60,000	\$86,000
98	6112	Observation Park	\$33,000	\$ 25,000	\$58,000
98	6116	Grant Recreation Center	\$ 1,000	<u>\$ 65,000</u>	\$66,000
				\$150,000	

Resolution 98-0844 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Resolution 97-0942 to Oneida Realty Company for furnishing 1998 janitorial services for the Lake Superior Zoo be amended to increase the amount by \$5,000 for a new total of \$16,100, payable out of Zoo Fund 504, Dept./Agency 400, Organization 0500, Object 5310.

Resolution 98-0803 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering one four-wheel drive diesel utility tractor for the Enger Park Golf Course in accordance with specifications on its low specification bid of \$23,110.50, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0806 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that Popular Subscription Service, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 630 magazine subscriptions for the Duluth Public Library in accordance with specifications on its low specification bid of \$23,148.90, terms net 30, FOB destination; \$19,148.90 payable out of General Fund 100, Dept./Agency 300, Organization 1701, Object 5590 and \$4,000 payable out of Library Special Gifts Fund 740, Dept./Agency 300, Organization SG80, Object 5590.

Resolution 98-0807 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that Duluth Superior Blacktop, Inc., be and hereby is awarded a contract for paving golf cart paths at Enger Park golf course for the parks and recreation department in accordance with specifications on its low specification bid of \$13,173.68, terms net 30, FOB job site, payable out of Golf Fund 503, Dept./Agency 400, Organization 0500, Object 5530.

Resolution 98-0814 was unanimously adopted.
 Approved September 14, 1998
 GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR KEENAN:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering one athletic field groomer/rake for the parks and recreation department in accordance with specifications on its low specification bid of \$8,113.17, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0822 was unanimously adopted.

Approved September 14, 1998

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 Independent School District No. 709 to operate the supportive employment for youth with disabilities program project utilizing community resource program funds at a cost not to exceed \$20,000. Contract dates will run from June 1, 1998, through December 31, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-0914-24.

FURTHER RESOLVED, that costs incurred under this grant agreement shall be payable out of Fund 275, Budget Item 6008.

Resolution 98-0765 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Northwestern Power Equipment be and hereby is awarded a contract for furnishing and delivering approximately 1,185 feet of high pressure steam line conduit system with fittings to the new Lake Superior Center for the Duluth Steam District No. 1 in accordance with specifications on its low specification bid of \$90,996.71, terms net 30, FOB destination, payable out of Steam District No. 1 Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 98-0794 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Minnegasco, Inc., be and hereby is awarded a contract for furnishing and delivering 5,200 pounds of natural gas odorant for the gas division in accordance with specifications on its low specification bid of \$12,170, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0541, Object 5210.

Resolution 98-0800 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, it appears that it may be necessary that an eight inch sanitary sewer main be constructed from the intersection of Eden Lane and Belmont Road to serve Lots 1 through 6 of Boulevard Terrace 1st Addition and a six inch ductile iron water main and a two inch P.E.H.P. gas main be constructed in East Skyline Parkway from approximately 400 feet to 800 feet easterly of 13th Avenue East.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 98-0833 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 98-0069 to Hydro Supply Company, Inc., for furnishing water meter repair parts be amended to increase the amount by \$14,126.50 for a new total of \$34,126.50; \$20,000 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5220 and \$14,126.50 payable out of Water Fund 510, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 98-0836 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Davies Water Equipment Company be and hereby is awarded a contract for furnishing and delivering various sizes and quantities of electrofusion couplings and fittings for the water and gas department in accordance with specifications on its low specification bid of \$8,692.33, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0540, Object 5240.

Resolution 98-0838 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Como Philgas Company be and hereby is awarded a contract for furnishing and delivering 160,000 gallons of liquid propane for the water and gas department in accordance with specifications on its low specification bid of \$44,600, terms net, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5213.

Resolution 98-0839 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Rick's Tree and Stump Removal be and hereby is awarded a contract for 26 tree removals and 29 tree prunings throughout the city for the street/park maintenance division in accordance with specifications on its low specification bid of \$9,052.50, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2010, Object 5454.

Resolution 98-0805 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for street construction project, Central Avenue connector from Cody Street to Grand Avenue, for the engineering division in accordance with specifications on its low specification bid of \$159,380.55, terms net 30, FOB job site, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2134, Object 5530. To be reimbursed by municipal state aid (MSA) funds.

Resolution 98-0827 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Infratech, Inc., be and hereby is awarded a contract for furnishing and delivering four atmospheric testers for the sewer division in accordance with specifications on its low specification bid of \$6,487.98, terms net 30, FOB destination, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 98-0835 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Cutler-Magner Company be and hereby is awarded a contract for furnishing and delivering approximately 4,440 tons of road salt; delivered at a unit cost of \$30.16 per ton for the street maintenance division in accordance with specifications on its low estimated bid total of \$133,186.56, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5233.

BE IT FURTHER RESOLVED, that proper city officials be authorized to purchase additional salt as needed based on the lowest unit price.

Resolution 98-0837 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that A.C.T. Electronics, Inc., be and hereby is awarded a contract for furnishing and delivering one traffic signal cabinet, Type P aluminum for the traffic operations division in accordance with specifications on its low specification bid of \$8,464.35, terms net 30, FOB shipping point, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2228, Object 5530.

Resolution 98-0846 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that M & S Painting, Inc., be and hereby is awarded a contract for the painting of street light poles and traffic signals at various locations throughout the city for the traffic operations division in accordance with specifications on its low specification bid of \$9,775, terms

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5401.

Resolution 98-0848 was unanimously adopted.
Approved September 14, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city of Duluth is hereby authorized to enter into a grant agreement with the Minnesota department of public safety crime victim services crime victim and witness advisory council for the program entitled emergency fund for crime victims.

RESOLVED FURTHER, that Mayor Gary L. Doty is hereby authorized to execute and sign such grant agreement and amendments as are necessary to implement the program on behalf of the city of Duluth.

RESOLVED FURTHER, that funds received by the city under such grant agreement shall be deposited in the General Fund 100-010-1104.

Resolution 98-0796 was unanimously adopted.
Approved September 14, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

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 1999; said agreement to be in the form of Public Document No. 98-0914-25 on file in the office of the city clerk.

Resolution 98-0829 was unanimously adopted.
Approved September 14, 1998
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 98-0815, by President Hogg, proposing the sum to be raised by taxation for general purposes for the year 1999, was introduced for discussion.

President Hogg reviewed that the proposed levy for 1999 needs to be certified to St. Louis County by September 15 and, once sent it cannot be increased, only decreased. He continued by saying that the final amount will be set after the city's truth and taxation public hearing on December 7.

Councilor Hales stated that she is voting against the resolution as she is against raising taxes.

Resolution 89-0815 was adopted as follows:

BY PRESIDENT HOGG:

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 1999 for general operations is hereby determined to be the sum of \$6,667,891 which sum is levied against the taxable property of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 \$2,499,891.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$3,778,000.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$390,000.

Resolution 98-0815 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

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, 1999:

		<u>GENERAL</u>	
010	Total legislative and executive	-----	\$ 1,582,800
015	Total administrative services	-----	\$ 3,806,600
020	Total planning and development	-----	\$ 2,018,000
030	Total finance	-----	\$ 2,701,900
100	Total fire	-----	\$11,151,800
200	Total police	-----	\$12,175,100
300	Total library	-----	\$ 3,547,500
400	Total parks and recreation	-----	\$ 2,319,100
500	Total public works	-----	\$12,629,400
700	Total transfers	-----	\$ 7,029,647
100	General fund total	-----	\$58,961,847
		<u>PUBLIC ENTERPRISE</u>	
503	Golf fund - total	-----	\$ 1,861,000
		<u>PUBLIC UTILITIES</u>	
510	Water fund - total	-----	\$ 9,711,800
520	Gas fund - total	-----	\$32,236,600
530	Sewer fund - total	-----	\$16,528,400
535	Stormwater fund total	-----	\$ 3,332,500
540	Steam fund - total	-----	\$ 3,433,470

Resolution 98-0818 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilors Hales -- 1

Approved September 14, 1998

GARY L. DOTY, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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BY COUNCILOR EDWARDS:

WHEREAS, the city of Duluth desires certain geotechnical engineering services to be completed for the new Bayfront Festival Park stage; and

WHEREAS, the city desires to hire a consulting engineer to provide the geotechnical engineering services required for this project; and

WHEREAS, American Engineering Testing, Inc., 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, Inc., to provide the city with such geotechnical engineering services.

BE IT FURTHER RESOLVED, that the cost of said geotechnical engineering services, estimated at \$5,272.50, will be payable from the Capital Improvements Fund 450, Dept./Agency 015, Organization 1996, Object C602.

Resolution 98-0802 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing, delivering and installing playground equipment at Keene Creek park for the street/park maintenance division in accordance with specifications on its low specification bid of \$16,130.49, terms net 30, FOB job site, \$11,940 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1994, Object C410 and \$4,190.49 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C704.

Resolution 98-0843 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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Resolution 98-0774, by Councilor Prettner Solon, granting a special use permit to Opus Corporation for a community unit plan for property located at the southeast corner of Trinity Road and Central Entrance, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution until September 28 for public input, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 27, 1997, and September 14, 1998, the city established the regular weatherization program project pursuant to Resolutions 97-0836(c) and 98-0788 respectively.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement substantially in the form of the copy on file with the city clerk as Public Document No. 98-0914-26, with AEOA to implement the above project; payment for said services shall not exceed \$325,000, payable out of the 1998 Federal Program Fund 262 - community development - regular weatherization project - Account No. 6104.

Resolution 98-0790 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the city is hereby authorized to participate in the joint property tax study project during 1998-99, at a cost to the city of \$10,000, which shall be payable from the General Fund 100-015-2020-5441.

Resolution 98-0821 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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Resolution 98-0832, by Councilor Gilbert, of intent to construct a 16 inch water main in the Central Entrance Miller Mall area, was introduced for discussion.

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

Joe Ferguson, representing Simon Properties, owners of Miller Hill Mall, requested that the vote on this water main be tabled so that this resolution would be considered with the other Opus resolutions after public input on September 28. He also stated that Simon Properties were notified five days ago of this project and that if they are required to pay for the project, they would like to have some information on the project before there is a council vote. Mr. Ferguson said that Simon Properties would have liked to participate in the process of developing the plans for the 16 inch water main.

Prettner Solon reviewed that this is only a resolution of intent, which is the beginning process to estimate costs and no work will be done until the council orders the project in at a later date. She continued by saying that all the neighbors will be notified of the project and the projected cost of the project at a later date.

Councilor Hales voiced concern over the late notice to Simon Properties of this project and questioned if the Watson property owners had been contacted by the city.

Cynthia Albright, acting director of the planning and business development department, stated that she was late in notifying the different owners, but that she notified them in person last week and talked through the project with the owners. She continued by saying that she stated they were welcome to come and speak tonight at the meeting, and that they would be able to provide input to the city during the designing phase of the improvement. Ms. Albright encouraged the council to consider this resolution separately from the other Opus resolutions in order to get the project moving. She added that this project has different water extension alternatives – one is to provide on-site service from a tank or existing service at Stone Ridge which would not involve any city expense; another would be to provide city service by looping a service that ended in the centerline of Trinity Road. Ms. Albright went on to say that city staff recommends the looped service for the purposes of providing better water pressure and fire protection capacity.

Responding to President Hogg, Ms. Albright replied that there have been plans for this water looping for almost 20 years as it is part of an overall city plan and would give more adequate service to the users in the area. She also stated that there would be some assessment to the property owners in the area for this project.

Bill Burns, representing the Opus Corporation developers, stated that the developers are interested in getting approval of these resolutions as soon as possible so construction of the project can begin as rapidly as possible. He continued by saying that they are aware of the concerns of Simon Properties, and if the whole project is ordered in, Chapter 62 in the City Charter allows Simon Properties to hold up the project by submitting a remonstrance petition. Mr. Burns went to say that this resolution should be considered separate from the resolutions dealing with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the actual plans of the development and, by holding up this resolution for two weeks, it delays the total time frame for the water main project for this Fall.

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

Yeas: Councilors Hales, Gilbert and Swapinski -- 3

Nays: Councilors Edwards, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 6

Responding to Councilor Hales, Ms. Albright reviewed that the waiting period relates to the city's ability to start moving with some plans and undertake the construction in a timely manner to meet the needs of this project which will affect the commitment Opus Corporation makes to a water system. She continued by saying that as they make ready their site preparation and develop their project, it will depend on providing their own service or having a municipal service for their water system. Ms. Albright went on by stating that if they are not past the remonstrance period at the point when they are ready for construction, then they will not be in the position to choose the city service which is the best choice for the area because the city will not be ready with their cost estimates and plans. She emphasized that this water project is a separate issue from the other Opus resolutions and that the water issue is a matter of city importance and could be handled separately from the planning issues.

President Hogg voiced concern that a proper notification process was not followed to involve Simon Properties and stated he was not comfortable in supporting this resolution.

Resolution 98-0832 failed upon the following vote (Public Document No. 98-0914-31):

Yeas: Councilors Hales, Swapinski and President Hogg -- 3

Nays: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon and Rapaich -- 6

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BY COUNCILOR GILBERT:

WHEREAS, Section 48-214 of the City Code authorizes the water and gas department, with city council approval, to develop alternative programs and procedures for the extension of gas mains and for new connections to existing gas mains; and

WHEREAS, the water and gas department desires to phase out the present gas main assessment procedures in 15 years.

NOW, THEREFORE, BE IT RESOLVED, that effective with the natural gas readings after October 15, 1998, or the effective date of Ordinance 98-028-O, whichever is later, customers or prospective customers of the natural gas utility of the water and gas department of the city of Duluth shall pay for gas main extensions or new gas connections to existing mains by one of the following four ways:

OPTION 1: Effective October 16, 1998, customers choosing this option shall pay an additional fee of \$0.0404 per CCF of natural gas consumed. This rate shall be charged to the customer in addition to other rate charges appropriate to the class of gas service provided until October 31, 2013. The water and gas department may approve or disapprove a potential customer's gas main extension request for competitive, safety, operational, business or financial reasons.

OPTION 2. Customers requesting service from mains installed on or before September 30, 1998, and who have not been assessed previously for the servicing main may select either Option 1 above or may pay a fair share cost of the gas main extension. The fair share cost for connection to existing gas mains shall be determined by using a front foot fee of \$9.00 per front foot. The front foot length is determined by dimensions of the lot and not by how much of the main fronts on the parcel. Irregular shaped lots, corner lots and large parcels shall be reviewed by the

water and gas department engineer to determine frontage. The initial fair share cost of the main shall be discounted by taking the ratio of the number of years the gas main extension program has been in effect to the total 15 year period of the program. The discount amount would be calculated using the formula: Initial fair share cost X (current year – 1998)/ 15. The lump sum payment for this option shall be determined by deducting the discount amount from the initial fair share cost of the gas main extension. Persons paying the fair share under this option do not pay the \$0.0404 gas surcharge of Option 1.

OPTION 3. Customers requesting service from mains installed after September 30, 1998, may select Option 1 or may pay the fair share cost of the gas main extension in one lump sum payment. The initial fair share cost of the main would be calculated by multiplying the front footage of the main by the average cost to install mains that year. The Duluth water and gas department engineer shall determine these values yearly. Front footage shall be determined by the dimensions of the lot and not how much of the main fronts on the parcel. Irregular shaped lots, corner lots and large parcels will be reviewed by the water and gas department engineer to determine the front footage. The initial fair share cost of the main shall be discounted by taking the ratio of the number of years the gas main extension program has been in effect to the total 15 year period of the program. The discount amount would be calculated using the formula: Initial fair share cost X (current year – 1998)/ 15. The lump sum payment for this would be determined by deducting the discount amount from the initial fair share cost of the gas main extension. Persons paying the fair share under this option do not pay the \$0.0404 gas surcharge of Option 1.

OPTION 4. Customers may privately install a gas main with water and gas department approval to the department's specifications and dedicate it to the city of Duluth.

Nonuse of service under Option 1

If a customer selects Option 1 above, but does not use the natural gas service within 60 days after a service is installed, the city of Duluth water and gas department shall bill the customer a fixed monthly charge appropriate to the class of service unless other arrangements at the time of application were made. This charge to the customer will end when customer starts consuming natural gas and is billed under one of the city of Duluth water and gas department's rate schedules, or the main extension rate expires or when the customer moves.

Availability

This rate schedule is available to all rate classes of customers requesting service subject to approval of the water and gas department of the city of Duluth. Once service is provided to an address through this program subsequent owners or customers requesting natural gas service shall pay the gas main extension rate for service until the Option 1 rate expires or a buy out of the program is completed.

Purchased Gas Adjustment (PGA)

Purchased gas adjustment does not apply to these rates.

RESOLVED FURTHER, that this resolution shall take effect upon the effective date of Ordinance 98-028-O or October 15, 1998, whichever is later.

Resolution 98-0845 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that it is necessary and that such necessity is hereby determined to exist that all right, title and interest in the following described property be taken by right of eminent domain under condemnation proceedings according to law, or purchased, by the city of Duluth in order

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

to accomplish the remediation of Duluth Dumpsite No. 1, to wit: The west 485 feet of the south 790 feet of the NE¼ of the NW¼ of Section 8, Township 50 North, Range 14 West, and that portion of the west 485 feet of the SE¼ of the NW¼ of Section 8, Township 50 North, Range 14 West, lying north of Rice Lake Road, all of such property being located in St. Louis County, Minnesota.

RESOLVED FURTHER, that the city is hereby authorized to take the necessary action to obtain the above described property and all interest therein for the city of Duluth.

RESOLVED FURTHER, that payments made by the city for acquisition of the above described property will be made from the Self Insurance Fund 605.

Resolution 98-0820 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute a purchase agreement with Levine & Son, Inc. relating to the remediation of Duluth Dumpsite No. 1, which agreement is on file in the office of the city clerk as Public Document No. 98-0914-27, at a cost to the city of \$30,000, which shall be payable from the self insurance fund.

Resolution 98-0825 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith & Frederick, P.A. for legal services in connection with the condemnation of property on Rice Lake Road owned by the Estate of Stanley A. Lepak, which agreement is on file in the office of the city clerk as Public Document No. 98-0914-28, at an estimated cost to the city of \$33,500, which shall be payable from the Self Insurance Fund 605.

Resolution 98-0828 was unanimously adopted.

Approved September 14, 1998

GARY L. DOTY, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the second time:

BY COUNCILOR PRETTNER SOLON

98-026 (9379) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3, APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, OF PROPERTY LOCATED AT 1118 EAST FOURTH STREET (FOURTH STREET AUTO- GARY LOFALD).

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

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BY COUNCILOR PRETTNER SOLON

98-029 (9380) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 3, 4 AND 5 AND LOTS 14, 15 AND 16, BLOCK 24, DULUTH HEIGHTS SIXTH DIVISION TO LEROY JAEGER, FOR A CONSIDERATION OF \$6,400, SAID AMOUNT TO BE DEPOSITED IN

GENERAL FUND 100, AGENCY 500, OBJECT 4640 (BASSWOOD AND MYRTLE STREETS).

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

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BY COUNCILOR GILBERT

98-028 (9381) - AN ORDINANCE PERTAINING TO WATER AND GAS REGULATIONS OF THE CITY; AMENDING SECTIONS 48-1, 48-6, 48-23, 48-25, 48-26, 48-27, 48-119, 48-120, 48-121, 48-124, 48-125, 48-142, 48-143, 48-144, 48-144.1, 48-151, 48-154, 48-171, 48-182, 48-183, 48-187, 48-199, 48-200, 48-201, 48-203, 48-213 AND 48-222, ADDING NEW SECTIONS 48-131.1 AND 48-214, AND REPEALING SECTIONS 48-117, 48-122, 48-123, 48-136, 48-137, 48-138, 48-139, 48-140, 48-141 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Gilbert moved to amend the ordinance as follows:

(a) That in Section 17 of the ordinance, the second sentence of Section 48-151 be amended to read: "No connection shall be made between the fire service pipe system downstream from the backflow preventer and the regular water supply to the premises";

(b) That in Section 19 of the ordinance, the first sentence of Section 48-171 be amended to read: "A suitable valve shall be installed on house water piping downstream of each meter";

(c) That in Section 25 of the ordinance, the first sentence of Section 48-201 be amended to read: "Sealed stops, valves or other fittings shall be broken only in cases of fire or other emergencies which necessitate the operation of the sealed stops, valves or fittings or with written approval of the department";

(d) That in Section 28 of the ordinance, the first sentence of Section 48-214(b) be amended to read: "The director of the water and gas department, with the approval of the city council, may develop programs and procedures for the extension of gas mains, funding of gas main extensions and procedures for connecting previously unassessed properties to existing mains in addition to procedures set forth in the City Charter";

(e) That a new Section 30 be added to the ordinance to read:

"Section 30. That Section 48-222 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-222. Charge in lieu of assessment for connection to water and gas mains.

Any person desiring to make a connection to a water or gas main to serve land not previously assessed for a direct special benefit conferred by the construction of such water or gas main shall apply to the office of the water and gas engineer for a connection permit, and shall accompany his application with a description of the land proposed to be served. The engineer shall forward such application to the special assessment board along with a recommendation for the amount of the connection fee which should be charged in such case. In developing such recommendation the engineer shall consider the then current average or typical front foot cost for the construction of a water or gas main. The special assessment board shall determine the appropriate connection fee to be charged in each case based upon the recommendation of the water and gas engineer. If not satisfied with the amount of the connection fee, the applicant may appeal the city council for a final determination of such matter. Such connection fee shall not include the street service charge, which shall be billed separately. Any person making application for a water or gas connection pursuant to this Section shall either elect to pay the established connection fee in full immediately, in which case such fee should be delivered to the water and gas engineer prior to issuance of the connection permit; or to pay such connection fee over a period of 15 years, in which case payment of such fee and interest shall be made in the same manner as is provided for the payment of deferred assessments under Section 68 of the City

Charter. In those cases where a person elects to pay the connection fee over a period of 15 years, he shall be required to execute an agreement, acceptable in form to the city attorney, which shall be recorded against the property to which the water or gas connection is made, and which shall bind the applicant and the future owners of such property to pay the unpaid balance of the connection fee.

Upon compliance by an applicant with the provisions of this Section, the water and gas engineer shall issue a connection permit; provided, however, that such engineer shall deny the issuance of such permit if the special assessment board determines that water or gas service might reasonably be provided to the property by a public extension of the water or gas system or if the granting of such permit would encourage development of property which cannot be economically served by other utilities or by improved public access. A decision on the part of the special assessment board to deny issuance of a connection permit may be appealed by the applicant to the city council.

For connections to existing gas mains where the property to be served has not been previously assessed, in lieu of the procedure set forth in this Section, the applicant for connection may pay for said connection as provided for in the gas main extension program developed pursuant to Section 48-214 of this Chapter," which motion was seconded and unanimously carried.

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

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BY COUNCILOR HALES

98-027 - AN ORDINANCE PROHIBITING AGGRESSIVE SKATING, SKATEBOARDING AND BICYCLING ON PUBLIC PROPERTY; ADDING A NEW SECTION 45-6.3 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hales reviewed that this ordinance is being brought back to the council at the request of the police department, and the purpose is to prevent aggressive skating that damages public property or is dangerous to the public.

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

Jesse Olson, Colin Thomsen, Christopher Virta, Tate Pagel, Joe Waugh, Pat Dickhudt and Ian Hassenstab spoke against the ordinance and submitted a petition of people who oppose the ordinance for the following reasons: there should be more public awareness on the issue so more input and suggestions can be made to the ordinance; the city needs to build a bigger and better skate park, otherwise there will always be skaters on the streets; the youth advisory board should be more involved with this issue; there is no public safety issue as no one gets hurt by skateboarders; aggressive skating gives the youth of the city something to do; and this ordinance makes it illegal to do anything fun with skateboards and would force the youth to go out and break the law.

Councilor Edwards questioned why the city has not worked with the youth advisory board in developing this ordinance and suggested the ordinance be tabled so that the youth advisory board can be brought into the process.

Councilor Swapinski questioned if the figures given the councilors regarding damage to city property by skateboarders are real and stated that there are already ordinances in place covering damage to public property. He also questioned how the police force can enforce aggressive skateboarding, as the definition leaves itself wide open for a court challenge. Councilor Swapinski voiced concern that the message the city is giving the youth is one of alienation and discrimination

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and he would much rather see the effort go into a skateboard park that will give the youth of the city an opportunity to enjoy their recreational activities.

Councilor Keenan stated that, as public officials, there needs to be a concern over the damage to public property no matter how it is caused and that tax dollars are needed to repair the damage. He continued by saying that during the budget process, the council needs to look at finding money to build a park that the youth will use.

Councilor Hardesty stated she thinks a good solution is to have the police department meet with the youth advisory board to review the problem and report back to the council before this ordinance is voted on.

Councilor Hales reminded councilors that they need to represent a full spectrum of the community and consider the concerns of the city when it comes to skateboarding. She continued by saying that when the ordinance was before the council two months ago, speakers stood at the podium saying that they wanted to be involved in the process, but everyone went away after the ordinance failed to pass. Councilor Hales stated that if these speakers are serious about what they say, there needs to be some follow through from the youth and the city. She moved to table the ordinance, which motion was seconded and unanimously carried.

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The meeting was adjourned at 10:00 p.m.

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

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ORDINANCE NO. 9379

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 35 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3, APARTMENT RESIDENTIAL TO C-1 COMMERCIAL, OF PROPERTY LOCATED AT 1118 EAST FOURTH STREET (FOURTH STREET AUTO-GARY LOFALD).

The city of Duluth does ordain:

Section 1. That Plate No. 35 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

[MAP]

[see page 505]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 25, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:

Passed September 14, 1998
Approved September 14, 1998

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

- - -

ORDINANCE NO. 9380

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF LOTS 3, 4 AND 5 AND LOTS 14, 15 AND 16, BLOCK 24, DULUTH HEIGHTS SIXTH DIVISION TO LEROY JAEGER, FOR A CONSIDERATION OF \$6,400, SAID AMOUNT TO BE DEPOSITED IN GENERAL FUND 100, AGENCY 500, OBJECT 4640 (BASSWOOD AND MYRTLE STREETS).

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described, to Leroy Jaeger, subject to conditions set forth in Public Document No. 98-0914-29, on file in the office of the city clerk, for consideration of \$6,400, said amount to be deposited in General Fund 100, Agency 500, Object 4640:

Lots 3, 4 and Lots 13, 14 and 15, Block 24, Duluth Heights Sixth Division.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: October 25, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

Passed September 14, 1998

Approved September 14, 1998

ATTEST:

JEFFREY J. COX, City Clerk

GARY L. DOTY, Mayor

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ORDINANCE NO. 9381

BY COUNCILOR GILBERT:

AN ORDINANCE PERTAINING TO WATER AND GAS REGULATIONS OF THE CITY; AMENDING SECTIONS 48-1, 48-6, 48-23, 48-25, 48-26, 48-27, 48-119, 48-120, 48-121, 48-124, 48-125, 48-142, 48-143, 48-144, 48-144.1, 48-151, 48-154, 48-171, 48-182, 48-183, 48-187, 48-199, 48-200, 48-201, 48-203, 48-213 AND 48-222, ADDING NEW SECTIONS 48-131.1 AND 48-214, AND REPEALING SECTIONS 48-117, 48-122, 48-123, 48-136, 48-137, 48-138, 48-139, 48-140, 48-141 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 48-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-1. Definitions.

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

Applicant. Any person or persons applying for water or gas service from the department and any guarantor of payment for such service as provided for in this Chapter.

Department. The department of water and gas of the city.

Domestic applicant. A noncommercial or nonindustrial applicant who uses gas solely for purposes other than heat; i.e., cooking, hot water, clothes dryer, etc., and an applicant for water or sewage or both.

Fire Service. An unmetered, large capacity water service which is used only for the suppression of fire and which is protected by appropriate backflow preventers to insure that potable water supplies are not contaminated.

High pressure gas line. Any gas line transmitting gas at a pressure in excess of 0.50 pounds per square inch (14 inches water column).

High volume gas service. Service used to provide gas at a rate in excess of 1,000,000 BTU's per hour.

High volume water service. Any service which is capable of providing in excess of 35 gallons of water per minute at water pressure levels which are normal at the location of such service.

House piping. The pipe or system of pipes conveying water or gas from the meter on a house service to the points of use of water or gas.

House service. That portion of a water service which extends from the curb stop controlling the flow through the house service, to and including the meter through which the flow in the house service is measured.

Master Box. The primary curb stop on a water service or private line which controls one or more curb stops downstream.

Meter. Meter is a registration device connected directly to a water or gas service line directly registering the amount of water or gas passing through it.

Privately owned service. A water or gas service supplying one or more parcels of private property that has not been accepted by the department as a part of its distribution facilities.

Remote register. A registration device attached to a meter replicating the reading on that meter.

Residential heating applicant. An applicant whose primary use of gas is as fuel for heating of a residence or residential building.

Service. A pipe for conveying an individual supply of water or gas of a premises from the common supply in the main to and including the meter registering the flow of water or gas to the service.

Standard volume gas service. Any gas service capable of using not more than 400,000 BTU's per hour.

Standard volume water service. Any water service which is capable of providing up to 35 gallons of water per minute at water pressure levels which are normal at the location of such service.

Street. A street, avenue, alley or other regularly established and existing public highway or public right-of-way.

Street service. That portion of a water service which extends from its connection with the main to and including the curb stop, which controls the flow through the street service.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 2. That Section 48-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-6. Application required; applicants to answer all questions of department.

(a) All applicants for water, gas, gas transportation or sewer service shall sign an application form for said service furnished by the department;

(b) No person or persons shall be provided service until they have presented sufficient information to the department to clearly and accurately establish, to the satisfaction of the department, their identity and their credit history.

Section 3. That Section 48-23 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-23. Opening or shutting of service stops and hydrants prohibited.

No person, without being authorized by the department, or by law, shall open or shut any service stop or fire hydrant or remove or unscrew, wholly or partially, the cap from such fire hydrant.

Section 4. That Section 48-25 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-25. Excavations within two feet of gas or water mains, services or hydrants, etc., prohibited.

No person in the city shall dig or excavate within two feet of any main pipe, valve, hydrant or blow-off belonging to the city except by use of hand tools or in a manner authorized by the department.

Section 5. That Section 48-26 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-26. Connections, etc., to be made by authorized persons only.

Any person making any attachment or connection to, or doing any work with or on any water house service and any appurtenances thereto, must be authorized by the laws of the state of Minnesota to do such work. All persons performing gas-fitting work from the outside meter stop valve to any appliance or outlet, including all gas house piping, shall be a plumber or pipefitter licensed by the state of Minnesota. The provisions of this Section shall not apply to city employees doing work for the city and to any property owner doing work on their single family, owner occupied dwelling.

Section 6. That Section 48-27 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-27. Turning on gas meter stop or water curb stop after same shut off by department.

No person whatsoever, other than an authorized employee of the city, shall turn on the supply of gas or water after such gas or water has been shut off by the department.

Section 7. That Section 48-119 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-119. Same--Easement for transfer of ownership.

The department shall accept transfer of ownership of any privately installed gas service line only if accompanied by an easement to the department on a form approved by the city attorney granting the department the right to place a gas service, where applicable, and gas meter upon such premises and the right of reasonable access to such premises to inspect, maintain, repair or replace them.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 8. That Section 48-120 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-120. Same--Private services to be maintained by department to curb stop only.

Any privately owned street services shall be maintained and repaired only by the department and at department cost. Privately owned water services downstream from the curb stop or master box shall be repaired and maintained by the owners at their expense.

Section 9. That Section 48-121 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-121. Same--Department services to be maintained at department's expense.

Except for damage done by others, all gas services owned by the department shall be maintained and repaired by the department at its own expense.

Section 10. That Section 48-124 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-124. Same--Installation of new high pressure services.

(a) High pressure gas services shall be installed by the department at its expense, except as provided by department regulations;

(b) All high pressure gas services shall be installed in strict conformance with all regulations and specifications of the department.

Section 11. That Section 48-125 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-125. Same--Centering of new services on property.

All new water street services will be located at the center of the property to be served unless otherwise agreed upon by the department, or unless the department shall specify otherwise after reasonable notice to the registered property owner and opportunity for said owner to be heard.

Section 12. That a new Section 48-131.1 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 48-131.1. Abandoning water and gas services.

A water or gas service shall be deemed to be abandoned when the structure or premises it served is demolished and not rebuilt within one year or when for any other reason it is anticipated that the service will never be used again. No person shall abandon a water or gas service without giving the department at least three business days written notice so that the service can be properly disconnected at the main. Service disconnections shall be made as provided in Section 10-4(i) of this Code. Services serving buildings to be demolished that are deemed suitable for reuse by the department for service to a newly constructed building on the site may be retained as provided in Section 10-4(i) of this Code.

Section 13. That Section 48-142 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-142. Department property.

All curb stops and curb stop boxes used in the distribution of water and gas, except on privately owned services, are the property of the department and the department shall have the exclusive right to repair, maintain or replace them at its own expense.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 14. That Section 48-143 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-143. Expense of installation.

The department will furnish one curb stop and curb stop box for water for connection to each house service. Additional curb stops and curb stop boxes shall be furnished by the department for a reasonable fee.

Section 15. That Section 48-144 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-144. Tampering, etc.

No person not a representative of the department shall tamper with, manipulate or disconnect in any manner curb stops or curb stop boxes, or attempt to do so.

Section 16. That Section 48-144.1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-144.1. Access by department.

The department shall have the right of reasonable access to served premises for the purposes of inspecting, turning on, turning off, maintaining, repairing or replacing curb stops and curb stop boxes.

Section 17. That Section 48-151 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-151. Drawing of water prohibited; valves to be sealed.

No water shall be drawn from the fire service pipes downstream from the backflow preventer for any purpose whatever, except for the extinguishment of fire. No connection shall be made between the fire service pipe system downstream from the backflow preventer and the regular water supply to the premises. Valves on hose outlets, drain valves, etc., placed on the pipe system shall be of a style that can be sealed by the department inspector. When any such valve is opened, the owner or occupant of the premises shall notify the department so that the same can be resealed at once. This Section shall not be construed as prohibiting a reasonable use of water for fire drills, draining of a system to prevent freezing or other reasonable use in connection with proper fire protection.

Section 18. That Section 48-154 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-154. Water to be shut off where being wasted from service; service may be discontinued for second violation.

In any case when the owners or occupants of any premises are found to be using or wasting water from a fire service for other purposes than fire protection, the water shall be shut off from same until the offender shall give reasonable assurance to the director of public utilities that the offense will not be repeated. Payment of the current service charge plus the estimated charge of water taken or wasted will be required for turning the water on after it has been shut off for this cause.

A second violation of this rule will be considered sufficient cause of cutting the service off at the main, and refusing to reconnect the same while the offender occupies the premises.

Section 19. That Section 48-171 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-171. Valve required adjacent to meter; reduction valve required on certain systems.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

A suitable valve shall be installed on house water piping downstream of each meter. Where water pressure exceeds 80 pounds per square inch, a suitable pressure reducing and regulating valve shall be installed on the water service pipe adjacent to the water meter.

Section 20. That Section 48-182 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-182. Application--generally.

Permanent and temporary meters will be furnished and installed by the department upon the filing at the office of the department of an approved application therefor, accompanied by the payment of duly authorized installation charges, if any, and any security required under this Chapter.

The applicant for a temporary meter shall designate the number of days he will require use of the meter. Upon completion of construction he shall notify the department, water shall be shut off at the curb and the meter removed from the premises by an authorized employee of the department. Permanent meters shall not be installed until approval is obtained that the effluent or waste facilities from a premises has met the regulations set forth by the building inspector's office.

Section 21. That Section 48-183 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-183. Same--grounds for disapproval.

Any application for installation of meters may be disapproved for premises whose applicant is in arrears to the department for lawful charges for gas or water supply, street services, or other commodities, supplies or services or on which premises any regulations as to house piping, house service, street service or inspection remain uncomplied with or when charges for water or gas consumed on such premises remain unpaid.

Section 22. That Section 48-187 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-187. Tests.

Upon request of the applicant, the department will test the meter supplying any premises, in the presence of the applicant should the latter so desire. Should the meter be found not to register correctly within two percent on a flow equal to that through an orifice of diameter equal to 1/8 of the nominal size of the meter, no charge will be made. Otherwise the current service charge will be made by the department to pay for testing and resetting the meter.

Section 23. That Section 48-199 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-199. Charges.

One inspection trip in each case will be performed without charge. Additional visits for inspection, necessitated by unsatisfactory work at the time specified in the notification, shall be paid for by the plumber or gas fitter at the current service rate for each such additional visit.

Section 24. That Section 48-200 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-200. Right of department to seal valves, openings, etc.

The right is reserved to the department to seal any valve, opening or any part of the piping on the applicant's premises where it would be unlawful to make

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

connections or to draw the water or gas. The owner shall, at the request of the department, provide stops, valves or other fittings of a style that can be readily sealed.

Section 25. That Section 48-201 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-201. Department to be notified when sealed valves, stops, etc., opened.

Sealed stops, valves or other fittings shall be broken only in cases of fire or other emergencies which necessitate the operation of the sealed stops, valves or fittings or with written approval of the department. It shall be a violation of this Section to break the seals under any other circumstances. When any seal is broken, the owner or occupant of the premises shall notify the department within 24 hours of the occurrence so that the seals may be replaced.

Section 26. That Section 48-203 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-203. Inspection.

Seals will be inspected by the department from time to time. No charge for inspection will be made in the case of seals found unbroken. In the case of a seal found broken, of which no report has previously been made to the department, an inspection fee equal to the current service fee shall be made for each seal found broken and not reported.

Section 27. That Section 48-213 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-213. Generally; water mains.

Whenever the city council shall order the extension of water mains, or the installation of new water services as provided for in sections 48-122 and 48-130, pursuant to Section 62 of the City Charter and upon completion of such extension and appurtenances or any part thereof, the cost of such extension including engineering and other expenses having been determined, an assessment of such cost shall be made against the property specially benefited by such extension or portion thereof so completed, which assessment shall be payable pursuant to the provisions of Section 68 of the City Charter; provided that in determining the cost of any extension assessed under the provisions of this Article, any cost arising from the laying of water mains larger than eight inch mains, over and above what would be the cost of such eight inch mains, shall not be included in the assessments of residential property.

Section 28. That a new Section 48-214 be added to Article XII of Chapter 48, Duluth City Code, 1959, as amended, to read as follows:

Sec. 48-214. Generally; gas mains.

(a) The city council hereby finds that the deregulation of the natural gas industry and competition from other energy suppliers has subjected the Duluth water and gas department to competitive pressures in the gas sales area that it has never before faced. The city council further finds that the existing methods for extending gas mains in Duluth are cumbersome and capital intensive to prospective gas customers. The city council finds that having a more flexible and cost competitive gas main extension policy would enhance the water and gas department's ability to market natural gas and remain competitive with other suppliers. It is the purpose

of this Section to provide a method of developing gas main extensions that will enable the water and gas department to remain competitive in the future:

(b) The director of the water and gas department, with the approval of the city council, may develop programs and procedures for the extension of gas mains, funding of gas main extensions and procedures for connecting previously unassessed properties to existing mains in addition to procedures set forth in the City Charter. Without limitation, these programs may involve the creation of a two tiered gas rate in lieu of assessments for gas main extensions and may involve the development of a sinking fund to finance future gas main extensions. These programs may also provide that the department may enter into long term gas usage agreements with customers in conjunction with gas main extensions. No gas main extension program shall take effect until it is approved by resolution of the city council.

Section 29. That Sections 48-117, 48-122, 48-123, 48-136, 48-137, 48-138, 48-139, 48-140 and 48-141 be repealed in their entirety.

Section 30. That Section 48-222 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-222. Charge in lieu of assessment for connection to water and gas mains.

Any person desiring to make a connection to a water or gas main to serve land not previously assessed for a direct special benefit conferred by the construction of such water or gas main shall apply to the office of the water and gas engineer for a connection permit, and shall accompany his application with a description of the land proposed to be served. The engineer shall forward such application to the special assessment board along with a recommendation for the amount of the connection fee which should be charged in such case. In developing such recommendation the engineer shall consider the then current average or typical front foot cost for the construction of a water or gas main. The special assessment board shall determine the appropriate connection fee to be charged in each case based upon the recommendation of the water and gas engineer. If not satisfied with the amount of the connection fee, the applicant may appeal the city council for a final determination of such matter. Such connection fee shall not include the street service charge, which shall be billed separately. Any person making application for a water or gas connection pursuant to this Section shall either elect to pay the established connection fee in full immediately, in which case such fee should be delivered to the water and gas engineer prior to issuance of the connection permit; or to pay such connection fee over a period of 15 years, in which case payment of such fee and interest shall be made in the same manner as is provided for the payment of deferred assessments under Section 68 of the City Charter. In those cases where a person elects to pay the connection fee over a period of 15 years, he shall be required to execute an agreement, acceptable in form to the city attorney, which shall be recorded against the property to which the water or gas connection is made, and which shall bind the applicant and the future owners of such property to pay the unpaid balance of the connection fee.

Upon compliance by an applicant with the provisions of this Section, the water and gas engineer shall issue a connection permit; provided, however, that such engineer shall deny the issuance of such permit if the special assessment board determines that water or gas service might reasonably be provided to the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

property by a public extension of the water or gas system or if the granting of such permit would encourage development of property which cannot be economically served by other utilities or by improved public access. A decision on the part of the special assessment board to deny issuance of a connection permit may be appealed by the applicant to the city council.

For connections to existing gas mains where the property to be served has not been previously assessed, in lieu of the procedure set forth in this section, the applicant for connection may pay for said connection as provided for in the gas main extension program developed pursuant to Section 48-214 of this Chapter.

Section 31. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 25, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 14, 1998
Approved September 14, 1998
GARY L. DOTY, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 28, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Absent: Councilor Rapaich -- 1

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The minutes of the council meeting held on June 22, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-0928-01 Minnesota state auditor submitting management and compliance report of the city of Duluth for the year ended December 31, 1997. -- Received

98-0928-02 Sixth Judicial District Chief Judge John T. Oswald submitting order appointing Howard D. Martz replacing Robert Eaton, Douglas R. Nelson replacing Kay Frederickson, John Strongitharm replacing Kenneth Larson; and reappointing Kenneth Hogg, Cruz Mendoza, Kenneth Niebel and Hamilton Smith to the Charter commission for terms ending June 1, 2002. -- Received

98-0928-03 Evensen Dodge, Inc., financial consultants, submitting postsale analysis for \$6,790,000 general obligation street improvement bonds, Series 1998C, sold on July 23, 1998. -- Received

98-0928-04 The following submitting communications regarding the granting of a special use permit to OPUS Corporation for a community unit plan for property located at the southeast corner of Trinity Road and Central Entrance (98-0774R): (a) Ron DeGrio; (b) Duluth Area Chamber of Commerce; (c) Joe Golden; (d) Mike Ives Realty; (e) Jerry Kimball; (f) Edward Kuth; (g) Mobile Housing, Inc.; (h) RKL-Kuusisto, Ltd.; (i) John Riesgraf; (j) George Weller. -- Received

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REPORTS OF OFFICERS

98-0928-05 Assessor submitting:

(a) Letter of insufficiency of petition to vacate a portion of the right-of-way between Lake Avenue and First Avenue East;

(b) Letter of sufficiency of petition to vacate the northwesterly 135 feet of Canal Park Drive Alley. -- Received

98-0928-06 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from Temple Israel on December 15, 1998. -- Received

98-0928-17 Community development and housing manager submitting draft FY 1999 CDBG action plan and funding recommendations for 30 day public comment period. -- Received

98-0928-07 Engineering division submitting monthly project status report of September 1, 1998. -- Received

98-0928-08 Parks and recreation department director submitting Lake Superior zoological society: (a) Minutes of July 29, 1998, meeting; (b) Financial statements for July and August, 1998. -- Received

98-0928-09 Purchasing agent submitting emergency orders awarded to: (a) Davies Water Equipment for water main pipe; (b) Foster Jacobs and Johnson, Inc., for professional engineering contract for Lift Station No. 26. -- Received

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Richard Larson, director of public works, and councilors discussed extensively how the city intends to respond to business and residential property owners' complaints regarding storm water utility fees.

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REPORTS OF BOARDS AND COMMISSIONS

- 98-0928-10 Board of zoning appeals minutes of August 25, 1998, meeting. -- Received
- 98-0928-11 Building appeal board minutes of June 10, 1998, meeting. -- Received
- 98-0928-18 Citywide citizens advisory committee minutes of September 9, 1998, meeting. -- Received
- 98-0928-16 Duluth airport authority: (a) Minutes for meetings held: (1) July 21; (2) August 18; (3) August 24, 1998; (b) Financial statements of: (1) July 31; (2) August 31, 1998. -- Received
- 98-0928-19 Heritage preservation commission minutes of August 24, 1998, meeting. -- Received
- 98-0928-12 Planning commission minutes of: (a) August 11, 1998; (b) September 8, 1998, meetings. -- Received
- 98-0928-13 Sanitary sewer board of WLSSD minutes of August 17, 1998, meeting. -- Received
- 98-0928-14 Technical design advisory committee for DWMX-D minutes of: (a) June 23; (b) August 25, 1998, meetings. -- Received
- 98-0928-15 Tree commission submitting: (a) Minutes of September 8, 1998, meeting; (b) Recommendations regarding the commission's role. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Andy Anderson, representing Veterans for Peace, Phil Pruss and Mark Gonzalez opposed the docking of the U.S.S. Des Moines in West Duluth because it is not aesthetically or environmentally suitable, it is too costly and it is morally inappropriate. Concern was raised that the issue of docking the ship in Duluth is again being considered even though a referendum held earlier this year indicated that citizens overwhelmingly rejected the project for this community.

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 98-0741, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale to the city of Duluth a certain tax forfeited parcels now withheld from sale in conservation; and Resolution 98-0774, granting a special use permit to OPUS Corporation for a community unit plan for property located at the southeast corner of Trinity Road and Central Entrance, from the table, which motion was seconded and unanimously carried.

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

Jay Scott, director of real estate development for OPUS Corporation, gave an overview of the project and noted that the proposed plan conforms to established ordinance guidelines for development; it will be 100 percent privately funded; it will actually provide financial assistance to the city for badly needed upgrades to the city's infrastructure and utilities; and it is a responsible development that satisfactorily addresses and responds to concerns raised by residents, neighbors, city staff and environmental groups. He explained how this plan differentiates from a prior plan, which is now irrelevant, that was submitted to the citizens and defeated in a previous referendum.

John Dietrich, representing Opus Corporation, stated that the community unit plan being presented is a solid plan that has been fully engineered, fully designed, with civil engineering, architecture and landscape architecture versus the concept plan that was submitted as part of the referendum. He added that the plan meets all of the criteria and has been put to the test.

Responding to Councilor Gilbert, Mr. Dietrich stated that a community unit plan is the same as a planned unit development, or similar type of acronym, depending upon the city the firm is working in, and consists basically of putting their plans on the table, fully designed and engineered, before they are set and approved so that everyone knows what the plan is. He acknowledged that the company has done dozens of them in the past and that the plan is consistent with the zoning regulations of the city involved.

Responding to Councilor Gilbert, Jim Mohn, physical planning division staff person, acknowledged that a community unit plan and a planned unit development are synonymous.

Dave Goldberg, owner of the site, stated that he is in the business of residential manufactured housing and because the property is zoned appropriately there is no reason he could not develop housing on the site. He continued by saying that because of all of the commercial development around the site, a housing development is not appropriate or desirable and for him to turn a profit he would need to clear or cut the whole site of all the trees and put in high-density, low cost housing on 50 foot lots. Mr. Goldberg stated that if the neighborhood wishes to retain its integrity, OPUS should be allowed to develop a quality commercial project that will permanently retain 32 acres of green space as a buffer which can also be used for recreation by the neighborhood.

Joe Ferguson, representing Simon Properties, owners of Miller Hill Mall, stated that his client has no objection to the OPUS project.

The following speakers spoke in support of the project as proposed by OPUS Corporation: Robert LaFlamme; Michael Orman; Bill Lee; Jim Holmgren; Bob Brooks; Paul Huston; David Ross, representing the Duluth Area Chamber of Commerce; George Sundstrom; Craig Olson; Michael Bolen, economic development director for the chamber, George Weller and Scott Stariha, manager of the Duluth Builders Exchange.

Reasons given and statements made in support of approval of the community unit plan as proposed by Opus Corporation were as follows: the project meets all of the criteria required by a community unit plan; the Duluth Heights Community Club membership was involved in reaching the compromise that has been presented; of all the plans proposed for this site, this is the best plan that has been submitted; this is the only piece of land left on Highway 53 that is within the city limits that can appropriately accommodate a project such as this; this area is primarily retail and it is unreasonable and unrealistic to expect the developer to propose that the site be used for anything else; if this plan is not approved, this development will be constructed outside the city; the property owner, who cannot be expected to let the property lie dormant, will solicit other types of development that may not be as conducive or sensitive to environmental and neighborhood concerns; the property will be developed whether this project is approved or not; the approval of this project will provide Duluth with opportunities to grow; the project will contribute to the community economically; the jobs to be provided are living wage jobs with benefits; local residents depend upon projects like this to make a living and OPUS has guaranteed that negotiated local union wages will be paid to local union members for construction of this project; the neighborhood will benefit because sidewalks on Anderson Road will be constructed for pedestrian safety; existing water problems will be cleaned up and resolved; the OPUS project provides for protection of the neighborhood by preserving 32 acres of green space for its utilization; the city and Minnesota department of transportation are developing plans that will enhance and resolve traffic

issues in the area whether this development is constructed or not; and if the alternative proposal of high density housing is put there, children will not be safe from traffic and the area schools will not be able to accommodate the volume of children it will bring.

The following speakers spoke in opposition to the OPUS project: Hal Moore; Beth Tamminen; Myrna Mathison; Barbara Bowling; Joel Sipress; Rosie Loeffler-Kemp; Phil Pruss and Bill Westgard.

Reasons given and statements made in opposition to approval of the community unit plan as proposed by OPUS Corporation were: the perception that the neighborhood supports this project is incorrect; the neighborhood opposes having any development occur; in general, neighborhood residents who oppose this project were not notified or involved in the planning meetings; neighborhood residents have been forced to succumb to city and developer intimidation and resigned themselves to the fact that the city is going to allow development of this property regardless of the results of the referendum; there is incredulous neighborhood disbelief that the city would allow consideration of another project on this site after a referendum was held indicating that it should not be developed at all; every district in the city rejected this project in the referendum and the council should represent and respect what the citizens want for this area instead of relying on the "experts" who think they know what is best; requests were made to deny any new development in the area until after the comprehensive land use plan is completed; residents who oppose this project came out in numbers during the referendum; no one has an absolute to use his or her land in a way that may harm the public health or welfare, or that damages the quality of life of neighboring land owners or the community as a whole; there is concern of how the wetlands will be relocated and of water runoff; the neighborhood supports residential development for which the property is zoned; and creating more commercial shopping areas cannot be construed as progress.

Jerry Kimball gave a presentation including slides and drawings that reflect that the proposed project is more similar to the project that was presented to voters in the referendum than developers admit. He stated that the project does not comply with present community unit plan requirements because amenities necessary to a commercial development such as landscaped islands, the water retention basins, the setback off of Central Entrance and removal of trees have been excluded from the plan. Mr. Kimball further stated that at the public meetings residents were brainwashed and intimidated by the property owner's actions and various statements such as a more offensive project, i.e. a mobile home park, may be constructed on the site if this project is rejected again. He encouraged councilors to respect the results of the referendum which reject this project.

Ron DeGrio noted that regardless of the decision on the OPUS development, the residents on Anderson Road deserve to have the longstanding issues of water runoff and traffic problems attributed to the Miller Hill corridor plan, as a whole, addressed by the city and he encouraged councilors to involve themselves in getting a plan set in motion.

President Hogg stated that it is an error for residents to believe that the city initiated this project.

Councilor Prettner Solon stated that this is an issue of property rights and that according to the United States Constitution, the owner has the right to develop his property to its highest and best good. She continued by saying that over the past 20 years, the property owner has tried in many ways to develop the property so that the neighborhood and citizens of Duluth would be satisfied and there has been opposition all along the way. Councilor Prettner Solon stated that it is the council's responsibility to protect the rights of the citizens of Duluth and that if there are others who want to keep this site as green space, then it is important for the citizens to purchase

the property. She suggested that if there is a desire for the city to spend taxpayer dollars to acquire this property and take it off the tax rolls, there needs to be a clamoring of taxpayers who are willing to foot the bill to pay the property owner an equitable price for the site. Councilor Prettner Solon noted that the testimony thus far has been pleas to not let the property owner develop the property any way that he wants to develop it, but that residents want the right to enjoy it as it is without having to pay the cost of owning it. She summarized that what makes this issue a community issue is the fact that it is in a commercial/retail strip that is best suited for retail and that it is a neighborhood issue because there is a residential district close by. Councilor Prettner Solon noted the offer of the developer to preserve 32 acres as green space to provide an adequate buffer between the neighborhood and the commercial districts. She further stated that throughout her travels in the United States, OPUS has been referred to as a high class, quality, responsible developer with the utmost integrity and she believes it would be a shame to have them walk away from the community. Councilor Prettner Solon said that she will support this proposal because it is the best one submitted.

Councilor Swapinski moved to amend Resolution 98-0774 by adding the following language after the words "the following terms and conditions":

"That the required mitigation of approximately 3.8 acres of wetlands occur on the site of the proposed development or within the Miller Creek and/or Coffee Creek watersheds," which motion was seconded for discussion.

Councilor Swapinski stated that if mitigation in the immediate watershed is not adhered to, the council is setting a precedent for developers to go off site and, in this instance, he disagrees with the variance as passed by the planning commission because it allows off site mitigation on property that is not within the limits of the city of Duluth.

Councilor Prettner Solon stated she does not have enough information as to how this would impact the project and why, specifically, it was recommended against having it on site in the first place. She said her understanding is that it will require more cutting of trees that the planning of this project has tried to protect and will work contrary to what the neighborhood prefers.

Mr. Scott stated that mitigating the wetlands off the site is in response to the neighborhood in that they do not want to see the mitigation occur on site because it will require the removal of the heavily forested area or trees. He stated that OPUS is willing to mitigate on site if that is the council's wish.

Mr. Mohn showed a map of the site and explained how, if it is decided to mitigate on site, by taking advantage of the soil conditions, known hydrology and the removal and excavation of vegetation, the mitigation will be achieved to meld in with existing wetlands. He stated that his observation from tours to the site with various officials from the area regulating authorities is that there was consensus on the part of those individuals and that it would be inappropriate to mitigate on site and disrupt the 3.8 acres of mature forest in order to achieve the mitigation. Mr. Mohn continued by saying that one opinion expressed by an individual was that if future residential development is anticipated for the site south of the commercial area, on site mitigation should occur because it will reduce the potential for residential development.

Councilor Swapinski reiterated that his amendment allows for mitigation into the Miller/Coffey creeks' watersheds. He reviewed that the planning department staff report regarding the planning commission meeting states that to "mitigate other than on site or in the Miller/Coffee creeks' watersheds would be in conflict with the city's water resources management ordinance," and, for that reason, he is offering the amendment.

Responding to Councilor Hales, Mr. Mohn stated that the mature forest consists of species of pine, spruce, poplar and birch and is at least 25 years old. He acknowledged that other sites

for mitigation were suggested and that it was recommended that OPUS do a search for other sites. However, for reasons unknown to him, other sites were deemed unsuitable.

Responding to President Hogg regarding other areas on the site that might be used for mitigation, Mr. Mohn stated it is his understanding that, based on the soil studies that were done, the area designated on the map for on site mitigation has existing appropriate hydrology and soil conditions to make a functional replacement wetland for those that are being impacted.

Responding to Councilor Keenan regarding an investigation by OPUS to consider other sites for mitigation within the Miller Creek watershed, Mr. Dietrich stated that one was in the flight path of the airport making it inappropriate, and that the second was on property near the Duluth Heights soccer fields which is upland with dryer soil conditions and did not have the hydrology to sustain a wetland.

Councilor Swapinski's amendment passed upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Edwards -- 1

Absent: Councilor Rapaich -- 1

Councilors Hardesty and Swapinski stated that in respect of the results of the referendum they will not support this community unit plan because they do not believe the plans for this project have changed significantly from the plan that was presented to the voters two years ago or that enough time has elapsed since the referendum to warrant this.

Regarding the property owner's rights, Councilor Swapinski stated that the property owner has the right to develop the property in accordance with zoning regulations, that this is a residential neighborhood, and the neighbors, who also have rights, wish to see it remain that way.

Councilor Hales noted changes in the new plan that she believes are vastly different from the original one. She stated this is a sound project that will provide the city with needed tax base and, if it is not constructed on the proposed site, Hermantown will reap the benefits from it.

Councilor Keenan noted that community unit plans usually include some type of housing in them and the fact that this one does not makes it a zoning issue because a commercial use is what is being proposed. He said he is unwilling to overrule what the citizens mandated in the referendum and that the comprehensive land use plans need be approved before any new development is allowed.

President Hogg agreed that a comprehensive plan for land use within the city needs to be completed and approved before more new developments are proposed. He noted, with regard to the results of the referendum held two years ago, that he has received many telephone calls from neighborhood residents who will be most affected by this project supporting this proposal because they believe it best protects and preserves their property as a residential neighborhood.

Councilor Edwards stated that she intended to uphold the results of the most recent referendum, but numerous constituent comments in support of the project have convinced her that this is an entirely different project that she can support. She noted concern that Councilor Swapinski's amendment requiring on site mitigation will require the cutting of mature trees which cannot be replaced and may have a detrimental affect on landscaping of the site.

Councilor Gilbert criticized the city for not having an established process for developers who wish to bring new development to the area which would benefit the city economically. He stated that the city has a reputation for turning away new development and that he empathizes with OPUS and the property owner, who, he believes, is being prevented from developing his property and has not been dealt with fairly. Councilor Gilbert stated that although he supports the developer and the property owner, he will oppose the project in an effort to uphold the results of

the referendum which was decided by the majority of citizens who reside in Duluth. In fairness to the property owner, he supported the purchase of the property by the city if development of the site will not be allowed.

Councilor Prettner Solon stated that it appears that the project will be defeated on a tie vote and moved to table both resolutions for one week until Councilor Rapaich is present, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Hales, Prettner Solon and President Hogg -- 4

Nays: Councilors Gilbert, Hardesty, Keenan and Swapinski -- 4

Absent: Councilor Rapaich -- 1

Resolution 98-0774, as amended, failed upon the following vote (Public Document No. 98-0928-21):

Yeas: Councilor Hales and President Hogg -- 2

Nays: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon and Swapinski -- 6

Absent: Councilor Rapaich -- 1

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Resolution 98-0741 failed upon the following vote (Public Document No. 98-0928-20):

Yeas: Councilor Hales -- 1

Nays: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Absent: Councilor Rapaich -- 1

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At this time, 10:55 p.m., Councilor Keenan moved to extend the meeting until 11:30 p.m., which motion was seconded and carried unanimously.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

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BY PRESIDENT HOGG:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 98-0928-22, leasing to Wireless North, LLC, a space on the Woodland water tower and adjacent pump house for installation of communications antennas and equipment for a consideration of \$16,200 per year, said money to be deposited in Water Fund No. 510.

Resolution 98-0849 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the assessment rolls levied to defray the assessable portions of Contract No. 5298, 1997 citywide sidewalk program (assessable \$6,000; other funds \$245,369.80; total \$474,498.86) and Contract No. 5277, Bayfront Lift Station No. 13 (assessable \$149,356.21; sanitary sewer \$162,116.74; total \$311,472.95), be and the same are hereby confirmed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0890 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

WHEREAS, the Minnesota Deer Hunter's Association 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's Association 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 98-0871 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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, 1999, subject to departmental approvals, and the payment of sales and property taxes:

Wendy Glader (Gladers Grocery), 5912 Raleigh Street.

Resolution 98-0872 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues an additional bar license to the following on sale intoxicating liquor license for the period ending August 31, 1999, subject to departmental approvals:

Gold Knight, Inc. (Charlie's Club), 5527 Grand Avenue.

Resolution 98-0873 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council hereby reappoints Helena E. Jackson to the Seaway Port authority of Duluth for the term expiring October 10, 2004.

Resolution 98-0862 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of superintendent, sewer division, including a title change to manager, sewer division, which were approved by the civil service board on January 6, 1998 and which are filed with the city clerk as Public Document No. 98-0928-23, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and that he pay range will change from pay range 1085, \$3,674 to \$4,480 per month to pay range 1105, \$4,032 to \$4,916 per month.

Resolution 98-0876 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of city forester, which were approved by the civil service board on October 7, 1997, and which are filed with the city clerk as Public Document No. 98-0928-24, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and that the pay range will change from pay range 1050, \$3,232 to \$3,942 per month, to pay range 1080, \$3,586 to \$4,394 per month.

Resolution 98-0877 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant district maintenance supervisor, including a title change to street maintenance supervisor, which were approved by the civil service board on September 5, 1995, and which are filed with the city clerk as Public Document No. 98-0928-25, are approved, that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, and that the pay range will change from pay range 1075, \$3,497 to \$4,248 per month, to pay range 1080, \$3,586 to \$4,394 per month.

Resolution 98-0878 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proposed specifications for the new civil service classification of assistant city clerk, which were approved by the civil service board on June 2, 1998, and which are filed with the city clerk as Public Document No. 98-0928-27, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1055, \$3,321 to \$4,052 per month.

Resolution 98-0880 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Second Avenue East between Eighth Alley and Eighth Street legally described as: that portion of Second Avenue East adjacent to Lot 34, Block 86 and Lot 32, Block 87, Duluth Proper Third Division, between the northerly lines, as extended and the southerly lines, as extended, of said lots; 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 September 8, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of described above, and as more particularly described on Public Document No. 98-0928-28.

BE IT FURTHER RESOLVED that the westerly 1/2 of the vacated avenue be retained as a utility easement.

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

Resolution 98-0851 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 12th Avenue West between Seventh and Eighth Streets West legally described as: that part of 12th Avenue West located southerly of the southerly line of West Eighth Street and northerly of the northerly line of West Seventh Street, and also being located between Blocks 101 and 102, Duluth Proper, Third Division, 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 approved unanimously the vacation petition at its September 8, 1998, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of described above, and as more particularly described on Public Document No. 98-0928-29.

BE IT FURTHER RESOLVED, that a 20 foot wide utility easement be retained along the easterly right-of-way line of the avenue 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 the avenue to be vacated and the easement.

Resolution 98-0853 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR 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 #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
98118	Ann Lindblad	Lot 341 except northerly six feet for alley, Block 167, Duluth Proper Second Division (10-1220-5280)	North side of Seventh Street between 21st and 22nd Avenues West (Lincoln Park/West End)
98132	St. Louis County	Lot 3, Block 73, Portland Division (10-3830-10720)	North side of Third Street between Seventh and Eighth Avenues East (Central Hillside)
98133	City of Duluth	East half Lot 53, Block 85, Duluth Proper Third Division (10-1350-960)	North side of Seventh Street between Third and Fourth Avenues East (Central Hillside)
98137	St. Louis County	Lots 4-5, Block 11, Gary First Division (10-180-1640)	East side of 98th Avenue West between Dickson and Reis Streets (Gary-New Duluth)
98139	Steve Lindberg	Lots 1-11, Block 57, Bayview Addition No. 2 (10-230-3560 partial)	North side of Godolphin Street between Irwin and Simmins Avenues (Bayview Heights)
98140	St. Louis County	Lot 7, Block 27, Bayview Addition No. 1 (10-220-4230-partial)	North side of Clay Street between Rogers Boulevard (Skyline Parkway) and Clay Street (Bayview Heights)

Resolution 98-0857 was unanimously adopted.
Approved September 28, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth (city) pursuant to Resolution No. 97-0225 adopted on March 31, 1997, entered into an agreement with SVCNDA in which SVCNDA agreed to operate the West Duluth housing revitalization program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, both parties desire to amend the agreement in order to extend the term of the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0928-30 to the agreement with SVCNDA which extends the term of the agreement through June 30, 1999, with no change in compensation under the terms of the agreement.

Resolution 98-0859 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city has received notification from the Northland Foundation to receive a grant of \$1,000.

FURTHER, said grant be used to defray expenses incurred for an Intergenerational Arts Events and Rediscover Your Environment project as part of the summer recreation program at Lafayette Square. Such expenses include payment to the Duluth Art Institute and Lake Superior Center for services rendered.

RESOLVED, that the proper city officers execute an agreement (Public Document No. 98-0928-35) and upon receipt of such reimbursement in the amount of \$1,000 from the Northland Foundation that such funds be deposited into Parks and Recreation General Fund Account 100-400-1812.

Resolution 98-0865 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city has received notification from the Northland Foundation of a grant award in the amount of \$5,425.

FURTHER, said grant is to be used for expenses anticipated to promote and celebrate the 25th anniversary of senior dining in the Arrowhead region, covering the period of October 1, 1998, through December 31, 1998.

RESOLVED, that the proper city officers execute an agreement (Public Document No. 98-0928-36) and upon receipt of grant funds in the amount of \$5,425 from the Northland Foundation that such funds be deposited into Special Projects Fund Account 210, Agency 030, Organization 2135.

Resolution 98-0866 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the city desires to assist the Arrowhead Zoological Society complete projects such as the primate conservation center at the zoo; and

WHEREAS, Resolution 97-0544 designated a \$120,000 tourism tax fund balance for capital improvements to tourist related activities; and

WHEREAS, the construction of the primate conservation center at the zoo is a tourist related capital improvement;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

NOW, THEREFORE, BE IT RESOLVED, that \$30,000 from Fund No. 450-015-1997-C707 be paid to the Arrowhead Zoological Society to partially reimburse the society for construction costs of the primate conservation center.

Resolution 98-0874 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that North Star Turf, Inc., be and hereby is awarded a contract for furnishing and delivering one athletic field groomer/rake for the parks and recreation department in accordance with specifications on its low specification bid of \$8,220.74, terms net 30, FOB destination, payable out of Golf Fund 503, Dept./Agency 400, Organization 0505, Object 5580.

Resolution 98-0882 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

RESOLVED, that the city is hereby authorized to accept a testamentary gift in the amount of \$209,396.73 plus an undetermined amount of interest from Robert N. Brownlee for the Duluth Public Library.

RESOLVED FURTHER, that such money shall be deposited in the library special gifts account.

Resolution 98-0894 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to pay to Kolar Auto World the amount of \$14,325 in full settlement of all claims for damage to its parking lot near 15th Avenue East and Superior Street which occurred on August 7, 1998, payment to be made from the self insurance fund.

Resolution 98-0826 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Trenchers Plus, Inc., be and hereby is awarded a contract for furnishing and delivering one case trencher with cable plow attachments, front attachments and trencher attachments for the water and gas department in accordance with specifications on its low specification bid of \$27,178.80, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-0854 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and delivering construction of one inch and three inch plastic high pressure gas mains and 1/2 inch plastic gas services and related work from Bessemer Street and Riverside Drive to Spirit Mountain maintenance building and chalet for the gas division in accordance with specifications on its low specification bid of \$51,369.50, not to exceed \$70,000, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0884 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Copy Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering ten metal locators for the water and gas department in accordance with specifications on its low specification bid of \$5,431.50, terms net 30, FOB destination, \$2,715.75 payable out of Water Fund 510, Dept./Agency 900, Organizations 0543/0540, Object 5240 and \$2,715.75 payable out of Gas Fund 520, Dept./Agency 900, Organizations 0543/0540, Object 5240.

Resolution 98-0886 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Venture Fuels be and hereby is awarded a contract for furnishing and delivering coal for three heating season requirements beginning 1998/1999 for the Duluth Steam Cooperative District I (Downtown) to produce an estimated 800,000 mm btu's in accordance with specifications on its low specification bid of \$21.77 per ton, for the first season estimated annual total of \$989,454.45, terms net, FOB destination, and further authorizes proper city officials the option to extend the contract for two additional heating season 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 on an annual base depending on changes in market.

Resolution 98-0888 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Stout Mechanical, Inc., be and hereby is awarded a contract for installation of a high pressure steam line conduit system approximately 1,210 feet of and hydro testing of approximately 682 feet of overhead six inch steam line to the new Lake Superior center for the Duluth steam district #1 in accordance with specifications on its low specification bid of \$86,328, terms net 30, FOB job site, payable out of Steam District #1 Fund 540, Dept./Agency 920, Organization 1490, Object 5530.

Resolution 98-0889 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Earl F. Andersen, Inc., be and hereby is awarded a contract for furnishing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and delivering approximately 510 traffic signs for the traffic operations division in accordance with specifications on its low specification bid of \$6,922.61, terms net 30, FOB destination, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5226.

Resolution 98-0868 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

WHEREAS, the city of Duluth desires to complete an environmental engineering service; and

WHEREAS, the city desires to hire a professional engineer firm to provide the engineering services required for environmental investigation and testing services for Michigan Street realignment between 22nd Avenue West and 13th Avenue West/Superior Street; and

WHEREAS, American Engineering Testing, Inc., has submitted a proposal for professional 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 American Engineering Testing, Inc., to provide the city with such professional engineering services.

BE IT FURTHER RESOLVED, that the cost of said professional engineering services, estimated at \$9,273.50, will be payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2165, Object 5303.

Resolution 98-0870 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Levine and Son, Inc., be and hereby is awarded a contract for storm sewer replacement in Superior Street at 49th Avenue East and 52nd Avenue East for the engineering division in accordance with specifications on its low specification bid of \$211,458.60, terms net 30, FOB job site, payable out of Storm Water Fund 535, Dept./Agency 500, Organization 0505, Object 5533.

Resolution 98-0881 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute two agreements between the city of Duluth and St. Louis County for the design of a sewer system along the North Shore; said agreements filed as Public Document Nos. 98-0928-31(a) and 98-0928-31(b). The city's costs for the contracts are \$5,000 and \$4,400, respectively. The \$5,000 sum shall be paid out of Fund 100, Agency 020, Org. 1200. The \$4,400 sum shall be paid out of Fund 531, Agency 500, Object 5532.

Resolution 98-0885 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that J.S.I. Telecom be and hereby is awarded a contract for furnishing and delivering an electronic surveillance system for the police department in accordance with specifications on its low specification bid of \$9,713, terms net 30, FOB destination, payable out of Police Grant Programs Fund 215, Dept./Agency 200, Organization 2449, Object 5580.

Resolution 98-0869 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 98-0883, by President Hogg, authorizing a collective bargaining agreement between the city and the supervisory union for years 1997-1999, was introduced for discussion.

President Hogg noted that in addition to the contract settlement, another aspect was resolved and, while it is stated in the statement of purpose, it needs to be reflected in the body of the resolution as well. He moved to amend the resolution by adding a second paragraph as follows:

"RESOLVED FURTHER, that in addition to receiving all other benefits of the collective bargaining agreement between the city and the City of Duluth Supervisory Association, the employees currently occupying the job classifications of supervisor forest maintenance and assistant district maintenance supervisor, shall, upon execution of such collective bargaining agreement, be paid the amounts of \$3,100 and \$1,550, respectively," which motion was seconded and carried upon a unanimous vote.

Resolution 98-0883, as amended, was adopted as follows:

BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement, in substantially the same form and containing the terms and conditions set out in Public Document No. 98-0928-32 on file with the clerk, between the city of Duluth and City of Duluth Supervisory Association covering years 1997, 1998, 1999.

RESOLVED FURTHER, that in addition to receiving all other benefits of the collective bargaining agreement between the city and the City of Duluth Supervisory Association, the employees currently occupying the job classifications of supervisor forest maintenance and assistant district maintenance supervisor, shall, upon execution of such collective bargaining agreement, be paid the amounts of \$3,100 and \$1,550, respectively.

Resolution 98-0883, as amended, was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0879, by Councilor Prettner Solon, approving proposed specifications for the new civil service classification of business development manager, and specifying contract benefits for same, was introduced for discussion.

Councilor Prettner Solon moved to amend the resolution by deleting the "E" in the last sentence after "1125" and adding "\$4,297 to" before "\$ 5,242," which motion was seconded and unanimously carried.

Resolution 98-0879, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proposed specifications for the new civil service classification of business development manager, which were approved by the civil service board on October 7, 1997, and which are filed with the city clerk as Public Document No. 98-0928-26 are approved;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range for said classification shall be 1125, \$4,297 to \$5,242 per month.

Resolution 98-0879, as amended, was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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Resolutions 98-0809 and 98-0810, by Councilor Prettner Solon, affirming and reversing, respectively, a decision of the board of zoning appeals to deny allowing an oversized pole sign to be increased in size, were introduced for discussion.

Councilor Prettner Solon reported that the planning committee unanimously recommends approval of Resolution 98-0810 which reverses the board of zoning appeals decision and allows for an oversized pole sign to be increased in size.

Resolution 98-0809 was withdrawn from the agenda.

- - -

Resolution 98-0810 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Nick Patronas of Burger King and Lakehead Sign Co. applied to the board of zoning appeals for a variance to construct an additional 49 square foot sign on a pole having existing signs equaling 156 square feet on property located at 210 South 27th Avenue West. The existing signs are presently 150 percent oversized (97.8 square feet allowed) and the new sign would increase the amount of signage to 205 square feet (210 percent over allowable); and

WHEREAS, the board of zoning appeals denied the variance to construct the additional signage on an existing pole; and

WHEREAS, Kay Biga of the Duluth Grill has appealed the decision denying the increased sign variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do justify increasing an existing oversized sign.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of August 10, 1998.

Resolution 98-0810 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

Resolutions 98-0811 and 98-0812, by Councilor Prettner Solon, affirming and reversing, respectively, a decision of the board of zoning appeals to deny reduced parking requirements for the renovation of the Litman Building, were introduced for discussion.

Councilor Prettner Solon reported that a planning committee meeting was held to discuss this issue and that the committee unanimously recommends that both of these resolutions be referred back to the administration to work with the developers to look for alternative parking. She moved to refer both resolutions back to the administration, which motion was seconded and unanimously carried.

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Resolution 98-0850, by Councilor Prettner Solon, granting a special use permit to Duluth Superior Cellular, Inc., for a church bell and communication tower on property located at 1731 North 43rd Avenue East, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Keenan reviewed a memo submitted by Assistant City Attorney John Smedberg outlining the strategy used by the city for construction of towers such as this. He stated that the proposed size of this tower is too large for the neighborhood, that it does not meet the criteria outlined in Mr. Smedberg's memo and that neighborhood concerns have not been addressed.

Councilor Edwards moved to table the resolution until meetings of the neighborhood and church board can take place, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilor Hardesty -- 1

Absent: Councilor Rapaich -- 1

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Resolution 98-0852, by Councilor Prettner Solon, granting a special use permit to Wireless North for a communication tower on Lester Park golf course property located east of Lester River Road, was introduced for discussion.

Councilors Keenan and Edwards stated they will not support this resolution and noted that the proposed 195 foot tower is invasive and aesthetically inappropriate to the area and will be an eyesore to the community.

Councilor Prettner Solon noted that technology is part of our future and that the city needs to provide for its growth. She noted that the planning commission held public meetings regarding these applications and approved them unanimously. Councilor Prettner Solon continued by saying that she is not aware of any negative impacts or opposition to construction of the towers.

Councilor Hales requested information regarding what revenue the city will generate with regard to towers such as this. She stated that facilities such as this are necessary in the community and if the council is not satisfied with the sites that are being proposed, then it needs to establish policy with regard to where they should be located and what will make them acceptable.

Councilor Hardesty stated that she understands what regulatory authority the council has and is satisfied that there has been some consideration of the parameters outlined in Mr. Smedberg's memo. She encouraged more detailed discussion regarding the issue before the resolutions are voted on.

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

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Resolution 98-0856, by Councilor Prettner Solon, authorizing condemnation of certain property for the Tech Village project, was introduced for discussion.

Cynthia Albright, planning and development department acting director, stated that a companion resolution will be presented to the council at the next council meeting and, that if the council desires, there is no objection to tabling this resolution for a more complete discussion.

Councilor Prettner Solon moved to table the resolution for one week, which motion was seconded and unanimously carried.

- - -

Resolution 98-0867, by Councilor Prettner Solon, authorizing HOME program CHDO project specific loan agreement with Northern Communities Land Trust in the amount of \$4,858.30, was introduced for discussion.

Councilor Hales expressed her concerns regarding this nonprofit and its authority to sell land. She said she has been told by Keith Hamre, community development and housing division manager, that through the feasibility study Northern Communities Land Trust will review and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

answer questions on how the land trust philosophy and concept can benefit low income individuals.

Responding to Councilor Hales, Ms. Albright stated that Mr. Hamre has requested that the council move forward with this resolution and that he is committed to getting more information to the council regarding the philosophy of this program.

Resolution 98-0867 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the proper city officials are hereby authorized to enter into a HOME program CHDO project specific loan agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-0928-33, with Northern Communities Land Trust in an amount not to exceed \$4,858.30, payable from fund 260, agency 020, org. 2772, OBJ. H011.

Resolution 98-0867 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth desires to complete a financial feasibility study; and

WHEREAS, the city desires to hire a consulting firm to provide the services required to complete a financial feasibility study for a 600 space parking structure associated with the proposed Technology Village; and

WHEREAS, Graef, Anhalt, Schloemer and Associates, Inc., has submitted a proposal for providing the financial feasibility study in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Graef, Anhalt, Schloemer and Associates, Inc., to provide the city with such financial feasibility study.

BE IT FURTHER RESOLVED, that the cost of said financial feasibility study, estimated at \$16,000, will be payable from the Technology Village Project Fund 425, Dept./Agency 020, Organization 4500, Object 5319.

Resolution 98-0887 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, that the city of Duluth act as the legal sponsor for project contained in the redevelopment grant program to be submitted on September 30, 1998, and that the city's mayor is hereby authorized to apply to the department of trade and economic development for funding of this project on behalf of the city of Duluth.

BE IT FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the sources and amounts of the local match identified in the application are committed to the project identified.

BE IT FURTHER RESOLVED, that the city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, grant, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, city of Duluth may enter into an agreement with the state of Minnesota for the above referenced project,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and that city of Duluth certifies that it will comply with all applicable laws and regulation as stated in all contract agreements.

NOW, THEREFORE, BE IT RESOLVED, that city's mayor is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

Resolution 98-0891 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

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At this time, 11:30 p.m., Councilor Hardesty moved to extend the meeting until no later than midnight, which motion was seconded and unanimously carried.

- - -

Resolution 98-0864, by Councilors Keenan, Edwards, Hardesty and Swapinski, adopting the Duluth-Superior metropolitan bikeways plan developed by the metropolitan interstate committee [MIC], was introduced for discussion.

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

Bryn Jacobson spoke in favor of the resolution, noting the need for bicycle safety and to upgrade transportation systems in Duluth to keep in step with what other progressive cities are doing.

President Hogg noted that questions he previously raised regarding what grants are being applied for, the current projected costs, that the plan is several years old and how the plan will achieve routing through areas of heavy traffic have not been answered.

Responding to President Hogg, Councilor Keenan stated that the city's position is to make its transportation system more user friendly to bicyclists and that costs and traffic patterns will not be known until specific street projects are proposed that include access by bicyclists. He noted that this resolution simply states that the council supports the plan to augment bicycle traffic as proposed by the MIC.

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

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon and Swapinski -- 6

Nays: Councilor Hales and President Hogg -- 2

Absent: Councilor Rapaich -- 1

Resolution 98-0864 was adopted as follows:

BY COUNCILORS KEENAN, SWAPINSKI, HARDESTY AND EDWARDS:

WHEREAS, bicycling is a legitimate, efficient, sustainable mode of transportation; and

WHEREAS, bicycling has far reaching transportation, public health, recreation and other quality of life benefits to communities; and

WHEREAS, the development of "bicycle friendly" transportation and other facilities is essential to enjoying these benefits; and

WHEREAS, the Metropolitan Interstate Committee has developed with much city participation a nationally recognized "Duluth-Superior Metropolitan Bikeways Plan" which has been formally adopted by the Duluth planning commission;

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby adopts the Duluth-Superior Metropolitan Bikeways plan dated December, 1994, as an integral part of the city's transportation planning.

RESOLVED FURTHER, that this plan will be implemented in the short, medium and long term as an integral and ongoing component of the city's street improvement and other programs

for the purpose of creating the infrastructure for a bicycle friendly Duluth and a more balanced transportation system with all its accompanying benefits.

Resolution 98-0864 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon and Swapinski -- 7

Nays: President Hogg -- 1

Absent: Councilor Rapaich -- 1

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0895, by Councilor Gilbert, of intent to construct a 16 inch water main in the Central Entrance Miller Mall area, was introduced for discussion.

Councilor Keenan stated that this resolution is associated with the OPUS project and moved to table the resolution until such time as the project may be reconsidered, which motion was seconded and carried upon the following vote:

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

Nays: Councilors Edwards and Swapinski -- 2

Absent: Councilor Rapaich -- 1

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are authorized and directed to execute an agreement between the city of Duluth and Independent School District No. 709 (Public Document No. 98-0928-34) authorizing the continuation and expansion of the police-school liaison program; with the school district contributing \$151,000 per year and the city contributing six police officers per year during the school year.

Resolution 98-0875 was unanimously adopted.

Approved September 28, 1998

GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED

Councilor Prettner Solon moved to remove Ordinances 98-011, 98-022 and 98-023 from the table, which motion was seconded and unanimously carried.

BY COUNCILOR PRETTNER SOLON

98-011 - AN ORDINANCE MODIFYING SIGN REGULATIONS; AMENDING CHAPTER 44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Prettner Solon stated that this ordinance needs to be considered further by the physical planning division and the planning commission. She moved to refer the ordinance back to the administration, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON

98-022 (9382) - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXVII CREATING A DULUTH HOUSING COMMISSION.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON

98-023 (9383) - AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

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

- - -

BY COUNCILOR HALES

98-027 - AN ORDINANCE PROHIBITING AGGRESSIVE SKATING, SKATEBOARDING AND BICYCLING ON PUBLIC PROPERTY; ADDING A NEW SECTION 45-6.3 TO THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Councilor Hales stated that Chief Lyons intends to present this ordinance to the youth advisory task force for its consideration in October. She moved to refer the ordinance back to the administration until a report from the youth advisory task force is received, which motion was seconded and unanimously carried.

- - -

The following entitled ordinances were read for the first time:

BY PRESIDENT HOGG

98-033 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION MICHIGAN STREET IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY PRESIDENT HOGG

98-034 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,080,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY PRESIDENT HOGG

98-035 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$310,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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BY COUNCILOR PRETTNER SOLON

98-031 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 4072 HAINES ROAD FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (ARMSTRONG/GRAMERCY CORPORATION).

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BY COUNCILOR HALES

98-030 - AN ORDINANCE AUTHORIZING THE USE OF ALTERNATE SIDE PARKING REGULATIONS IN CONJUNCTION WITH NO PARKING REGULATIONS; AMENDING SECTION 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILOR HALES

98-032 - AN ORDINANCE ALLOWING RESTAURANT PATRONS TO REMOVE FROM THE RESTAURANT PARTIALLY CONSUMED BOTTLES OF WINE THAT THEY HAD PURCHASED WITH A MEAL, AMENDING SECTION 8-22 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The meeting was adjourned at 11:58 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9382

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE XXVII CREATING A DULUTH HOUSING COMMISSION.

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Article XXVII to read as follows:

Article XXVII. Duluth Housing Commission.

Sec. 2-143. Commission created.

For the purposes herein provided, there shall be created in and for the city of Duluth a Duluth housing commission.

Sec. 2-144. Definitions.

For the purposes of this ordinance [Article], the following words and phrases shall have the meaning hereinafter ascribed to them:

- (a) Commission. The Duluth housing commission;
- (b) Commission or commissioners. The person or those persons serving as members of the commission as appointed pursuant to Section 2-146 below;
- (c) CDBG. Community development block grant;
- (d) Council or city council. The city council of the city of Duluth;
- (e) HRA. The Duluth housing and redevelopment authority;
- (f) SRO. Single room occupancy dwelling units.

Sec. 2-145. Statement of purpose.

The purpose of the commission is to inform policy making bodies of the city of Duluth about housing issues and concerns, to provide recommendations on the use of public funds in support of housing programs and projects, to serve as a community resource for housing, to identify and study housing problems, to increase the community's awareness of issues relating to housing and to perform certain duties formerly the responsibility of the Duluth SRO housing commission (now repealed).

Sec. 2-146. Commissioners.

(a) The membership of the commission shall consist of 11 commissioners who shall be appointed to the membership of said commission and who shall

perform the duties set forth in this ordinance. Three commissioners shall be appointed from each of the three constituencies referred to below. The following shall be the number of commissioners to be appointed from each constituency:

- (1) One representative of the city council;
- (2) One representative of the HRA;
- (3) One representative of the low-income housing consortium.

Eight additional commissioners shall be appointed by the mayor of the city of Duluth and approved by the city council representing each of the following areas: local lending institutions; local housing industry; labor; CDBG eligible neighborhoods and four at-large representatives;

(b) Commissioners shall serve without compensation. The term of the three commissioners appointed from the three constituencies shall be for three years. With respect to the remaining eight commissioners, the term of two of the commissioners shall be through September 30, 1998; the term of three of the commissioners shall be through September 30, 1999; and the term of three of the commissioners shall be through September 30, 2000, and until their respective successors are appointed and qualified. Subsequent terms of commissioners shall be for three years and all terms shall expire on September 30 of the appropriate year. The commissioners shall be qualified to continue as a commissioner only so long as she or he remains a member of the class or constituency which she or he was appointed to represent, until a successor shall have been elected and shall qualify, until she or he shall resign or until she or he shall have been removed as provided herein. Whenever a vacancy shall occur in said commission, by means of resignation, death, retirement, removal from the city, removal from a represented constituency or class, or removal for failure or neglect to perform the duties of a commissioner, such vacancy shall be filled for the unexpired term by the appointing entity;

(c) The three commissioners appointed from the constituencies may be removed only by the appointing constituency. The remaining eight commissioners may be removed by the mayor, with the approval of the city council;

(d) Within 45 days after all of the commissioners shall have been appointed, the commission shall meet and organize and adopt and thereafter may amend such rules and regulations for the conduct of the commission as the commission shall deem to be in the public interest and most likely to advance, enhance, foster and promote the purposes of this . At such meeting and at all subsequent meetings of the commission, 50 percent or more of all the commissioners then holding office shall constitute a quorum for the transaction of business;

(e) The commissioners shall elect from among their membership a president, a vice president and a secretary. No two of such offices may be held by one commissioner.

The officers shall have the duties and powers usually attendant upon such offices and such other duties and powers not inconsistent herewith as may be provided by the commission.

Sec. 2-147. Staff support.

Staff support, including clerical services and incidental expenses, shall be provided by the city division of community development and housing and such other city staff.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 8, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed September 28, 1998

Approved September 28, 1998

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9383

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE REPEALING ARTICLE XVIII OF CHAPTER 2 OF THE CITY CODE, RELATING TO THE DULUTH SRO HOUSING COMMISSION.

The city of Duluth does ordain:

Section 1. That Article XVIII of Chapter 2 of the Duluth City Code, 1959, as amended, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 8, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed September 28, 1998

Approved September 28, 1998

GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, October 5, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1005-01 The following submitting communications regarding the granting of a special use permit to OPUS Corporation for a community unit plan for property located at the southeast corner of Trinity Road and Central Entrance (98-0774R): (a) Arrowhead Builders Association; (b) Stella Bennett; (c) Paul Collins; (d) Eggebrecht Chevrolet; (e) Joshua Hamilton; (f) Edward William Kale; (g) Albert N. and Laura E. Leone; (h) Rosie Loeffler-Kemp (supported by 17 signatures); (i) Jaclyn L. Rose; (j) Thomas J. Shefchik; (k) Thompson Electric of Duluth, Inc.; (l) Dave Walli. -- Received

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RESOLUTIONS RECONSIDERED

Councilor Prettner Solon moved to reconsider Resolution 98-0741, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale to the city of Duluth a certain tax forfeited parcels now withheld from sale in conservation; and Resolution 98-0774, as amended, granting a special use permit to OPUS Corporation for a community unit plan for property located at the southeast corner of Trinity Road and Central Entrance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Hales, Prettner Solon, Rapaich and President Hogg -- 5

Nays: Councilors Gilbert, Hardesty, Keenan and Swapinski -- 4

Councilor Prettner Solon reviewed that these resolutions were defeated because of a tie vote at the September 28, 1998, council meeting. She continued by saying that all council members are now present and that she is requesting reconsideration so that the full council can make a decision on this matter.

Councilor Rapaich stated that she has reviewed all the material presented to the council and has viewed the video of the last meeting.

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

The following speakers spoke in support of the reconsidered resolutions: Tom Fedora; Fred Sturm; Robert Brooks; Michael Bolen; Mike Ives; William Burns, attorney representing Opus Corporation; and George Weller. Reasons stated supporting the resolutions were as follows: this project is different than the one presented and defeated in the referendum; OPUS is a socially responsible company; the current proposed project allows for more green space; this project, when finished, will increase the city's tax base; the project makes sense because this is already a retail area; the proposed project fits within the definition of a planned community unit development and is worthy of being granted a special use permit; the site can legally be used for this purpose and it will allow the property owner to exercise his rights; the concept of a housing project on the site was turned down in the 1980's; and the planning commission supported this proposal with only one dissenting vote because it believes it is the best option for the property.

The following speakers spoke in opposition of the reconsidered resolutions: Joel Sipress, Hal Mar, Jennifer Buckley, Merna Mathison, Gary Walton, Robert Kosuth, Rosie Loeffler-Kemp, Beth Tammenn and Ken Loeffler-Kemp. The following reasons were stated in opposition of the

newly proposed project: a decision to allow this project does not respect the results of a referendum in which proposed rezoning was defeated; like the sizable defeat of the U.S.S. Des Moines issue, this issue keeps coming back; respect for the democratic process is lost in approving this project; the current proposal is not substantially different from the previously proposed project defeated in the referendum; the city should strive for a better plan than the one that is being proposed; the economic benefits this type of development brings to the community do not offset the permanent environmental damage and detrimental effects to the neighborhood that it will cause; an informational meeting regarding a comprehensive land use plan for the city revealed that Duluth is already over developed in the retail and medical areas; this proposal indicates how much a comprehensive land use plan is needed before any new development is allowed; a neighborhood petition (Public Document No. 98-1005-01(h)) opposing this development has been submitted; and this proposed community unit plan violates the spirit of what a community unit development plan is expected to be.

Ron DeGrio requested that more time be spent looking at areas other than the site for water mitigation if the council approves this resolution. He noted the promise that has been made to the neighborhood to minimize the amount of forest area taken to insure an adequate neighborhood buffer; and further, that the existing issues of water, traffic and sidewalks need to be resolved by the city.

Councilor Keenan expressed concern that previous community unit plans have been unsuccessful because of the requirements that must be met. He continued by saying that community unit plans always have a housing component included in them and that this one does not.

Councilor Rapaich noted that some of the residents of this area contacted Opus after the referendum to request that they come back with a different plan.

Councilor Hardesty stated that this project is not significantly different than the one defeated in the referendum and that this does not fit into the definition of a community unit plan.

Councilor Edwards noted that conversations with neighborhood residents in this area about traffic, resale of homes and protection from blasting, indicated that individuals whose names were on the petition that was submitted by Ms. Loeffler-Kemp were more accepting of the project that is presently being proposed.

Councilor Edwards moved to amend Resolution 98-0774 by deleting condition "(i)" of the special use permit, which motion was seconded and discussed.

Councilor Swapinski noted that this condition allows the developer to utilize on site and/or the Miller Creek/Coffee creeks' watersheds for water mitigation. In conclusion, he noted that the developer does not oppose this condition and that without this requirement, the city is setting a bad precedent for future developments.

Jim Mohn, physical planning division, reviewed the rationale used by the planning commission to allow for the off site mitigation in this particular case.

President Hogg noted that if condition (i) remains in the resolution, he has a concern that if an acceptable location in the Miller or Coffee creeks' watershed areas cannot be found, the developer will be forced to mitigate on site which will reduce the size of the neighborhood tree buffer.

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

Councilor Edwards' amendment carried upon the following vote:

Yeas: Councilors Edwards, Hales, Prettner Solon, Rapaich and President Hogg -- 5

Nays: Councilors Gilbert, Hardesty, Keenan and Swapinski -- 4

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Gilbert noted that while he originally opposed this project, he now believes, with the city's development problems as they are, that to hold the line on all development is too drastic, and that when projects have merit, they should be allowed.

Councilor Hales noted that in 1996 only 36 percent of the registered voters turned out to vote on the rezoning of this area and, of that figure, the difference between those opposing the rezoning and those favoring it was only seven percent. She noted that she has received many constituent calls stating that this is the best plan, and that they support it. She continued by saying that while some claim that there is no comprehensive land use plan, the Miller Hill corridor plan was adopted and is in effect, and that this project fits into it.

Resolution 98-0741 was adopted as follows:

BY COUNCILOR 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 to the city of Duluth the following tax forfeited parcel now withheld from sale in conservation:

<u>File #</u>	<u>Applicant Name</u>	<u>Legal Description</u>	<u>Location</u>
98002	City of Duluth	South one-half of north one-half of south one-half of southeast quarter of northeast quarter lying easterly of Trinity Road, Sec. 19, T50, R14 (10-2710-4960)	East side of Trinity Road, 950' south of Miller Trunk Road (Duluth Heights)

Resolution 98-0741 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Prettner Solon, Rapaich and President Hogg -- 6

Nays: Councilors Hardesty, Keenan and Swapinski -- 3

Approved October 5, 1998

GARY L. DOTY, Mayor

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Resolution 98-0774, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, OPUS Corporation has submitted to the city council a request for a special use permit for a community unit plan on property described as: The SW 1/4, NW 1/4 of Section 20, T50, R14, lying southerly of Central Entrance; SE 1/4, NE 1/4 of Section 19, T50, R14, lying easterly of Trinity Road and southerly of Central Entrance; Lots 34, 37 and 38, Auditors Plat of Trinity Road Acres; Sections 19 and 20 Township 50 North Range 14 West, city of Duluth, St. Louis County; and located at southeast corner of Trinity Road and 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 allow for a community unit plan located at southeast corner of Trinity Road and Central Entrance, on the condition that project be limited to, constructed and maintained in accordance with the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

plans submitted by RLK-Kuusisto Ltd., and KKE Architects, entitled Duluth Heights, RLK Project No. 96327M, Sheets 1-14, dated July 7, 1998, as identified as Public Document No. 98-1005-02 (the plan) and the following terms and conditions:

(a) That the interior pedestrian facilities be altered to provide safe crossings of the interior through-road easement;

(b) The final project design shall include roadway and parking lot designs which accommodate Duluth transit authority vehicles;

(c) That Outlot B be identified as a wetland and open space easement in the community unit plan;

(d) That the landscape plan (Sheet 9/14) provide additional landscaping along the east property line between Retail 7 and its parking area and the Ellifson property similar to that provided between said parking area and the Central Entrance property line, said landscaping to be approved in writing by planning staff prior to the issuance of any building permits;

(e) That prior to the issuance of any building permits for the project, developer shall have entered into an agreement with the city, in a form satisfactory to the city attorney, committing developer to construct a five foot wide sidewalk on the private roadway easement shown on the plan which parallels the entire length of the road connecting the exterior sidewalks with the highway intersections, said construction to be completed within six months of the adoption of a plan for pedestrian facilities on the adjacent properties at both ends of said easement and further agreeing that, if developer fails to so complete said construction within said time frame, city may enter upon the project property and complete the construction of said pedestrian trail and developer shall agree to reimburse city for all of its costs associated with such completion; developer shall further agree that if it fails to reimburse city for said costs, city may assess the costs of said improvements against all of the property in the project on a fair and equitable basis and shall waive, for itself and its successors and assigns, if any, any and all defenses to said assessment;

(f) Signage shall be consistent with the plan and said signage standards to be included in tenant leases shall be submitted to and approved by the city planning staff prior to the issuance of any sign permits for the project;

(g) That written criteria be established and approved by city planning commission staff for the maintenance, removal and thinning of the existing trees in the buffer areas shown on the plan which reasonably balance the need of the trees to act as a screening and buffering factor between the project and the surrounding neighborhoods and the project's needs for its signage to be visible from such surrounding neighborhoods;

(h) The specific design of the residential units shown on the plan shall be subject to approval by the city planning staff; adverse decisions of the staff shall be appealable to the planning commission and adverse decisions of the commission to the council.

Resolution 98-0774, as amended, was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Prettner Solon, Rapaich and President Hogg -- 6

Nays: Councilors Hardesty, Keenan and Swapinski -- 3

Approved October 5, 1998

GARY L. DOTY, Mayor

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RESOLUTIONS TABLED

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon moved to remove Resolution 98-0856, authorizing condemnation of certain property for the Tech Village project, from the table, which motion was seconded and unanimously carried.

Resolution 98-0856 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, that the city council of the city of Duluth hereby makes the following findings:

(a) That the acquisition of the below-described property is necessary to the proper development of the tech village project;

(b) That acquisition of the below-described property without the use of the powers of eminent domain is not practically feasible.

FURTHER RESOLVED, that the proper city officials are hereby authorized to exercise the power of eminent domain as authorized in Minnesota Statutes chapter 117, to acquire those parcels of property in St. Louis County, Minnesota, generally described as follows: Lots 10 and 12, East First Street, DULUTH PROPER, First Division.

FURTHER RESOLVED, said officials are hereby directed to acquire possession of said property as expeditiously as possible pursuant to the provisions of Minnesota Statutes Chapter 117.

FURTHER RESOLVED, that said officials are hereby authorized to pay the costs of acquisition of said property as established pursuant to Minnesota Statutes Chapter 117 and associated relocation costs, if any, and to pay all costs associated with said acquisition and relocation proceeding.

Resolution 98-0856 was unanimously adopted.

Approved October 5, 1998

GARY L. DOTY, Mayor

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Councilor Gilbert moved to remove Resolution 98-0895, of intent to construct a 16 inch water main in the Central Entrance Miller Mall area, from the table, which motion was seconded and unanimously carried.

Resolution 98-0895 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, it appears that it may be necessary that a 16 inch water main be constructed in the Central Entrance Miller Mall area as shown on the maps attached to this resolution and made a part hereof.

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 98-0895 was unanimously adopted.

Approved October 5, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to purchase the below-described property in St. Louis County, Minnesota, from Dennis Kwapick and Kathy Kwapick,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

husband and wife, for the sum of not to exceed \$220,000, payable from Fund 425: west one-half (W½) of Lot Ten (10), East First Street, Duluth Proper, First Division.

Resolution 98-0896 was unanimously adopted.

Approved October 5, 1998

GARY L. DOTY, Mayor

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The meeting was adjourned at 9:30 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 13, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Absent: Councilor Rapaich -- 1

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The minutes of council meetings held on July 9, 13, 23 and 27, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1013-15 A&L Development, Inc., and DEDA submitting further petition to vacate a portion of the right-of-way between Lake Avenue and First Avenue East. -- Assessor

98-1013-01 George Hovland petitioning to vacate the southerly ten feet of the 66 foot Chester Way right-of-way located on Lot 18, Block 5, Superior View Addition. -- Assessor

98-1013-02 Minnesota Power, et al. (ten signatures) petitioning for the reclassification from residential/suburban to industrial technology district portions of Sections 8 and 9, Township 50, Range 14 West and Blocks 25-32, Clifton Heights Second Division, except those portions of Blocks 29 and 30 lying south and west of Chester Creek. -- Assessor

98-1013-03 Gramercy Park Cooperative submitting communication regarding reclassification of property located at 4072 Haines Road from R-1-B single family residential to R-3 apartment residential (98-031-O). -- Received

98-1013-17 Shawn Hoover , et al. (74 signatures) submitting communication pertaining to the proposed parking on both sides of the street in designated areas (98-030-O). -- Received

98-1013-04 St. Louis County Heritage and Arts Center submitting application for rental during which alcoholic beverages will be served from Laura Wrazidlo and Douglas Janzig on October 10, 1998. -- Received

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REPORTS OF OFFICERS

98-1013-16 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (bingo) from St. Benedict's Church on November 14, 1998 and March 6, 1999. -- Received

98-1013-05 Community development and housing division submitting HRA report for the HUD CD funded housing rehabilitation program for August, 1998. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-1013-06 Alcoholic beverage board minutes of: (a) August 12; (b) September 9, 1998, meetings. -- Received

98-1013-07 Civil service board minutes of July 7, 1998, meeting. -- Received

98-1013-08 Duluth housing trust fund board: (a) Minutes of: (1) June 11; (2) July 9, 1998, meetings; (b) Financial statements for the years ended December 31, 1997 and 1996. -- Received

98-1013-09 Housing and redevelopment authority of Duluth minutes of August 25, 1998, meeting. -- Received

98-1013-10 Lawful gambling commission minutes of: (a) August 11; (b) September 8; (c) September 11, 1998, meetings. -- Received

98-1013-11 Planning commission minutes of September 8, 1998, meeting. -- Received

98-1013-12 Sanitary sewer board of WLSSD minutes of September 14, 1998, meeting. -- Received

98-1013-13 Seaway Port authority of Duluth minutes of: (a) July 29; (b) August 12; (c) August 24, 1998, meetings. -- Received

98-1013-14 Special assessment board minutes of September 8, 1998, meeting. -- Received

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 98-0850, granting a special use permit to Duluth Superior Cellular, Inc., for a church bell and communication tower on property located at 1731 North 43rd Avenue East and Resolution 98-0852, granting a special use permit to Wireless North for a communication tower on Lester Park golf course property located east of Lester River Road, from the table, which motions was seconded and carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty and Prettner Solon -- 5

Nays: Councilors Keenan, Swapinski and President Hogg -- 3

Absent: Councilor Rapaich -- 1

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

Ron Gunderson, representing Wireless North, urged support for the resolution to build a tower at Lester Park Golf Course as the application has been made in compliance with all the city rules and regulations. He requested that the council vote on the resolution tonight. Mr. Gunderson also requested that if the council votes no on the resolution, he would like input on what the council needs to have in order for this resolution to pass. He continued by saying that if the resolution is not passed tonight, they will lose their co-location tenant who would be sharing the tower with them.

Rick Adams, representing Cellular One, reviewed that there is spotty coverage in the Lakeside area and urged support of the resolution that would allow them to build a tower in Lakeside. He explained that most of the service for Lakeside is serviced by a tower in Superior, which means a 911 call goes to the Douglas County Sheriff's department and then is forwarded to the Duluth police for response. Mr. Adams continued by saying that the FCC is mandating these problems be fixed to have good 911 communications, which is the primary reason they are trying to put a tower in Lakeside. He explained that a compromise site was reached after working with city staff for a 60 foot church bell tower that would be consistent with the function of the church and would blend better into the community.

Councilor Keenan questioned if there would be any generators or loud compressors that would be built next to the tower and reviewed that next to the tower in Woodland there is a compressor that is bothering the neighborhood.

Mr. Adams replied that there will be a building built next to the tower to house radio equipment. He added that an air conditioning unit was built next to the tower in Woodland and they have planted shrubs and a fence around that tower to satisfy the neighbors.

To further questioning by Councilor Keenan, Mr. Adams replied that he has met with the church council and discussed the proposal and that there will be a special church meeting for the whole congregation to hear his presentation before voting on the bell tower issue. He also stated that it would be a positive step forward for him to be able to tell the congregation at their meeting that the council has approved the tower as the congregation does not want this to be a controversial matter for the neighborhood.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Peter Beck, architect for Cellular One, reviewed that the Lakeside area needs better cellular service and that they have complied with regulations that the city is requiring by using existing structures; staying away from environmentally sensitive areas and to locate in a commercial area. But in this instance, there are not a lot of commercial areas to choose from in Lakeside; the facility should accommodate several phone companies, but they are trying to keep the tower shorter; and be located on government property when available, which does not apply here.

Responding to Councilor Edwards questioning, Mr. Beck replied that he would be working with the church for their approval of the design along with the city officials for their approval, but it would not come before the council again.

Councilor Keenan spoke against the tower in the Lester Park Golf Course, as it would be an eye sore even though it does meet some guidelines the city has developed. He also spoke against the tower in the church tower as it meets none of the requirements of the city but would like to get more information and hear what the church has to say at their next meeting.

Lyman Marshall, Tim Johnson, Gregg Nelson and Marc Vesterstein spoke in opposition to the Lester Park Golf Course tower for the following reasons: lack of information to the neighbors on the project, potential environmental problems, aesthetically it would destroy the view, potential impact to Hawk Ridge and various trails in Lester Park, and health concerns.

Councilor Hardesty agreed that the towers need to be looked at and how they blend into the neighborhood and expressed her concern that the tower's width and height would be out of place in the neighborhood. She questioned if there were other locations better suited for the towers and stated she was not convinced the Lester Park Golf Course is the best location for the tower.

Councilor Edwards stated her opposition to both towers and urged a committee meeting on the subject to set some guidelines as there will be more special use permits for towers coming before them.

Councilor Hales questioned the time frame for reviewing these special use permits. City Attorney Dinan replied that the council extend the 60 day period from when they file the application until the council acts upon their application if they need more time. He continued by saying that 120 days is the most the council can take in considering a matter and that the council needs to give notice to the people that they are extending the time frame.

Councilors Gilbert and Swapinski both stated they would like to have further information through a committee meeting and make some guidelines for cellular towers so the council has control of the situation.

Councilor Prettner Solon stated that these resolutions cannot be turned down because of frivolous decisions, such as a view. She stated her concern for the 911 access problem in the Lakeside area and felt that should be of concern to the council.

President Hogg stated that the decision of a tower on a city golf course should not be acted on without going through a public process and stated that the time frame should be extended for the church bell tower and turn down the golf course tower.

Councilor Keenan moved to extend the time frame 60 more days and retable Resolution 98-0850, which motion was seconded and unanimously carried.

Councilor Swapinski moved to call the question on Resolution 98-0852, which motion was seconded and unanimously carried.

Resolution 98-0852 failed upon the following vote (Public Document No. 98-1013-30):

Yeas: Councilors Hales and Prettner Solon -- 2

Nays: Councilors Edwards, Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 6

Absent: Councilor Rapaich -- 1

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR EDWARDS:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering office furniture components for the police department in accordance with specifications on its low specification bid of \$12,754.96, terms net 30, FOB jobsite, \$7,855 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E748, and \$4,899.96 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2108, Object E839.

Resolution 98-0893 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

ANIMAL HUMANE BOARD

Roger P. Pitts for a term expiring October 31, 2003.

Resolution 98-0892 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Billmans Construction, Inc., be and hereby is awarded a contract for construction of a wooden stairway at Fifth Avenue West above Sixth Street for the city architect in accordance with specifications on its low specification bid of \$41,315, terms net 30, FOB jobsite, payable out of Community Development Fund 262, Dept./Agency 621, Object 6113.

Resolution 98-0897 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Canal Park Drive Alley between Railroad Street and Sutphin Avenue, legally described as: That part of the alley between Canal Park Drive and Lake Avenue South extending 135 feet northwesterly of the north right-of-way line of Sutphin Street, adjacent to Lots 2 and 4, and portions of Lot 1, all in Block 2, Industrial Division of Duluth; and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the city planning commission approved unanimously the vacation petition at its September 23, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of that portion of the alley described above, and as more particularly described on Public Document No. 98-1013-19.

BE IT FURTHER RESOLVED, that the easterly ten feet of the vacated right of way be retained as a 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 alley to be vacated and the easement being retained.

Resolution 98-0900 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the westerly eight feet of a 28-foot utility and pedestrian easement adjacent to Lot 759, Block 60, Crosley Park Addition, said easement being the westerly 28 feet of platted, vacated 50th Avenue East south of Avondale Street and being legally described as: The westerly eight feet of platted, vacated 50th Avenue East between the northerly and southerly lot lines of Lot 759, Block 60, Crosley Park 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 September 23, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly eight feet of a 28-foot utility and pedestrian easement described above, and as more particularly described on Public Document No. 98-1013-20.

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 the easement to be vacated.

Resolution 98-0902 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth, pursuant to Resolution 97-0836(c) established certain project accounts for the 1998 city of Duluth CDBG program (Fund 262); and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program passed a resolution recommending a funding transfer in the amount of \$32,000 into a new program account.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to amend Resolution 97-0836(c) to add a new project to the 1998 city of Duluth CDBG program (Fund 262) as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>Account</u>	<u>Amount</u>	<u>Project</u>
6144	\$32,000	22nd Avenue West sewer improvement project

Resolution 98-0911 was unanimously adopted.
Approved October 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

WHEREAS, the city has received notification from the Arrowhead Regional Development Commission of addition funds available for the 1998 nutrition services Contract No. 18143.

FURTHER, said additional funds are to be used for a one-time equipment purchase of the AIM computer software and bar code scanner.

RESOLVED, that the proper city officers execute the contract addendum (Public Document No. 98-1013-29); and upon receipt of the funds in the amount of \$1,313 from the Arrowhead Regional Development Commission that such funds be deposited into Fund Account 272, Agency 031, Organization 6308.

Resolution 98-0908 was unanimously adopted.
Approved, October 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

RESOLVED, that proper city officials are hereby authorized to accept \$317,902 in Job Training Partnership Act (JTPA) funds from the Minnesota department of economic security in accordance with city Contract No. 18304, Resolution No. 98-0611, passed July 13, 1998. Said monies will be used to provide services under the JTPA as defined in the program year 1998-99 local plan update from July 1, 1998, through June 30, 1999. Funds received will be deposited in Fund No. 268, Budget Items 6213 (\$238,404); 6214 (\$34,163); 6221 (\$3,200); and 6223 (\$42,135).

Resolution 98-0860 was unanimously adopted.
Approved October 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Minnesota department of economic security to accept \$12,730 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, 1998, through December 31, 1999. A copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-1013-22.

FURTHER RESOLVED, that monies received under this grant shall be deposited in Fund 268, Budget Item 6218.

Resolution 98-0861 was unanimously adopted.
Approved October 13, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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. 98-1013-23, 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 98-0898 was unanimously adopted.

Approved October 13, 1998

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 Arrowhead Economic Opportunity Agency (A.E.O.A.), accepting \$60,362 in Mcknight Foundation funds to provide Gear Up! program services to 138 MFIP recipients during the contract period from January 1, 1998, through December 31, 1999. Funds received will be deposited in Fund No. 269, Budget Item 6295.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerk's office as Public Document No. 98-1013-24.

Resolution 98-0906 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a joint powers agreement (Public Document No. 98-1013-25) between the city of Duluth and Independent School District No. 709 for the improvement of the Lincoln Park recreation area.

Resolution 98-0912 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Met One, Inc., be and hereby is awarded a contract for furnishing and delivering a particle counting system for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$19,315, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0907 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that PBBS Equipment Corporation be and hereby is awarded a contract for cleaning two boilers, resetting combustions on boilers and replacing refractory in boilers, for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$8,810.75, terms net 30, FOB SP, \$704.86 payable out of Water Fund 510, Dept./Agency 900, Organization 0550, Object 5400 and \$8,105.89 payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5400.

Resolution 98-0909 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved October 13, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Pat Kunst Delivery be and hereby is awarded a contract for furnishing and delivering 540 cubic yards of topsoil for the street maintenance division in accordance with specifications on its low specification bid of \$8,626.50, terms net 30, FOB jobsite, payable out of Capital Improvement Fund 450, Dept./Agency 015, Organization 1997, Object C716.

Resolution 98-0910 was unanimously adopted.

Approved October 13, 1998
GARY L. DOTY, Mayor

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The following resolutions were also considered:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of: The public easement in the air rights over First Alley over the elevation of 658.83 m.s.l., adjacent to Lots 5, 7, 9, 11 and the west 25 feet of Lot 13, East Superior Street, and Lots 6, 8, 10, 12 and the west 25 feet of Lot 14, East First Street, Duluth Proper First 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 September 23, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the air rights described above, and as more particularly described on Public Document No. 98-1013-26.

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 air rights to be vacated.

Resolution 98-0901 was unanimously adopted.

Approved October 13, 1998
GARY L. DOTY, Mayor

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Resolution 98-0913, by Councilor Prettner Solon, authorizing amendments to certain neighborhood matching grant funds agreements increasing the grant and matching fund amounts, was introduced for discussion.

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

Tom Christensen spoke in support of the resolution and that this plan is the result of work between all the parties.

Jane Gilley urged support of the resolution as the final parking plan is the result of all three groups working together to come up with solution. She continued by saying that there will be more lighting and signage to help with the traffic flow from the lower parking lot through the large parking lot.

Resolution 98-0913 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that the proper city officials are hereby authorized to enter into amendments substantially in the form of those on file in the office of the city clerk as Public Document No. 98-1013-21, to the contracts listed below, increasing the grant and matching fund amounts as listed below:

City Contract No. 18252-Woodland Amateur Hockey Association,
Grant amount increased to \$26,525,
Matching fund amount increased to \$26,525;
City Contract No. 18230-Woodland Community Center, Inc.,
Grant amount increased to \$26,525,
Matching fund amount increased to \$26,525.

Resolution 98-0913 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HARDESTY:

WHEREAS, city of Duluth officials have been working with the North Shore Alternative Wastewater Treatment Committee and WLSSD and since the spring of 1997 to review options for correcting environmental problems associated with failing septic systems along the North Shore including properties within the city of Duluth; and

WHEREAS, the city of Duluth has expended \$9,400 to date for preliminary studies needed to further a wastewater collection and treatment plan for the affected area; and

WHEREAS, an application to the Minnesota pollution control agency for funds to design a wastewater collection and treatment system has been made; and

WHEREAS, the MPCA will not allocate funds for multi-jurisdictional projects without the affected entities entering into a joint powers agreement; and

WHEREAS, the MPCA has prioritized this design project to receive 1999 funds pending execution of such a joint powers agreement; and

WHEREAS, no further expenditure of funds by the city of Duluth for the design of this project will be necessary.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-1013-27, with Duluth Township and Lakewood Township for the purpose of planning and designing a wastewater collection and treatment system.

Resolution 98-0916 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, the city has determined it necessary to acquire a right-of-way over, under and across certain real estate located in St. Louis County, Minnesota, more fully described on Exhibit "A" of the settlement agreement (Public Document No. 98-1013-28), in connection with its reconstruction and expansion of the intersection of Joshua Avenue and the Miller Trunk Highway; and

WHEREAS, Miller Creek Investment, Inc., is the record owner of the above parcel; and

WHEREAS, the city attempted, unsuccessfully, to negotiate the purchase of the subject parcel for a number of years; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, having failed to successfully negotiate the purchase of its rights, the city filed a petition for condemnation in June, 1997; and

WHEREAS, Miller Creek Investment, Inc., has consistently raised the issue of loss of access to office buildings which it owns as its primary reason for not settling with the city; and

WHEREAS, the city and Miller Creek Investment, Inc., have now mutually agreed to settle this matter on the terms and conditions set forth in Public Document No. 98-1013-28.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the settlement agreement (Public Document No. 98-1013-28).

RESOLVED FURTHER, that the city of Duluth hereby accepts the roadway easement tendered in said agreement, which is fully described in Exhibit "A" of Public Document No. 98-013-28.

Resolution 98-0899 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0914, by Councilor Swapinski, authorizing the city to lease a 50 foot by 50 foot parcel adjacent to the Lester Park golf course to Wireless North, LCC, for the construction of a wireless communications tower, was introduced for discussion.

Resolution 98-0914 failed upon the following vote (Public Document No. 98-1013-18):

Yeas: Councilor Prettner Solon -- 1

Nays: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Swapinski and President Hogg -- 7

Absent: Councilor Rapaich -- 1

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept a grant award from the federal emergency management agency for arson awareness and prevention in the amount of \$15,000.

RESOLVED FURTHER, that monies received under this grant shall be deposited in the general fund - fire department.

Resolution 98-0903 was unanimously adopted.

Approved October 13, 1998

GARY L. DOTY, Mayor

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Resolution 98-0905, by Councilor Hales, authorizing execution of a lease agreement with A & L Partnership for the Canal Park police station premises, was introduced for discussion.

Councilor Edwards questioned what occupied the space during the winter months and if the city pays boarding costs for the horse at a farm during the winter.

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Swapinski and President Hogg -- 6

Nays: Councilors Keenan and Prettner Solon -- 2

Absent: Councilor Rapaich -- 1

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR PRETTNER SOLON

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98-036 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A & L PARTNERSHIP TO LOCATE UNDERGROUND UTILITIES IN EAST FIRST ALLEY FOR THE TECHNOLOGY VILLAGE/SOFT CENTER.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT HOGG

98-033 (9384) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION MICHIGAN STREET IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

- - -

BY PRESIDENT HOGG

98-034 (9385) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,080,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY PRESIDENT HOGG

98-035 (9386) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$310,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR PRETTNER SOLON

98-031 (9387) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 22 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 4072 HAINES ROAD FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (ARMSTRONG/GRAMERCY CORPORATION).

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

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BY COUNCILOR HALES

98-030 (9388) - AN ORDINANCE AUTHORIZING THE USE OF ALTERNATE SIDE PARKING REGULATIONS IN CONJUNCTION WITH NO PARKING REGULATIONS; AMENDING SECTION 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Shawn Hoover spoke in favor of the ordinance since it will help businesses and neighborhoods by allowing parking on both sides of the street.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

- - -

BY COUNCILOR HALES

98-032 (9389) - AN ORDINANCE ALLOWING RESTAURANT PATRONS TO REMOVE FROM THE RESTAURANT PARTIALLY CONSUMED BOTTLES OF WINE THAT THEY HAD PURCHASED WITH A MEAL, AMENDING SECTION 8-22 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

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

- - -

ORDINANCE NO. 9384

BY PRESIDENT HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,745,000 GENERAL OBLIGATION MICHIGAN STREET IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The City Council has determined it to be necessary and expedient and in the public interest that the City 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").

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. The City has received grants of funds from the Minnesota Department of Transportation in aid of the Project and from a Lincoln Park neighborhood group and it is estimated that such funds, together with any state or private funds which may be received, and the proceeds of bonds issued by the City in an amount not to exceed \$1,745,000, will be sufficient to pay the total Project costs, and that the amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Michigan Street Improvement Bonds of the City of Duluth in an amount not to exceed \$1,745,000 (plus such additional amounts of bonds, if any, up to a maximum of 2% of the amount of bonds herein authorized, as the City Council shall by resolution determine to issue as additional obligations, representing part of the interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The City has created the Michigan Street Realignment Account (Account No. 2165) in the Permanent Improvement Fund (No. 411) to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City of Duluth, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such bond debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be 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 account of monies actually on hand, the City Clerk shall certify to the County Auditor of St. Louis County the fact and amount thereof, and the County Auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to obtain from the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

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

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 15, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9385

BY PRESIDENT HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$1,080,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Sections 115.46 and 444.075 and Chapter 475 of Minnesota Statutes, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment.

1.02 The City Council hereby determines that it is in the best interest of the City and it is necessary to improve the municipal sewer utility, and determines it is necessary to issue General Obligation Sewer Utility Revenue Bonds in the amount of \$1,080,000 for the purpose of paying

costs of the improvement program, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The City has heretofore issued and sold General Obligation Sewer Utility Revenue Bonds dated October 1, 1991, now outstanding in the amount of \$95,000, dated June 1, 1995, now outstanding in the amount of \$1,795,000, and General Obligation Sewer Refunding Bonds dated June 1, 1995, now outstanding in the amount of \$1,770,000, dated December 1, 1995, now outstanding in the amount of \$725,000, and dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$530,000. Under the provisions of the ordinances authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated October 1, 1991, June 1, 1995, December 1, 1995, and May 1, 1998.

1.04 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Sewer Utility Revenue Bonds of the City of Duluth in the amount of \$1,080,000 plus such additional amounts of bonds, if any, up to a maximum of 2% of the amount of bonds herein authorized, as the City Council shall by resolution determine to issue as additional obligations representing interest as authorized by Minnesota Statutes, Section 475.56, and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal of and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable, and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with the policies established by the City Council.

1.05 The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions, and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such 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 other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The City Council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, and current operating expenses and to maintain the municipal sewer utility and also to produce net revenues

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The City Council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. CERTIFICATION OF PROCEEDINGS.

4.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to obtain from the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

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

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 15, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9386

BY PRESIDENT HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$310,000 FOR THE IMPROVEMENT OF THE DULUTH STEAM PLANT UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the City is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific

lien upon such plant and may be payable primarily from net revenues to be derived from steam service charges pledged for their payment.

1.02 The City Council determines that it is necessary to make improvements to the central steam utility located in the downtown area of Duluth (the "Duluth Steam Plant"), and determines that it is necessary to issue general obligation revenue bonds in an amount not exceeding \$310,000 for the purpose of paying for the improvements, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The City heretofore issued and sold General Obligation Steam Revenue Bonds dated November 1, 1992, now outstanding in the amount of \$1,050,000. Under the provisions of the ordinance authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated November 1, 1992.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of General Obligation Steam Utility Revenue Bonds of the City of Duluth in an amount not exceeding \$310,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and credit and taxing powers of the City irrevocably to the extent required, for the payment of the principal and interest when due on such bonds and the maintenance of a reserve securing such payment, and also pledges and appropriates irrevocably for such payments the net revenues to be derived from time to time from the operation of the Duluth Steam Plant in excess of the normal reasonable and current costs of the operating and maintenance thereof.

1.05 The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the Duluth Steam Plant for the payment thereof, when authorized in accordance with the law and the City Charter and determined by the City Council to be necessary for the improvement of the utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. Term 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 covenants securing their payment, and prescribe the form thereof, and offer to sell such bonds in such 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 other applicable laws.

Section 3. Revenues and Accounts.

3.01 The City Council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of facilities of the Duluth Steam Plant at the times and amounts required to pay the normal, reasonable, and current operating expenses and to maintain the Duluth Steam Plant and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds hereafter issued and made payable from said net revenues.

3.02 The City Council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. Certifications of Proceedings.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Section 5. Effective Date.

5.01 That this Ordinance shall take effect and be in force 30 days from and after its date of passage and publication. (Effective date: November 15, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9387

BY COUNCILOR 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 OF PROPERTY LOCATED AT 4072 HAINES ROAD FROM R-1-B SINGLE FAMILY RESIDENTIAL TO R-3 APARTMENT RESIDENTIAL (ARMSTRONG/GRAMERCY CORPORATION).

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 560]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 22, 1998)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9388

BY COUNCILOR HALES:

AN ORDINANCE AUTHORIZING THE USE OF ALTERNATE SIDE PARKING REGULATIONS IN CONJUNCTION WITH NO PARKING REGULATIONS; AMENDING Section 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 33-97.8 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-97.8. Alternate side parking.

(a) Except as provided in part (b) of this Section, all persons parking vehicles on streets and highways shall park such vehicles according to the following system:

Beginning 12:01 a.m. on November 1, 1973, and until the end of the week in which November 1, 1973, falls and during every second week thereafter, vehicles shall be parked on that side of the street or avenue which abuts premises, whether improved or unimproved, that are or may be identified with reference to odd numbered addresses.

During the week following the week in which November 1, 1973, falls and during every second week thereafter, vehicles shall be parked on that side of the street or avenue which abuts premises, whether improved or unimproved, that are or may be identified with reference to even numbered addresses.

Every Sunday between the hours 4:00 p.m. and 8:00 p.m. shall be a changeover period and the provisions of this Section shall not be in force during such time.

For purposes of this Section, the term "week" shall designate a period beginning and ending at 8:00 p.m. Sunday;

(b) Part (a) of this Section shall not be applicable to:

(1) Any space during the time that the space is regulated as a truck zone or a loading zone pursuant to Section 33-87 of this Chapter;

(2) Any space designated as a bus stop or a taxicab stand pursuant to Section 33-88 of this Chapter;

(3) Any police business zone established pursuant to Section 33-88.1 of this Chapter;

(4) That portion of any street or avenue designated as a no parking zone or space pursuant to sections 33-96 or 33-97 of this Chapter, except where

expressly authorized in the resolution establishing the zone, and that portion of any street or avenue designated as a parking meter zone pursuant to Section 33-108 of this Chapter; and if a parking area on only one side of a street or avenue is so designated, the parking area on that portion of the street or avenue directly opposite the designated portion;

(5) Any parking area of that portion of a street or avenue designated as a snow emergency route pursuant to Section 33-97.2 of this Chapter;

(6) That portion of any street or avenue which is designated as a no stopping or standing zone pursuant to Section 33-97.9 of this Chapter;

(c) The city council, by resolution, may exempt any street or highway from the provisions of part (a) of this Section for the period each year beginning at 12:01 a.m. June 1 and ending 11:59 p.m. October 31.

Section 2. That the ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 22, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9389

BY COUNCILOR HALES:

AN ORDINANCE ALLOWING RESTAURANT PATRONS TO REMOVE FROM THE RESTAURANT PARTIALLY CONSUMED BOTTLES OF WINE THAT THEY HAD PURCHASED WITH A MEAL, AMENDING SECTION 8-22 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-22 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-22. Alcoholic beverages prohibited in public places; exceptions.

(a) No owner, manager or person having control of any public place shall serve, permit to be served or permit any person to drink alcoholic beverages in such place unless such place has been duly issued an on sale or temporary on sale license;

(b) No person shall mix, prepare, serve or consume alcoholic beverages in any public place except a hotel, club, restaurant or other place licensed to sell on the premises; provided, however, that the city council may, by resolution, permit the serving and consumption of alcoholic beverages in public places in connection with special events and convention functions subject to whatever conditions it deems desirable to impose;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(c) No person shall consume or have alcoholic beverages in his possession in any public place holding an on sale license unless such alcoholic beverages have been served to him by the licensee or an employee of such licensee;

(d) Except as provided in paragraph (f) of this Section, no licensee, manager or employee of any place for which any on sale license has been issued shall allow any patron to leave the licensed premises with any drink or open container of alcoholic beverages;

(e) Except as provided in paragraph (f) of this Section, no person shall leave any on sale licensed premises with any drink or open container of alcoholic beverages;

(f) Managers and employees of a restaurant licensed to sell intoxicating liquor or wine at on-sale under this Chapter may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed.

Section 2. That this ordinance shall be take effect and be in force 30 days from and after its passage and publication. (Effective date: November 22, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 8

Nays: None -- 0

Absent: Councilor Rapaich -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 13, 1998
Approved October 13, 1998
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 26, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on August 3 and 10, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1026-02 Mark Berg, et al. (31 signatures) submitting petition for bituminous overlay on Blackman Avenue from MacFarlane Road to Arrowhead Road. -- Assessor

98-1026-03 George Hovland submitting further petition to vacate the southerly ten feet of the 66 foot Chester Way right-of-way located on Lot 18, block 5, Superior View Addition. -- Assessor

98-1026-01 J & S Partnership, et al. (two signatures) submitting petition to construct a permanent street improvement on 33rd Avenue West from Michigan Street to Superior Street and construct water, gas, and sanitary sewer to serve lots four through 11, Block 20, O'Hara's Division. -- Assessor

98-1026-04 Tom Robertson, et al. (20 signatures) submitting petition for bituminous overlay on MacFarlane Road from Blackman Avenue to Howard Gnesen Road. -- Assessor

98-1026-05 Minnesota state auditor submitting audit report for Spirit Mountain recreation area authority for the years ended April 30, 1998 and 1997. -- Received

98-1026-18 St. Louis County Commissioner Krohn requesting support of the members of the Fond du Lac task force (98-0947R). -- Received

98-1026-24 St. Louis County communications department submitting letter regarding cellular towers (98-0850R). -- Received

98-1026-25 EarthTech, Inc., submitting letter pertaining to Gary-New Duluth landfill (98-0950R). -- Received

98-1026-06 Evensen Dodge, Inc., submitting presale analysis of: (a) \$1,390,000 general obligation utility revenue bonds, Series 1998D; \$2,750,000 general obligation improvement bonds, Series 1998E; \$1,940,000 general obligation equipment certificates of indebtedness, Series 1998F; (b) \$4,545,000 general obligation tax increment bonds, Series 1998G. -- Received

98-1026-26 Darlene Virta submitting document pertaining to her discussion of HUD HOME and ESG funding (98-0946R). -- Received

98-1026-12 Liz Wilson submitting communication pertaining to skateboarding (98-027-O). -- Received

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REPORTS OF OFFICERS

98-1026-07 Assessor submitting letters of: (a) Sufficiency to: (1) Construct bituminous overlay on: (A) MacFarlane Road from Blackman Avenue to Howard Gnesen Road; (B) Blackman Avenue from MacFarlane Road to Arrowhead Road; (2) Reclassify from residential/suburban to industrial technology (IT) district the Northwest Quarter Section Nine, Township Fifty North, Range Fourteen West; (3) Vacate: (A) Portion of the right-of-way between Lake Avenue and First Avenue East; (B) Southerly ten feet of the 66 foot Chester Way right-of-way located on Lot 18 of Block

5, Superior View Addition; (4) Construct a sanitary sewer to serve Lots 4 through 11, Block 20, O'Hara's Division; (b) Insufficiency to construct a permanent street improvement on 33rd Avenue West from Michigan Street to Superior Street. -- Received

98-1026-08 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses (bingo) from: (a) Order of AHEPA Duluth Chapter No. 267 on November 22, 1998; (b) St. Margaret Mary's Church on November 19, 1998. -- Received

98-1026-09 Community development and housing division submitting HRA report for the HUD CD-funded housing rehabilitation program for September 1998. -- Received

98-1026-10 Engineering division submitting monthly project status report for October 1, 1998. -- Received

98-1026-11 Physical planning division acting manager submitting copy of letter from Minnesota plan environmental quality board regarding the environmental review for the Spirit Ridge Golf Course and Lodge project (98-0180R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-1026-13 Charter commission minutes of October 8, 1997, meeting. -- Received

98-1026-14 Citywide citizens advisory committee minutes of September 16, 1998. -- Received

98-1026-15 Environmental advisory council minutes of September 2, 1998, meeting. -- Received

98-1026-16 Planning commission minutes of September 23, 1998, meeting. -- Received

98-1026-17 Sanitary sewer board of WLSSD minutes of September 28, 1998, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Jennifer Buckley, representing the Sustainable Farming Association, spoke regarding traffic problems that the organization experienced during its recent Harvest Festival held at the Duluth Entertainment Convention Center. She noted that the difficulties were attributed to traffic rerouting due to the in-line marathon and encouraged that there be better communication between the city and the DECC when multiple activities are scheduled at the same time.

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Michael Talarico, member of the Duluth economic development authority (DEDA), spoke on his own behalf in response to a recent newspaper article regarding the operations and function of DEDA. He articulated, in detail, the extent to which DEDA has been requested to be involved with the Phoenix Building and he listed other projects which DEDA has a normal level of involvement. In conclusion, Mr. Talarico explained that DEDA's operations are substantially financed due to the success of tax increment financing.

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 98-0850, granting a special use permit to Duluth Superior Cellular, Inc., for a church bell and communication tower on property located at 1731 North 43rd Avenue East, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon moved to remove the resolution from the agenda because the church board has voted to not allow the construction of a communications tower on its property, which motion was seconded and unanimously carried.

- - -

Councilor Hales moved to remove Resolution 98-0905, authorizing execution of an extension of a lease agreement with A & L Partnership for the Canal Park police station premises, from the table, which motion was seconded and unanimously carried.

Councilor Hales noted that a replacement resolution has been presented to the council. However, further work still needs to be done. She moved to refer the resolution back to the administration, which motion was seconded for discussion.

Councilor Keenan stated that the changes being requested are minor and there is no need for it to be redone again.

Councilor Hales' motion to refer the resolution back to the administration carried upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Rapaich and President Hogg -- 5

Nays: Councilors Hardesty, Keenan, Prettner Solon and Swapinski -- 4

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY PRESIDENT HOGG:

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 bonds for the following purposes:

(a) \$1,390,000 General Obligation Sewer and Steam Utility Revenue Bonds, Series 1998D, are hereby authorized and shall be issued pursuant to Ordinance Nos. 9385 and 9386, adopted October 13, 1998, for the payment of the costs of improvements to the municipal sewer utility and the downtown area municipal steam plant and for the payment of part of the interest costs of such bond issue;

(b) \$2,750,000 General Obligation Improvement Bonds, Series 1998E, are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475, Ordinance No. 9384 and the City Charter, for the purpose of financing local public improvements and to provide the local match for grants from the Minnesota Department of Transportation and the Lincoln Park neighborhood for the realignment of Michigan Street between 22nd Avenue West and the junction of Michigan Street and Superior Street and for the payment of part of the interest cost of such bond issue;

(c) \$1,940,000 General Obligation Equipment Certificates of Indebtedness, Series 1998F (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; and

(d) \$4,545,000 General Obligation Tax Increment Bonds, Series 1998G, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

associated with construction of the Great Lakes Aquarium at Lake Superior Center 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 Exhibits A, B, C and D. 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 98-0933 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

WHEREAS, DWD II Corporation, d/b/a Check Cashing of Duluth, has applied to the Minnesota department of commerce for a license to transact the business of a currency exchange at its offices at 101 East Superior Street; and

WHEREAS, the Duluth City Council has received a copy of the license application from the director of licensing of the department of commerce and can object to the issuance of said license; and

WHEREAS, the Duluth City Council has no objection to the issuance of said license to transact the business of a currency exchange.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a license to conduct the business of a currency exchange at 101 East Superior Street to DWD II Corporation, d/b/a Check Cashing of Duluth.

Resolution 98-0920 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

RESOLVED, that Tool Crib of the North be and hereby is awarded a contract for furnishing and delivering one traffic line remover EDCO model TLR-7 for the traffic operations division in accordance with specifications on its low specification bid of \$5,936.31, terms net 30, FOB shipping point, \$2,968.16 payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 2107, Object E742 and \$2,968.15 payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5241.

Resolution 98-0932 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that various contractors be and hereby is awarded a contract for potential sidewalk snow removal for the street maintenance division in accordance with specifications on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

its low specification bid of \$10,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403.

Resolution 98-0940 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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

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

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

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

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

<u>Licensee</u>	<u>Location</u>	<u>Date Filed</u>
1. Minnesota Beverage Association Children's Fund	Round Up Bar	October 13, 1998
2. Welch Center Inc.	Alpine Bar	October 13, 1998

Resolution 98-0944 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the director of libraries is authorized to accept on behalf of the city gifts of books and other library materials for use in the Duluth Public Library system.

Resolution 98-0904 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR KEENAN:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Background findings.

a. Pursuant to Laws of Minnesota for 1998, Chapter 404, Section 7, Subdivision 25, the legislature of the state of Minnesota has appropriated \$1,300,000 for a grant (the "grant") to the city for capital improvements to the animal care center, including veterinary hospital, laboratory, clinic and quarantine area and the children's zoo at the Lake Superior Zoological Garden (the "project");

b. The grant is to be administered through the Minnesota department of administration ("administration");

c. The project is and will be owned and operated by this city;

d. As conditions precedent to receiving the grant, this city is required to (i) execute a grant agreement in the form to be provided by administration (the "grant agreement") and (ii) comply with certain other procedural requirements of the state of Minnesota and administered by administration, including accepting the grant;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

2. Acceptance. The grant is hereby accepted. The city finance director and administrative assistant, or their designees are authorized and directed to execute and deliver such documents and take such actions on behalf of the city as are required by administration in order to prepare the grant agreement;

3. Subsequent resolution. The form, specifications and provisions of the grant agreement will be approved in a subsequent resolution of this city council.

Resolution 98-0937 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Ogstons, Inc., be and hereby is awarded a contract for furnishing snowplowing service for Stebner Road for the street maintenance division in accordance with specifications on its low specification bid of \$6,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5403.

BE IT FURTHER RESOLVED, that proper city officials be authorized to renew this contract for two additional years subject to budget allocations and the agreement of both parties.

Resolution 98-0923 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Quality Drywall & Plastering be and hereby is awarded a contract for annual plaster repair to various city buildings for the property management division in accordance with specifications on its low specification bid of \$7,000, terms net 30, FOB job site, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5441.

Resolution 98-0924 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Engwall Florist and Greenhouse be and hereby are awarded a contract for furnishing and delivering approximately 55 trees for the 1997 street improvement project for the city forestry division in accordance with specifications on its low specification bid of \$7,067.61, terms net 30, FOB destination, \$2,850.21 payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organizations 9703, Object 5530 and \$4,217.40 payable out of Street Improvement Program Fund 440, Dept./Agency 038, Organizations 9701, Object 5530.

Resolution 98-0925 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease with the Voyageur Bus Company & Minnesota Coaches, Inc., for the lease of a storage building located at 3941 Calvary Road from October 15, 1998, to April 15, 1999, for a consideration of \$1,200 per month to be paid from city Fund No. 100-500-1950-5412; said lease filed as Public Document No. 98-1026-19.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0926 was unanimously adopted.
Approved October 26, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to accept a utility easement hereinafter described from Charles R. Ralph and Charlene J. Ralph for a consideration of \$3,000, payable from Fund No. 530, Balance Sheet 2020.

A permanent easement for utility purposes over, under and across that part of Lot 339, Lower Duluth Minnesota Avenue, described as follows: southerly four feet of the easterly 12 feet of Lot 339 Lower Duluth Minnesota Avenue.

Resolution 98-0938 was unanimously adopted.
Approved October 26, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota department of transportation for the reimbursement to the city of \$16,978.24 for monies expended by the city on storm sewer repair along Trunk Highway No. 23 from 71st Avenue West to 74th Avenue West, said agreement filed as Public Document No. 98-1026-20. Said monies shall be deposited in Sewer Fund 531, Agency 500, Obj. 5532, Job No. 5282.

Resolution 98-0941 was unanimously adopted.
Approved October 26, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice in the amount of \$175,000 for project year July 1, 1998, to June 30, 1999, for the operation of the Central Hillside Weed and Seed project. All grant funds will be deposited in Fund 215, Agency 200, Org. 2441.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department.

Resolution 98-0917 was unanimously adopted.
Approved October 26, 1998
GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies from the U.S. department of justice, bureau of justice assistance, to reimburse the police department's expenditures related to the local law enforcement block grant program.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department. All grant proceeds are to be deposited in Fund 215, Agency 200, Org. 2450.

Resolution 98-0918 was unanimously adopted.
Approved October 26, 1998
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, community-oriented policing overtime program to reimburse the police department for salaries and benefits of officers working on need identified overtime projects from October 1, 1998, to September 30, 1999.

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. 1620, Object 4230.

Resolution 98-0922 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that proper city officers are hereby authorized to execute Addendum No. 1 to an agreement between the city and the Duluth housing and redevelopment authority (HRA) relating to police services funded through the 1997 drug elimination grant, which addendum is on file in the office of the city clerk as Public Document No. 98-1026-21.

Resolution 98-0928 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR HALES:

RESOLVED, that the proper city officers are hereby authorized to accept a grant from the U.S. department of justice in the amount of \$192,732 for the period October 1, 1998, to September 30, 1999, to advance community policing within the Duluth police department. All grant funds will be deposited in Fund 215, Agency 200, Org. 2447.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as necessary to implement the project on behalf of the police department.

Resolution 98-0942 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 98-0939, by President Hogg, authorizing execution of a supplemental agreement with the basic and supervisory bargaining units regarding transfer of vacation benefits to Maureen Maloney, was introduced for discussion.

Councilor Keenan reviewed that over the years this type of resolution has come before the council and, that while he does not oppose the transfer of time to the individual, there should be a policy in place to make this available to all employees.

Resolution 98-0939 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that the proper city officers are authorized to execute a supplemental agreement with the basic and supervisory bargaining units to permit the transfer of vacation benefits to Maureen Maloney under certain conditions, which agreement is on file in the office of the city clerk as Public Document No. 98-1026-22.

Resolution 98-0939 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Keenan -- 1

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0949, by President Hogg, amending Resolution 89-0323 establishing the Duluth economic development authority to require that four of the commissioners on the authority be city councilors and to require that a majority of the commissioners present at a meeting must be city councilors for action to be taken, was introduced for discussion.

President Hogg stated that this can not be considered tonight because it is necessary to hold a public hearing on the issue first. He continued by saying that there has also been a request for a council committee meeting on the topic as well.

President Hogg moved to table the resolution to allow for a public hearing and committee meeting to take place, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. 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 city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the FY99 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 hereby makes a finding that expenditures as set forth in Resolution 98-0947 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 city of Duluth and its officials 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 HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 98-0936 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0943, by Councilor Prettner Solon, amending Agreement No. 17911 with the GDC for skywalk security services increasing the term and the amount payable by \$13,500, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Responding to Councilor Hales, Michael Conlan, executive director of the Greater Downtown Council, stated that the provisions of the contract are for basic security and that there is no payment by the city for any extended security to the Radisson or to the Bella Vita restaurant. He noted that the amount covers an eight month period going back to March of 1998.

Resolution 98-0943 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement No. 17911, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-1026-23, with the Greater Downtown Council for the provision of skywalk security services increasing the term of the agreement to run through December 31, 1998, and increasing the amount payable thereunder by \$13,500, payable from General Fund 100, Agency 500, Org. 1950, property management division.

Resolution 98-0943 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0946, by Councilor Prettner Solon, authorizing a request for HUD HOME funds and HUD emergency shelter grant program (ESG) funds for the 1999 program year, was introduced for discussion.

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

Darlene Virta stated that her belief is that because the Women's Coalition has been allocated community development block grant (CDBG) funding, her neighborhood will not be funded and, thus, will lose the chance to save the last undeveloped area in the neighborhood. She reviewed a document (Public Document No. 98-1026-26) reflecting statistics on the sizes of the city's ten planning districts and noted that her district, District 6, is the most densely populated and lacks large play areas for its youth.

Mitchell Cyrette voiced his support for the Indian youth program that was not recommended for funding.

Keith Hamre, community development and housing division manager, noted that the Indian youth program was not funded, but that his office has been requested by the citywide citizens advisory committee (CCAC) to assist this group in finding other funding that may be available.

Larry Sundberg, representing the CCAC, urged support for the recommendations as presented by the CCAC. He added that, as discussed with the city council previously, the use of committees successfully aided the CCAC in its recommendation process.

Resolution 98-0946 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. 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, city council Resolution No. 98-0936 adopted October 26, 1998, approved the FY99 Action Plan portion of the Duluth consolidated plan for housing and community development FY 1996 - 2000; and

WHEREAS, the secretary of 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 Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below.

BE IT FURTHER RESOLVED, that until final allocations are determined by HUD the following shall be the designation for the below named HUD programs:

1999 HOME PROGRAM

Funds to be distributed by local formula (shown by percentages). The following assumes Duluth will receive an estimated \$680,000 for FY99:

55%	\$374,000	Homeowner property rehabilitation
15%	\$102,000	Homeownership initiative (new funding category)
15%	\$102,000	Community housing development organizations (CHDOs) affordable housing development
5%	\$ 34,000	Operation/capacity building (CHDOs)
10%	<u>\$ 68,000</u>	<u>Program administration</u>
100%	\$680,000	

1999 ESGP Program

Funds to be distributed by local formula once FY99 allocation is received from HUD. The following allocation assumes Duluth will receive an estimated \$140,000 for FY99:

1999 ESGP FUNDING RECOMMENDATION

90% min	\$126,000	Emergency shelter or transitional housing operation
5% max	\$7,000	Essential social services/homeless prevention
5% max	<u>\$7,000</u>	<u>Administration</u>
	\$140,000	

BE IT FURTHER RESOLVED, that the city of Duluth and its officials 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 HUD 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 98-0946 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. 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, city council Resolution No. 98-0936 adopted October 26, 1998, approved the FY99 action plan portion of the Duluth consolidated plan for housing and community development FY 1996-2000; and

WHEREAS, the secretary of 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

of 1990, as amended (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency shelter grant - ESG - program); and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

1999 CITY OF DULUTH COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>		
6201	\$1,000	Neighborhood Housing Services of Duluth, Inc.
6202	\$220,000	West Duluth revitalization Phase II - SVCNDA
6203	\$720,000	Duluth property rehabilitation program - HRA
6204	\$15,000	LIFELINE project - LifeHouse, Inc.
6205	\$200,000	AEOA weatherization (regular)
<u>PHYSICAL IMPROVEMENT PROJECTS</u>		
6206	\$37,000	Cascade Park revitalization
6207	\$33,000	Hillside district streetscape - Phase 2
6208	\$25,000	East Hillside/Endion sidewalk safety
6209	\$46,600	Lower Chester/Chester Creek rec. area improvements
6210	\$100,000	Woman's Coalition new shelter
6211	\$172,845	Lincoln Park Goat Hill street improvements
6212	\$55,000	Lincoln Park restoration & rehab. implementation - Phase I
6213	\$71,500	West Duluth park improvements
6214	\$25,000	West Duluth sidewalk safety
6215	\$175,000	Fond du Lac neighborhood sewers
6216	\$185,000	Citywide street improvements
<u>ECONOMIC DEVELOPMENT PROJECTS</u>		
6217	\$85,000	Microenterprise development/Northeast entrepreneur fund
6218	\$105,000	Alakef commercial improvements
6219	\$50,000	Programming for economic self-sufficiency/Project SOAR
6220	\$177,000	North Star Community Development Corporation
6221	\$30,000	Child care substitute teachers
6222	\$175,000	Duluth Center for Nonviolence
6223	\$32,000	Happy Hot Spas commercial improvements
6224	\$60,000	YWCA child care development
6225	\$30,000	Opportunities cooking/Damiano Center
<u>PUBLIC SERVICE PROJECTS</u>		
6226	\$15,000	Transitional housing - AICHO
6227	\$65,000	Duluth community health care/Duluth Community Health Clinic
6228	\$10,000	YMCA mentor program

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

6229	\$80,000	Duluth hunger project/CHUM
6230	\$40,000	Transitional housing women's coalition
6231	\$20,000	After school summer youth enrichment
6232	\$10,000	Veteran's outreach
6233	\$25,000	Life House youth center
6234	\$10,000	Summer neighborhood outreach-Playfair
6235	\$10,000	Families in transition/Harborview RMC
6236	\$60,000	Lincoln Park youth program/Boy's & Girl's Club
6237	\$30,000	Family transitional housing/Salvation Army
6238	\$40,000	Neighborhood Youth Services
6239	\$40,000	Central Hillside/YMCA
6240	\$40,000	East Hillside/Endion - YWCA
5241	\$30,000	Duluth H.O.M.E./Damiano Center

ADMIN/PLANNING/CONTINGENCY

6242	\$245,863	Program administration
6243	\$125,000	Neighborhood planning
6244	\$29,757	Contingency
6243	\$24,000	West Duluth streetscape plan/SVCNDA
<hr/>		
	\$3,775,565	Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 22 (1999) CDBG grant - city - estimated	\$3,500,000
Year 20 (1997) CDBG grant - city	275,565
<hr/>	
Total	\$3,775,565

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

<u>Year 20 (1997) CDBG Program - 262 Fund</u>				
<u>Account</u>	<u>Project</u>	<u>Orig.</u>	<u>Mod.</u>	<u>Revised</u>
6002	CAP weatherization (reg.)	\$275,565	-275,565	\$ -0-
	\$275,565 - Total amount reprogrammed			

BE IT FURTHER RESOLVED, that the city of Duluth and its officials 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 HUD 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 98-0947 was unanimously adopted.

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0950, by Councilor Prettner Solon, granting a special use permit to Demolition Landfill Services, L.L.C., for a permit by rule/demolition debris disposal facility for property located at 1100 West Gary Street, was introduced for discussion.

Councilor Prettner Solon moved to table the resolution so that a committee meeting can be held, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR GILBERT

98-018 - AN ORDINANCE AMENDING REGULATIONS RELATING TO SOLID WASTE AND RECYCLING CONTAINERS, AMENDING SECTIONS 24-18 AND 24-19 OF THE CITY CODE.

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

Councilor Gilbert noted that the original ordinance has been replaced and because of the extent of the changes, he has been advised that it needs to have a first reading this evening.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

98-018 - AN ORDINANCE AMENDING REGULATIONS RELATING TO SOLID WASTE AND RECYCLING CONTAINERS, AMENDING SECTIONS 24-18 AND 24-19 OF THE CITY CODE.

- - -

BY COUNCILOR EDWARDS

98-037 - AN ORDINANCE AMENDING SECTION 41-24(a)(3) OF THE CITY CODE RELATING TO THE APPROVAL OF PURCHASES OF \$1,000 OR LESS.

- - -

BY COUNCILOR HARDESTY

98-040 - AN ORDINANCE ACCEPTING A FREE CONVEYANCE OF A .59 ACRE PARCEL OF LAND NEAR THE ST. LOUIS COUNTY HERITAGE AND ARTS CENTER FROM THE MINNESOTA DEPARTMENT OF TRANSPORTATION AND RECONVEYING SAID PARCEL AT NO COST TO ST. LOUIS COUNTY.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR PRETTNER SOLON

98-036 (9390) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A & L PARTNERSHIP TO LOCATE UNDERGROUND UTILITIES IN EAST FIRST ALLEY FOR THE TECHNOLOGY VILLAGE/SOFT CENTER.

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

- - -

The meeting was adjourned at 8:56 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9390

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO A
& L PARTNERSHIP TO LOCATE UNDERGROUND UTILITIES IN

EAST FIRST ALLEY FOR THE TECHNOLOGY VILLAGE/SOFT CENTER.

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 A & L Development, their successors and interests, referred to herein as the permittee, to occupy, erect and maintain an underground utility in that part of East First Alley as the same was dedicated to the use of the public and the plat of Duluth Proper First Division, on file and of record in the office of the county recorder in and for the St. Louis County, Minnesota, described as follows: That part of the alley between Lot 5, East Superior Street and Lot 6, East First Street, all in Duluth Proper First Division, city of Duluth, St. Louis County, Minnesota, described as follows:

Commencing at the south corner of said Lot 6; thence northeasterly along the southeasterly line of said Lot 6 a distance of 21 feet 9-1/4 inches to the point of beginning; thence northeasterly along the southeasterly line of said Lot 6 a distance of 25 feet 0 inches; thence deflecting at a right angle southeasterly 20 feet 0 inches to the northwesterly line of said Lot 5; thence southwesterly along the northwesterly line of said Lot 5 a distance of 25 feet 0 inches; thence deflecting at a right angle northwesterly 20 feet 0 inches to the southeasterly line of said Lot 6 and the point of beginning.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittee shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the Register of Titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittee for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittee six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittee shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittee shall remove said underground utility and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittee, and without right on the part of the permittee to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittee hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittee, and agree that such underground utility 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 First Alley East in Duluth Proper First Division and agree that the city of Duluth shall not be liable for damage caused to such underground utility 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 underground utility in said First Alley East, Duluth Proper First Division.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 6, 1998)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 26, 1998

Approved October 26, 1998

GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 9, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and Vice President Prettnr Solon -- 8

Absent: President Hogg -- 1

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The minutes of council meetings held on August 24 and September 14, 1998, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1109-01 Dale Kusnierk, et al. (six signatures), submitting petition to vacate 260 feet of Cleveland Street in Gray's Addition Duluth. -- Assessor

98-1109-10 Merideth Lock, et al. (five signatures), submitting petition to vacate Niagara Street between Missouri Avenue and Mississippi Avenue. -- Assessor

98-1109-21 International Snowmobile Manufacturers Association submitting letter regarding snowmobile air quality issues (98-042-O). -- Received

98-1109-20 Viet & Company, Inc., submitting letter regarding a special use permit requested by Demolition Landfill Services (98-0950R). -- Received

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REPORTS OF OFFICERS

98-1109-02 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on October 27, 1998, at 4:00 p.m., regarding ordering of proposed local improvement and levying of assessments against real estate of 16 inch water main along Central Entrance to Miller Hill Mall. -- Clerk

(b) Letter of sufficiency to vacate Niagara Street between Missouri Avenue and Mississippi Avenue. -- Received

98-1109-03 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Rotary Club of Duluth (raffle) for February 18, 1999; (b) St. Margaret Mary Church (bingo) for November 19, 1998; (c) St. Mary's Foundation (bingo) for December 31, 1998. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-1109-04 Board of zoning appeals minutes of September 22, 1998, meeting. -- Received

98-1109-05 Civil service board minutes of: (a) September 1, 1998; (b) September 15, 1998, meetings. -- Received

98-1109-22 Environmental advisory council submitting letter regarding snowmobile access to Downtown Duluth (98-042-O). -- Received

98-1109-06 Housing and redevelopment authority of Duluth minutes of September 29, 1998, meeting. -- Received

98-1109-07 Sanitary sewer board of WLSSD minutes of: (a) October 13, 1998; (b) October 26, 1998, meetings. -- Received

98-1109-08 Seaway Port authority of Duluth minutes of September 28, 1998. -- Received

98-1109-09 Tree commission submitting letter regarding the accomplishments of the city forestry program, and past and proposed budget for 1999. -- Received

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MOTIONS AND RESOLUTIONS
CONSENT AGENDA

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

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

BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of firefighter, which were approved by the civil service board on June 2, 1998, and which are filed with the city clerk as Public Document No. 98-1109-12, are approved. This classification remains represented by the fire unit and compensated at Range 226, \$2,488 to \$3,310 per month.

Resolution 98-0919 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of: Virginia Avenue from the south line of Arrowhead Road (originally platted as St. Marie Street) to the north line of Buffalo Street (originally platted as Oak Street); Kentucky Avenue from the south line of Cleveland Street, (originally platted as Elm Street) to the north line of Buffalo Street (originally platted as Oak Street); Kennebec Avenue from the north line of Cleveland Street (originally platted as Elm Street) to the south line of Buffalo Street (originally platted as Oak Street; Cleveland Street (originally platted as Elm Street) from the a point 130 feet east of the east line of Apple Ridge Drive (originally platted as Broadway Avenue) to the west line of Kennebec Avenue; Buffalo Street (originally platted as Oak Street) from the east line of Broadway Avenue to the west line of Kennebec Avenue; and legally described as: Virginia Avenue adjacent to Blocks 3 & 4, and 13 & 14 Gray's Addition to Duluth; Kentucky Avenue adjacent to Blocks 14 & 15 Gray's Addition to Duluth; Kennebec Avenue adjacent to Blocks 15 and 16 Gray's Addition to Duluth; Cleveland Street (originally platted as Elm Street) adjacent to Lot 15, Block 4 and Lot 16, Block 13, and Blocks 2 & 15 and Blocks 3 & 14 Gray's Addition to Duluth; and Buffalo Street (originally platted as Oak Street) adjacent to Blocks 13, 14 & 15 and Blocks 18, 19 and 20, Gray's Addition to Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning 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 September 8, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacations of the above described streets and avenues, and as more particularly described on Public Document No. 98-1109-13.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 and avenues to be vacated.

Resolution 98-0863 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, on October 26, 1998, the city established the Duluth center for nonviolence project pursuant to Resolution 98-0947.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute an agreement, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 98-1109-14, with Minnesota Program Development, Inc. (MPDI), to implement the above project; payment for said services shall not exceed \$175,000, payable out of the 1999 Federal Program 262 - community development - Duluth Center for Nonviolence Account No. 6222.

Resolution 98-0951 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established a 1997 CDBG contingency account to provide for expanded costs or additional funding for CDBG programs and projects; and

WHEREAS, the citywide citizens advisory committee (CCAC) for the CDBG program at their meeting of October 27, 1998, passed a resolution recommending a transfer of funds from the contingency account to another project account as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following funding transfer in the Federal Program Fund 262-1997 HUD-funded community development accounts as set forth below:

<u>1997 Duluth HUD Funded CDBG Program</u>				
<u>Account</u>	<u>Project</u>	<u>Original</u>	<u>Amount of increase or decrease</u>	<u>Revised</u>
6036	Contingency	\$1,421	\$956	\$465
6008	Good Fellowship Community Club	\$153,000	\$956	\$153,956

Resolution 98-0953 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the city of Duluth has received a request to issue a resolution on behalf of Northland Waste Services, 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 Northland Waste Services, Inc.

Resolution 98-0966 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file with the office of the city clerk as Public Document No. 98-1109-15, with Bakken, Liedl, Janssen, Day & Reach, Inc., for appraisal services related to the real estate tax challenge involving Superior Recycled Fiber Industries, Inc., in the amount of not to exceed \$28,000, payable from Tax Increment District No. 6.

Resolution 98-0969 was unanimously adopted.

Approved November 9, 1998

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, a national senior citizens education and research center (N.S.C.E.R.C.) EXTRAide grant in the amount of \$5,127 for the period August 24, 1998, through June 30, 1999. A copy of this agreement is on file in the city clerk's office as Public Document No. 98-1109-16.

FURTHER RESOLVED, that amounts received pursuant to this grant be deposited in Fund #270, Budget Item #6342.

Resolution 98-0954 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the proper city officers are hereby authorized to execute an agreement with the Salvation Army, under which the Salvation Army 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. 98-1109-17; payment by the city will be made from the general fund, other functions, Agency 015, Miscellaneous 2020.

Resolution 98-0948 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that United Piping, Inc., be and hereby is awarded a contract for construction of two inch plastic high pressure gas mains and 1/2 inch plastic gas services and related work in Gilead Street from Arlington Avenue to Blackman Avenue for the gas division in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

specifications on its low specification bid of \$52,202.50, terms net 30, FOB job site, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-0955 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that Fisher Controls, Inc., be and hereby is awarded a contract for furnishing and delivering 36 one-inch and two-inch natural gas relief valves and regulators for the gas division in accordance with specifications on its low specification bid of \$6,884.33, terms net 30, FOB shipping point, payable out of Gas Fund 520, Dept./Agency 900, Organization 0543, Object 5227.

Resolution 98-0957 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Premier Lawn Service be and hereby is awarded a contract for snow plowing of municipal parking lots and ramps for the property management division, in accordance with specifications on its low specification bid of \$25,000, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 1950, Object 5402.

Resolution 98-0956 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Viking Electric Supply, Inc., be and hereby is awarded a contract for furnishing and delivering five luminaire housing and lampholder assemblies for the traffic operations division in accordance with specifications on its low specification bid of \$5,801.59, terms net 30, FOB shipping point, payable out of General Fund 100, Dept./Agency 500, Organization 1935, Object 5247.

Resolution 98-0959 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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 \$8,800, terms net 30, FOB job sites, payable out of General Fund 100, Dept./Agency 500, Organization 2000, Object 5415.

Resolution 98-0960 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Buchen S.I.S., Inc., be and hereby is awarded a contract for furnishing, delivering a replacement track crawler (camera holder) for the sewer television inspection camera for the sewer division in accordance with specifications on its low specification bid of \$5,830.88, terms net 30, FOB shipping point, payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 98-0961 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Utility Systems of America, Inc., be and hereby is awarded a contract for reconstruction of lift station number three located at 45th Avenue East for the sewer division in accordance with specifications on its low specification bid of \$244,081.40, terms net 30, FOB job site, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 98-0962 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0444 to Ayres Associates, Inc., for furnishing professional engineering services for design of a sanitary sewer network to and in Fond-du-lac, be amended to increase the amount by \$94,500 for a new total of \$114,500, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 98-0964 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0652 to American Engineering Testing, Inc., (\$25,000) and Twin Ports Testing, Inc., (\$25,000) for furnishing professional field and laboratory testing services, be amended to increase the amount for American Engineering Testing, Inc., by \$9,343.50 for a new total of \$59,343.50, payable out of various funds, dept./agencies, organizations and objects.

Resolution 98-0965 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the proper city officials are hereby authorized to execute a lease agreement with A & L Partnership for the Canal Park police station premises, which agreement shall be substantially in the form of the document on file in the office of the city clerk as Public Document No. 98-1109-18, at a monthly cost of \$369.58 for July through September of 1998, and a monthly cost of \$650 beginning in October of 1998, which shall be payable from the General Fund 100-500-1950-4612.

Resolution 98-0905 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 zones are hereby established on both sides of the following streets:

Caldwell Street from 85th Avenue West to 75th Avenue West

25th Avenue East from First Street to Fourth Street

Bellis Street from Minneapolis Avenue to 344 feet easterly

Faribault Street from Allendale Avenue to Minneapolis Avenue

Mankato Street from Allendale Avenue to Minneapolis Avenue

Owatonna Street from Allendale Avenue to Minneapolis Avenue

Resolution 98-0958 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

The following resolutions were also considered:

Resolution 98-0952, by Vice President Prettner Solon, accepting up to \$500,000 from DEDA for the Tech Village parking ramp land acquisition, was introduced for discussion.

To questioning by Councilor Hardesty, Vice President Prettner Solon replied that it is anticipated that there will be bonding for the Soft Center project, and if the project does not go forward, the city would not have to pay back the \$500,000, but the land would go back to DEDA as the city cannot land bank.

Planning and Development Department Acting Director Cynthia Albright stated that this money is a portion of the money that DEDA expected to contribute to the cost of the construction of the ramp, and the funds are being advanced to cash flow the purchase of the property on the time line that has been established with the people that the city is negotiating the purchases with. She continued by saying that the money is excess tax increment dollars collected in the Downtown (District 2) tax increment district (TIF).

Councilor Keenan requested that the business development division supply the councilors with the total financial picture of this project so that they can understand the process that is being followed.

Councilor Edwards reviewed that the previous administrative assistant, Karl Nollenberger, had supplied the councilors with action steps which outlined the financing process for the project and questioned why the councilors seem to be dragging their feet on this issue. She continued by saying that they should pass the resolution so that the Housing and Redevelopment Authority can continue doing their job.

Councilor Swapinski stated that while they were given action steps back in March, the cost of the ramp has increased from \$10,000 per space to \$12,000 per space and the councilors need to know where the extra money is coming from to finance the increased costs along with a signed copy of a development agreement.

Councilor Swapinski moved to table the resolution for a committee meeting on November 16, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan and Swapinski -- 4

Nays: Councilors Edwards, Hales, Rapaich and Vice President Prettner Solon -- 4

Absent: President Hogg -- 1

Councilor Hardesty moved to table the resolution for a committee meeting with a special council meeting on November 16, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert, Hardesty and Keenan -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Nays: Councilors Edwards, Hales, Rapaich, Swapinski and Vice President Prettner Solon -- 5

Absent: President Hogg -- 1

Councilor Swapinski moved to call the question on the resolution, which died for a lack of a second.

Resolution 98-0952 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to accept a sum not to exceed \$500,000 from DEDA, said sum be deposited in Fund 425, to fund acquisition of property for the Technology Village parking ramp project, provided that the city agrees to reimburse DEDA from the proceeds of any city bonds issued for the benefit of the project or to credit such amounts against any sum DEDA subsequently agrees to expend on said project, or if the project does not go forward, to convey all properties acquired with such funds to DEDA at no additional costs to DEDA.

Resolution 98-0952 was adopted upon the following vote:

Yeas: Councilors Edwards, Hales, Hardesty, Keenan, Rapaich and Vice President Prettner Solon -- 6

Nays: Councilors Gilbert and Swapinski -- 2

Absent: President Hogg -- 1

Approved November 9, 1998

GARY L. DOTY, Mayor

- - -

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to purchase the below described property in St. Louis County, Minnesota from the Duluth Federation of Teachers Local 692, a Minnesota nonprofit corporation, for the sum of not to exceed \$160,000, payable from Fund 425: Lot 12, East First Street, Duluth Proper First Division.

Resolution 98-0935 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a portion of an easement for street purposes (Chester Way) legally described as: the southerly ten feet of Lot 18 of Block 5, Superior View Addition as described on Public Document No. 96-0923-31; and

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

WHEREAS, the city planning commission approved unanimously the vacation petition at its October 28, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of described above, and as more particularly described on Public Document No. 98-1109-19.

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 the right-of-way to be vacated.

Resolution 98-0963 was unanimously adopted.

Approved November 9, 1998

GARY L. DOTY, Mayor

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Resolution 98-0930, of intent for bituminous resurfacing of Macfarlane Road from Blackman Avenue to Howard Gnesen Road (City Job No. 9153RS98); and Resolution 98-0945, of intent for bituminous resurfacing of Blackman Avenue from Macfarlane Road to Arrowhead Road (City Job No. 9154RS98), by Councilor Swapinski, were introduced for discussion.

Councilor Swapinski moved to table both resolutions, 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 VICE PRESIDENT PRETTNER SOLON

98-041 - AN ORDINANCE RENAMING A PORTION OF KENWOOD AVENUE TO KENWOOD DRIVE (RESIDENTS).

- - -

BY COUNCILORS GILBERT AND SWAPINSKI

98-042 - AN ORDINANCE PROHIBITING THE USE OF MOTORIZED VEHICLES AND SNOWMOBILES ON A PROPOSED CITY TRAIL IN THE LAKE SUPERIOR/ST. LOUIS RIVER CORRIDOR AREA.

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

Jeff Mausolf spoke in response to concerns by various groups stating that snowmobiles being allowed in Canal Park area would cause an air quality hazard and he urged the councilors to get information on the issue as they will see that they do not pose an air quality hazard.

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The following entitled ordinances were read for the second time:

BY COUNCILOR EDWARDS

98-037 (9391) - AN ORDINANCE AMENDING SECTION 41-24(a)(3) OF THE CITY CODE RELATING TO THE APPROVAL OF PURCHASES OF \$1,000 OR LESS.

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

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BY COUNCILOR HARDESTY

98-040 (9392) - AN ORDINANCE ACCEPTING A FREE CONVEYANCE OF A .59 ACRE PARCEL OF LAND NEAR THE ST. LOUIS COUNTY HERITAGE AND ARTS CENTER FROM THE MINNESOTA DEPARTMENT OF TRANSPORTATION AND RECONVEYING SAID PARCEL AT NO COST TO ST. LOUIS COUNTY.

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

- - -

BY COUNCILOR GILBERT

98-018 - AN ORDINANCE AMENDING REGULATIONS RELATING TO SOLID WASTE AND RECYCLING CONTAINERS, AMENDING SECTIONS 24-18 AND 24-19 OF THE CITY CODE.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Jim Gruba, Ken Cich, Randy Virta, Darlene Virta, Susan Frey and Cheryl Reitan expressed their support for the ordinance for the following reasons: garbage is just a part of a larger picture of the problems with rental property; single family homes are being turned into rental property where 6-8 students live; there is an on-going struggle in the neighborhoods with rental property because the rental property is not kept up; people choose to leave neighborhoods because the rental property brings down the property value and the buildings deteriorate; renters do not have the same value of the property as the property owner; garbage sits in the container for animals to destroy or the wind to blow around the neighborhood; the ordinance would be a tool in which to keep the neighborhoods clean.

Tom Allnew stated that the ordinance belongs in the garbage as it treats the citizens as children.

To Councilor Keenan's questioning regarding who would be enforcing this ordinance, Ms. Albright stated that David Lockwood, the solid waste compliance officer and employee of the building inspection division, will be responsible for neighborhood enforcement programs of this type.

Councilor Hales stated that the people want less government in their lives and not more, and that this will be too difficult to enforce.

Councilor Gilbert stated that he received many phone calls from absentee landlords stating that this ordinance would be hard to follow because they do not live in Duluth. He continued by saying that he talked with Mr. Lockwood and Duane Lasley, building official, who ended up drafting this replacement ordinance, and has addressed those issues in this ordinance. Councilor Gilbert stated that while Mr. Lockwood would not be out looking for violations of this ordinance, there needs to be some mechanism to keep our neighborhoods in orderly fashion and avoid the deterioration and pests.

Vice President Prettner Solon voiced her concern for the financing of Mr. Lockwood's position added that his time would be better used with solid waste management items other than the placement of garbage cans.

Councilor Swapinski stated that this proposed ordinance has brought public awareness to the issue which should make citizens more diligent in bringing in their garbage cans.

Councilor Hardesty reviewed that the ordinance will help the neighborhoods deal with some problems that persist by giving some enforcement provisions to an existing ordinance.

Councilor Keenan stated that while this is a serious issue, there is not evidence that this is a major problem citywide. He continued by saying that the amendment to the ordinance is too much government without much benefit.

Councilor Gilbert moved passage of the ordinance, which failed upon the following vote (Public Document No. 98-1109-11):

Yeas: Councilors Gilbert, Hardesty and Swapinski -- 3

Nays: Councilors Edwards, Hales, Keenan, Rapaich and Vice President Prettner Solon -- 5

Absent: President Hogg -- 1

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The meeting adjourned at 9:10 p.m.

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

- - -

ORDINANCE NO. 9391

BY COUNCILOR EDWARDS:

AN ORDINANCE AMENDING SECTION 41-24(a)(3) OF THE CITY CODE RELATING TO THE APPROVAL OF PURCHASES OF \$1,000 OR LESS.

The city of Duluth does ordain:

Section 1. That Section 41-24 of the Duluth City Code, 1959, is hereby amended to read as follows:

Sec. 41-24. Contract procedure--contracts of \$15,000 or less.

Purchases of supplies and contractual services and all sales of personal property involving \$15,000 or less shall be made pursuant to the provisions of this Section either by formal written contract or upon a properly executed purchase or sale order, whichever method is deemed appropriate.

(a) Bidding procedures;

(1) Contracts between \$10,000 and \$15,000. If the amount of the contract is estimated to exceed \$10,000 but not to exceed \$15,000, the purchasing agent shall make such purchases or sales by direct negotiation, obtaining two or more quotations when possible, unless the finance director of the city directs that such purchase or sale be made pursuant to the formal bidding procedures set forth in Section 41-23 of this Code. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof;

(2) Contracts of \$10,000 or less. If the amount of the contract is estimated to be \$10,000 or less, the purchasing agent may, in his discretion, make the purchase or sale either upon quotation or in the open market. If the contract is made upon quotation, it shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(3) Purchases of \$1,000 or less. In the case of purchases estimated to be \$1,000 or less, department heads or their designees are authorized to make such purchases without the approval of the purchasing agent. Such purchases may be made either upon quotation or in the open market. If such purchases are made upon quotation, they shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(b) Rejection of bids. The purchasing agent or other person authorized to make purchases shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent or other person authorized to make purchases may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(c) Award of contract. The purchasing agent or, subject to the limitations of paragraph (a)(3) of this Section, other persons authorized to make purchases shall have authority to award contracts within the purview of this Section, provided that contracts of more than \$5,000 shall be awarded only after authorization by the city council. Contracts shall be awarded to the lowest responsible bidder in accordance with the provisions of Section 41-23 of this Code;

(d) Performance bonds. The provisions regarding performance bonds contained in Section 41-23 of this Code are hereby incorporated into this Section.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 20, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and Vice President Prettner Solon -- 8

Nays: None -- 0

Absent: President Hogg -- 1

Passed November 9, 1998
Approved November 9, 1998
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9392

BY COUNCILOR HARDESTY:

AN ORDINANCE ACCEPTING A FREE CONVEYANCE OF A .59 ACRE PARCEL OF LAND NEAR THE ST. LOUIS COUNTY HERITAGE AND ARTS CENTER FROM THE MINNESOTA DEPARTMENT OF TRANSPORTATION AND RECONVEYING SAID PARCEL AT NO COST TO ST. LOUIS COUNTY.

The city of Duluth does ordain:

Section 1. The Duluth city council hereby accepts the tender of a free conveyance of the following described real estate from the State of Minnesota, Department of Transportation, pursuant to the Laws of Minnesota, 1997, Chapter 159, Article 2, Section 3:

That part of Tract A described below:

Tract A That part of Government Lot 5 and the southwest quarter of the southwest quarter, both in Section 27, and Government Lot 3 of Section 34, all in Township 50 North, Range 14 West, St. Louis County, Minnesota, described as follows: from a point on Line 1 described below, distant 463.86 feet northeasterly of its point of beginning, run southeasterly at right angles to said Line 1 for 90 feet to the point of beginning of the tract to be described; thence run northeasterly to a point distant 100 feet southeasterly (measured at right angles) from a point on said Line 1, distant 508.86 feet northeasterly of its point of beginning; thence run northeasterly to a point distant 115 feet southeasterly (measured at right angles) from a point on said Line 1, distant 563.86 feet northeasterly of its point of beginning; thence run northeasterly to a point on the northerly right of way line of Duluth Union Depot Company prior to January 1, 1980, said line being the south line of Railroad Alley, said point being distant 150 feet southeasterly (measured at right angles) from a point on said Line 1, distant 863.86 feet northeasterly of its point of beginning; thence easterly along the northerly right of way line of said Duluth Union Depot Company to a point distant 125.88 feet east of the extended easterly line of Seventh Avenue West; thence northeasterly at an angle of 17 degrees 07 minutes 00 seconds from the last described line for 185.37 feet, more or less, to a point on the west line of Lot 11, Block D, Duluth Proper, Third Division, distant 85.71 feet, more or less, from the intersection of the south of Michigan Street with the west line of said Lot 11; thence southerly along the west line of said Lot 11 at an angle of 71 degrees 30 minutes 00 seconds from the last described line for 147.29 feet, more or less, to a point distant seven feet northerly of the centerline of the main track of the Burlington Northern, Inc.; thence westerly along a line parallel to the center line of said main track,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

and distant seven feet northerly therefrom, to the point of beginning, said line also being the northerly right of way line of said Burlington Northern, Inc.

Line 1. From the point of intersection of the center line of Michigan Street with the center line of 15th Avenue West, run southeasterly on the centerline of 15th Avenue West for 261.49 feet; thence deflect to the left at an angle of 91 degrees 22 minutes 10 seconds for 2359.77 feet; thence deflect to the right at an angle of 25 degrees 35 minutes 22 seconds for 152.41 feet to the point of beginning of Line 1 to be described; thence deflect to the left at an angle of 26 degrees 13 minutes 19 seconds for 81.58 feet; thence deflect to the left on a 6 degree 00 minute 00 second curve (delta angle 22 degrees 38 minutes 44 seconds) for 377.42 feet; thence on tangent to said curve for 364.13 feet; thence deflect to the right on a 10 degree 00 minute 00 second curve (delta angle 24 degrees 38 minutes 20 seconds) for 246.39 feet and there terminating; which lies southwesterly of a line run parallel with and distant 40 feet southwest-erly of the southeasterly extension of the northeasterly line of Lot 121, Block 4, Duluth Proper, Third Division.

Section 2. The city of Duluth hereby conveys its right, title and interest to that certain real estate named above to St. Louis County at no cost to St. Louis County.

Section 3. Upon passage of this ordinance, the proper city officers shall execute a quit claim deed conveying said right, title and interest of the above mentioned property to St. Louis County, Minnesota.

Section 4. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 20, 1998)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and Vice President Prettner Solon -- 8

Nays: None -- 0

Absent: President Hogg -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 9, 1998
Approved November 9, 1998
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 19, 1998, 5:00 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and President Hogg -- 8

Absent: Councilor Swapinski -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1119-01 Evensen Dodge, Inc., submitting: (a) Bid tabulations; (b) Official statement regarding \$1,390,000 G.O. sewer and steam utility revenue bonds, Series 1998D, \$2,750,000 G.O. improvement bonds, Series 1998E, \$1,990,000 G.O. equipment certificates of indebtedness, Series 1998F, and \$4,545,000 G.O. tax increment bonds, Series 1998G. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 98-0973, providing for the issuance, sale and delivery of \$1,390,000 general obligation sewer and steam utility revenue bonds, Series 1998D; establishing the terms and form thereof; and awarding the sale thereof; Resolution 98-0974, providing for the issuance, sale and delivery of \$2,750,000 general obligation improvement bonds, Series 1998E, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; and Resolution 98-0975, providing for the issuance, sale and delivery of \$1,990,000 general obligation equipment certificates of indebtedness, Series 1998F; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by President Hogg, were introduced for discussion.

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

Katherine Kardell, Evensen Dodge, Inc., recapped the tabulation of the bids. She commented in detail on how well the city bond issues did in the market.

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At this time, 5:24 p.m., Councilor Swapinski took his seat.

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Resolution 98-0973 was adopted as follows:

BY PRESIDENT HOGG:

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

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075 and Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the municipal sewer utility plant (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment.

1.02 The City Council has, by Ordinance No. 9385 adopted October 13, 1998, ordered the issuance, sale and delivery of \$1,080,000 General Obligation Sewer Utility Revenue Bonds of the City, for the payment of the costs of improvements to the municipal sewer utility (the "Sewer Portion of the Bonds") and for payment of part of the interest cost of the Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

1.03 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Chapter 475, Minnesota Laws, 1979, Chapter 113, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the municipal steam utility plant (including bonds representing part of the interest cost of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and are payable primarily from net revenues to be derived from the operation of the municipal steam utility and pledged for their payment.

1.04 The City Council has, by Ordinance No. 9386 adopted October 13, 1998, ordered the issuance, sale and delivery of \$310,000 General Obligation Steam Utility Revenue Bonds of the City, for the payment of the costs of improvements to the downtown area municipal steam plant (the "Steam Portion of the Bonds"), and for payment of part of the interest cost of the Bonds.

1.05 The City Council has determined that it is necessary and expedient that the City issue such municipal utility bonds in a single issuance of \$1,390,000 General Obligation Sewer and Steam Utility Revenue Bonds, Series 1998D (the "Bonds").

1.06 The City Council has solicited proposals for the sale of the Bonds and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Piper Jaffray, Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,379,227.50, plus accrued interest on the total principal amount from December 1, 1998, 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, 1998, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated as follows and shall bear interest at the annual rates as set forth on Exhibit A:

Year	Sewer Portion of the Bonds	Steam Portion of the Bonds	Total
2000	\$ 85,000	\$25,000	\$110,000
2001	95,000	25,000	120,000
2002	95,000	30,000	125,000
2003	100,000	30,000	130,000
2004	105,000	30,000	135,000
2005	110,000	30,000	140,000
2006	115,000	35,000	150,000
2007	120,000	35,000	155,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

2008	125,000	35,000	160,000
2009	130,000	35,000	165,000

2.02 The Bonds maturing in the years 2000 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, in inverse order of maturity years and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date. Not less than 30 days before the date fixed for redemption and prepayment of any Bonds, notice of the redemption thereof shall be mailed to each registered owner of a Bond to be redeemed, at the owner's address shown on the registration books of the City, and published notice of redemption shall be given, if required by law, in the manner provided by Minnesota Statutes, Chapter 475, but the failure to give such mailed notice, or defect in any notice so mailed, shall not affect the validity of the proceedings for the redemption of any Bond not affected by such failure or defect. If applicable, notice shall be given in accordance with the terms of the Representation Letter described in Section 2.06A hereof.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 1999. 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 1998

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

CITY OF DULUTH
GENERAL OBLIGATION SEWER AND STEAM UTILITY REVENUE BOND,
SERIES 1998D

R-____ \$_____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, ____	December 1, 1998	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 1998, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1999. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Norwest Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,390,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on November 19, 1998, by the governing body of the City (the "Resolution"). The Bonds consist of two issues:

(i) That portion of the Bonds (\$1,080,000) issued for the municipal sewer utility are issued pursuant to the authority contained in Section 55 of the City Charter, Minnesota Statutes, Sections 115.46 and 444.075, and Chapter 475, and all other laws and charter provisions thereunto enabling, and pursuant to Ordinance No. 9385 adopted on October 13, 1998, for the purpose of providing funds for improvements to the municipal sewer utility and for payment of part of the interest cost of said bond issue. That portion of the Bonds issued for improvements to the municipal sewer utility plant are payable primarily from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the sewer utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the sewer utility.

(ii) That portion of the Bonds (\$310,000) issued for improvements to the municipal steam utility in the downtown area of Duluth are pursuant to the authority contained in Section 55 of the City Charter, Minnesota Statutes, Chapter 475 and Minnesota Laws, 1979, Chapter 113, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9386 adopted October 13, 1998, for the purpose of providing funds for improvements to such municipal steam utility and for payment of part of the interest cost of such bond issue. That portion of the Bonds issued for the municipal steam utility are payable from the net revenues to be derived from the operation of the downtown area municipal steam utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the downtown area municipal steam utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the steam utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal steam utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the steam utility.

The Bonds of this series maturing in the years 2000 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, in inverse order of maturity years and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed, and, if required by law, published notice of redemption will be given in the manner provided by Minnesota Statutes, Chapter 475. No defect or failure in such mailed notice shall affect the validity of the proceedings for redemption of any Bond not affected by such failure or defect. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Attest:

Clerk

Mayor

Date of Authentication: _____

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

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, of Minneapolis, Minnesota, 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 Norwest Bank Minnesota, National Association as Bond Registrar, in the name of the registered owner last noted below.

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/___/98	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

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.

Clerk

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 to 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 Sewer Portion of the Bonds.

A. The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Sewer Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the utility and segregate and account for the revenues thereof as provided in this Section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the municipal sewer utility in a separate Sewer Utility Operating Account within the Public Service Sewer Utility Fund maintained under Section 54 of the City Charter. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting

principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all sewer utility bonds when due. The portion of the maturities of the Bonds and debt service allocated to the Sewer Portion of the Bonds are set forth on Exhibit B.

B. The City has created a separate construction account within the Public Service Sewer Utility Fund to which there shall be credited \$1,080,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the utility. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the sewer utility and costs of the issuance of the Sewer Portion of the Bonds.

C. Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Service Sewer Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Sewer Portion of the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The Treasurer shall credit to the Sewer Debt Service Fund all proceeds of the Sewer Portion of the Bonds in excess of \$1,080,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Sewer Portion of the Bonds. The Treasurer shall transfer from the Sewer Utility Operating Account to the Sewer Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Sewer Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

D. Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.02 Steam Portion of the Bonds.

A. The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the central municipal steam utility located in the downtown area of Duluth (the "Duluth Steam Plant") at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Steam Portion of the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the Duluth Steam Plant and segregate and account for the revenues thereof as provided in this Section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the Duluth Steam Plant in a separate Steam Utility Operating Account within the Public Service Steam Utility Fund maintained under Section 54 of the City Charter. Except as provided in this Section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Duluth Steam Plant, and to maintain such reasonable reserves for such expenses as the Director of Finance shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all Duluth Steam Plant bonds when due. The portion of the maturities of the Bonds and debt service allocated to the Steam Portion of the Bonds are set forth on Exhibit C.

B. The City has created a separate construction account within the Public Service Steam Utility Fund to which there shall be credited \$310,000 from the proceeds of the Bonds, less amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, together with any additional funds which may be available and are appropriated for improvements to the Duluth Steam Plant. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the Duluth Steam Plant and costs of the issuance of the Steam Portion of the Bonds.

C. Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Steam Debt Service Fund") in the Public Service Steam Utility Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Steam Portion of the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the Duluth Steam Plant. The Treasurer shall credit to the Steam Debt Service Fund all proceeds of the Steam Portion of the Bonds in excess of \$310,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Steam Portion of the Bonds. The Treasurer shall transfer from the Steam Utility Operating Account to the Steam Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Steam Portion of the Bonds, and a pro rata portion of all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the Treasurer, in accordance with policies established by resolutions of the City Council.

D. Surplus utility revenues from time to time received in the Steam Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Steam Utility Operating Account and in the Steam Debt Service Fund, may be used for necessary capital expenditures for the improvement of the Duluth Steam Plant, for the prepayment and redemption of bonds constituting a lien on the Duluth Steam Plant, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

3.03 If the balances in either Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Funds will be received at the times and in amounts not less than 5% in excess of the amounts needed to

meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Funds (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 Funds 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.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor 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 Bonds herein authorized have been duly entered on his 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 relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested 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 otherwise known to them. All of 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 officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the 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 of the date of the official statement.

Resolution 98-0973 was unanimously adopted.

Approved November 19, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0974 was adopted as follows:

BY PRESIDENT HOGG:

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. 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.

B. The City Council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the City Clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
97-0756	9/22/97	\$265,000	Railroad Street from Garfield Avenue to 8 th Avenue West
98-0031	1/6/98	280,000	Arrowhead Road from Arlington 500' West from Arrowhead Road South 600'
97-0873	11/10/97	29,000	Second Alley from 14 th to 15 th Avenues East
98-0550	7/13/98	146,000	Sidewalks 1998
98-0600	7/13/98	285,000	Hartley Estates 3

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,005,000 General Obligation Improvement Bonds (the "Public Improvements Portion of the Bonds").

1.02 A. 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.

B. The City Council has, by Ordinance No. 9384 adopted on October 13, 1998, authorized the issuance and sale of \$1,745,000 General Obligation Michigan Street Improvement Bonds of the City to provide the funds necessary to match the grants from the Minnesota Department of Transportation and from the Lincoln Park Business Group 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 "Michigan Street Improvements"). The City hereby accepts the \$10,000 grant from the Lincoln Park Business Group.

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,745,000 General Obligation Michigan Street Improvement Bonds (the "Michigan Street Portion of the Bonds").

1.03 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,750,000 General Obligation Improvement Bonds, Series 1998E, to be dated December 1, 1998, as the date of original issue (the "Bonds") for financing the Michigan Street Improvements and the Public Improvements.

1.04 The City Council has solicited proposals for the sale of the Bonds in the principal amount of \$2,750,000 and has received and considered all proposals presented pursuant to the Official Terms of Offering and has determined that the most favorable proposal is that of Dain Rauscher, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,715,625.00, plus accrued interest on the total principal amount from December 1, 1998, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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, 1998, 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	Michigan Street Improvements	Public Improvements	Amount
2000	\$ 75,000	\$20,000	\$ 95,000
2001	90,000	20,000	110,000
2002	95,000	55,000	150,000
2003	95,000	55,000	150,000
2004	100,000	60,000	160,000
2005	105,000	60,000	165,000
2006	110,000	60,000	170,000
2007	115,000	65,000	180,000
2008	120,000	70,000	190,000
2009	125,000	70,000	195,000
2010	130,000	75,000	205,000
2011	135,000	80,000	215,000
2012	145,000	80,000	225,000
2013	150,000	90,000	240,000
2014	155,000	90,000	245,000
2015	--	55,000	55,000

2.02 The Bonds maturing in the years 2000 through 2007 shall not be subject to redemption and prepayment before maturity, but those maturing or subject to mandatory redemption, pursuant to Section 2.01B, in the year 2008 and in 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, 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 August 1, 1999. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 1998E

R-_____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, ____	December 1, 1998	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 1998, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 1999. 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 \$2,750,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted by the governing body of the City on November 19, 1998 (the "Resolution"). The Bonds comprise (i) \$1,745,000 General Obligation Michigan Street Improvement Bonds issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, and Ordinance No. 9384, for the purpose of providing the local match for grant funds for the realignment of Michigan Street as described in the Resolution, which obligations and interest thereon are payable from annual ad valorem taxes; and (ii) \$1,005,000 General Obligation Improvement Bonds issued pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes for the purpose of financing local public improvements, which obligations and interest thereon will be payable primarily from special assessments upon benefitted property.

The Bonds of this series maturing in the years 2000 through 2007 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, 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. 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.

Attest:

City Clerk

Mayor

Date of Authentication: _____

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

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/___/98	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

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

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 Public Improvements in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Public Improvements. The City Council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to two separate construction accounts as follows:

A. \$1,745,000 for the Michigan Street Portion of the Bonds, less discount allocated thereto, into the Michigan Street Realignment Account (Account No. 2165) (the "Michigan Street Account") within the Permanent Improvement Fund (No. 411). The portion of the

principal maturities of the Bonds, debt service and tax levy allocation to the Michigan Street Portion of the Bonds are set forth on Exhibit B.

B. \$1,005,000 for the Public Improvements Portion of the Bonds, less discount allocated thereto, into a separate construction account (the "1998 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The portion of the principal maturities of the Bonds, debt service and tax levy allocation to the Public Improvements Portion of the Bonds are set forth on Exhibit C.

The proper City officers are authorized and directed to pay out of such construction accounts from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements for each improvement program. The costs of issuance of the Bonds shall be paid from the Michigan Street Account and the 1998 Projects Account.

3.03 A. A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "1998 Improvement Bond Account." The money in such account shall be used for no purpose other than the payment of principal and interest on the Public Improvements Portion of 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 1998 Improvement Bond Account shall be paid from the proceeds of the Bonds the pro rata portion of unused discount, if any, capitalized interest in the amount of \$27,000, plus the amount of accrued interest on the Public Improvements Portion of the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof for the Public Improvement Portion of the Bonds.

B. A separate debt service account is hereby created and designated as the "1998 Michigan Street Improvement 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 Michigan Street Portion of 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 on the Michigan Street Portion of the Bonds and the ad valorem taxes levied pursuant to Section 3.04 hereof for the Michigan Street Portion of the Bonds.

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, together with the estimated special assessment revenue, will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds, except for capitalized interest.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council may reduce or cancel the above levies to the

extent of an irrevocable appropriation to said debt service accounts 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 are hereby appropriated and shall be paid when collected into the 1998 Improvement Bond Account within the Special Assessment Debt Service Fund. All proceeds of said taxes are hereby appropriated to the 1998 Michigan Street Improvement Debt Service Account in the City's Debt Service Fund and to the 1998 Improvement Bond Account. If the balances in the 1998 Improvement Bond Account and the 1998 Michigan Street Improvement Debt Service 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 1998 Improvement Bond Account and/or the 1998 Michigan Street Improvement Debt Service Account when the balances therein are sufficient.

3.05 Proceeds of the Bonds on deposit in the Michigan Street Account, 1998 Projects Account, the 1998 Improvement Bond Account and the 1998 Michigan Street Improvement Debt Service 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").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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.

Section 6. Certificate of Proceedings.

6.01 The City Clerk is directed to file with the County Auditor 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 Bonds herein authorized have been duly entered on his 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 relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested 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 otherwise known to them. All of 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 officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the 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 of the date of the official statement.

Resolution 98-0974 was unanimously adopted.

Approved November 19, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0975 was adopted as follows:

BY PRESIDENT HOGG:

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. 98-0933 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,940,000 to finance the purchase of capital equipment authorized by the Act. The City Council hereby determines that it is necessary to issue \$1,990,000 for the capital equipment program and ratifies the changes to the Official Terms of Offering to authorize the additional bonds to be issued. 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 \$1,990,000 General Obligation Equipment Certificates of Indebtedness, Series 1998F, 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 \$1,990,000 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 Piper Jaffray, Inc., of Minneapolis, Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,980,706.70, plus accrued interest on the total principal amount from December 22, 1998, 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 22, 1998, 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 22 in the respective years and amounts stated and shall bear interest at the annual rates set forth on Exhibit A attached hereto:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Year	Amount	Interest Rate
1999	\$370,000	See Exhibit A
2000	385,000	
2001	395,000	
2002	410,000	
2003	430,000	

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 22 and December 22 in each year (each referred to herein as an "Interest Payment Date"), commencing June 22, 1999. 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 or facsimile signature of the City Clerk in substantially the form set forth in the form of the Certificate. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 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 1998F

R-____ \$ _____

Interest Date of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

<u>Rate</u> %	<u>Maturity Date</u> December 22, ____	<u>Original Issue</u> December 22, 1998	<u>CUSIP</u>
------------------	---	--	--------------

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 22, 1998, 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 22 and December 22 of each year (each referred to herein as an "Interest Payment Date") commencing on June 22, 1999. 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 \$1,990,000, 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 19, 1998 (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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 facsimile signatures of the Mayor and the City Clerk.

Date of Authentication: _____

Attest:

City Clerk

Mayor

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

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

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Certificates, dated as of the original date of delivery of and payment for the Certificate.

City Clerk

REGISTRATION CERTIFICATE

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

<u>Date</u>	<u>Registered Owner</u>	<u>Signature of Bond Registrar</u>
12/22/98	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

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

(Name and Address of Assignee)

Social Security or Other
Identifying Number of Assignee

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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 \$1,990,000, 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 "1998 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 \$1,990,000, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0975 was unanimously adopted.

Approved November 19, 1998

GARY L. DOTY, Mayor

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At this time, 5:25 p.m., the public hearing regarding the issuance of \$ 4,545,000 G.O. tax increment bonds, Series 1998G, began.

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President Hogg adjourned the public hearing as no speakers appeared to be heard and the regular order of business was resumed.

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The meeting was adjourned at 5:28 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 23, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1123-01 Lakeside Baptist Church, et al. (four signatures), submitting petition to vacate 45th Avenue East between Glenwood and Oakley Streets adjacent to Blocks 12 and 13 in the plat of Lakeside Gardens. -- Assessor

98-1123-02 Donald Olson, et al. (five signatures), submitting petition to construct a sanitary sewer in Hagberg Street from 425 feet westerly of Hutchinson Road to serve: Lots 47, 48, 49, and 62 of Seventh Ward Garden Division. -- Assessor

98-1123-03 The following submitting letters regarding the proposed prohibiting use of motorized vehicles and snowmobiles on a proposed city trail in the Lake Superior/St. Louis River corridor area (98-042-O): (a) Catherine Imports; (b) Cristal Center Corporation; (c) Stan Morrow; (d) Park Point Community Club, Inc.; (e) Will Rhodes; (f) William K. Roberts; (g) Bernie and Julie Walker. -- Received

98-1123-04 The following submitting letters regarding the proposed Demolition Landfill Services, LLC, special use permit (98-0950R): (a) Frank Burcar; (b) Gary-New Duluth Citizens Coalition; (c) Rickey N. Stoyanoff; (d) Veit & Company, Inc. -- Received

98-1123-25 The following submitting letters regarding Watersedge Estates (formerly Glensheen Estates) (98-0981R): (a) Lori Andresen; (b) Marty and Michael Maddy; (c) Minnesota Historical Society. -- Received

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REPORTS OF OFFICERS

98-1123-05 Assessor submitting letter of sufficiency pertaining to the petition to vacate 260 feet of Cleveland Street in Gray's Addition to Duluth that lies between Lots 1 and 16 of Block 16 and Lots 10 and 15 of Block 1. -- Received

98-1123-06 Building official submitting appeals of the board of zoning appeals denials of variances for:

(a) Reduced parking requirements in conjunction with the proposed remodeling of the Litman Building at 1009 East Superior Street (Baertsch);

(b) Allowance of an oversized pole sign to be increased in size at 1602 Woodland Avenue (Mount Royal Shopping Center). -- Committee 2 (planning)

98-1123-07 Community development and housing division submitting HRA housing rehabilitation report for October, 1998. -- Received

98-1123-08 Engineering division submitting November 1, 1998, monthly project status report. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-1123-09 Environmental advisory council minutes of October 7, 1998, meeting. -- Received

98-1123-10 Heritage preservation commission minutes of July 22, 1998, meeting. -- Received

98-1123-11 Planning commission minutes of: (a) October 13, 1998; (b) October 28, 1998, meetings. -- Received

98-1123-12 Sanitary sewer board of WLSSD minutes of November 2, 1998, meeting. -- Received

98-1123-13 Special assessment board minutes of October 13, 1998, meeting. -- Received

98-1123-14 Tree commission: (a) Minutes of October 13, 1998, meeting; (b) Copy of communication sent to planning and development department acting director regarding the selection of a new physical planning division manager. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Allnew spoke of his concern about the operations of the city attorney's office and the council's authority to review those operations.

John Pastor, representing the tree commission, spoke of the commission's concern over the selection of the new manager of the physical planning division and the commission's request (Public Document No. 98-1123-14(b)) to Cynthia Albright, acting director of the planning and development department, to be allowed to assist in the selection of the planning manager. Mr. Pastor stated further that discussions with the council and the administration have revealed that there is need for better cooperation with this advisory board and others, and that the commission's involvement in the selection process could be one of the ways to accomplish this goal.

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RESOLUTIONS TABLED

Councilor Prettner Solon moved to remove Resolution 98-0950, granting a special use permit to Demolition Landfill Services, L.L.C., for a permit by rule/demolition debris disposal facility for property located at 1100 West Gary Street, from the table, which motion was seconded and unanimously carried.

Councilor Prettner Solon reviewed that the council has held committee meetings on this issue and after much input and discussion, the planning committee recommends the denial of this resolution. She stated that this request lacks significant difference from a previous request for a five year plan, which was denied; that this request is for the hauling and deposit on the site of debris other than what is produced by demolition from the leveling of structures; that the residents oppose the permit and feel that the neighborhood has been abused and assaulted by the presence of a landfill for the past 15 years; and that appropriate safeguards do not exist to protect the comprehensive plan and to protect property values.

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

Frank Burcar, presented a communication (Public Document No. 98-1123-04(a)) supporting the denial of this special use permit.

The following individuals spoke against the resolution: Frank Bucar, Rick Stoyanoff, Bill Spehar and Joseph Balach. Reasons given in opposition to the resolution were that: L.L.C. was fined in the Twin Cities for illegal dumping; Mr. Saari's sincerity was in question due to statements he made that it is his desire to get his foot in the door, thus making it difficult to stop further development; it is not known what effect this landfill will have on this land 20 years from now; over 80 percent of the residents in a 1-1/2 mile radius have signed a petition opposing this permit; the revitalization committee of the citizens' coalition of Gary-New Duluth opposes this landfill; the proposed landfill will only be a few blocks from Stowe School and is adjacent to Sargents Creek that flows into the St. Louis River; taxpayer money and staff time has been used for planning to upgrade Gary-New Duluth and this project should not be allowed to jeopardize that effort; that the law has not been followed with respect to zoning as it relates to prior development activities at this

location; and the law has not been uniformly followed to protect the residents and property values in Gary-New Duluth.

Don Rachel, president of Veit, gave an explanation of the situation he was confronted with in the Twin Cities and noted that from a business standpoint, a decision to pay the fines was made because it was cheaper than it would have been to pay for legal services to fight each issue. He stated that Veit has complied with all the requirements and conditions specified in the special use permit.

Jack Perry, of the firm of Briggs and Morgan and attorney representing the applicant, requested that the council follow the law, be fair and support this resolution. He noted that the applicant has requested only a one year permit and is willing to allow the city council six months to review a five year permit request.

Mike Bolen, economic development director for the Duluth Area Chamber of Commerce, stated the chamber's support for this application and noted that because of the magnitude of economic development in Duluth the construction industry needs a local demolition landfill. He continued by saying that the community has a responsibility to provide for demolition waste that is generated in Duluth and that this site is appropriately zoned to legally use it for this purpose.

Buck Stover and Sandra Timm stated support for the resolution for the reasons that: it is the city's responsibility to provide a landfill within the city's boundaries for demolition waste generated within Duluth; the applicant has the reputation of being a responsible company; it is the responsibility of the city to abide by the rules and zoning that have been established for this property; that this company has a lot to offer to the area environmentally; and that the problems experienced with a previous landfill operator should not be a consideration in the council's decision regarding this permit.

Resolution 98-0950 failed upon the following vote (Public Document No. 98-1123-23):

Yeas: Councilors Edwards and Hales -- 2

Nays: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

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At this time, 8:30 p.m., President Hogg stated that the public hearing regarding DEDA membership and voting regulations and council approval of expenditures in excess of \$25,000 would begin (Public Document No. 98-1123-27).

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At this time, 9:25 p.m., President Hogg closed the public hearing and resumed the regular order of the council meeting.

- - -

Councilor Swapinski moved to remove resolutions of intent for bituminous resurfacing of (98-0930) MacFarlane Road from Blackman Avenue to Howard Gnesen Road; and (98-0945) Blackman Avenue from MacFarlane Road to Arrowhead Road, from the table, which motion was seconded and unanimously carried.

Councilor Swapinski stated that these resolutions were tabled until the public works department established a new urban area street resurfacing policy.

Resolution 98-0930 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to resurface MacFarlane Road from Blackman Avenue to Howard Gnesen Road (City Job No. 9153RS98).

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 98-0930 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-0945 was adopted as follows:

BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to resurface Blackman Avenue from MacFarlane Road to Arrowhead Road (City Job No. 9154RS98).

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 98-0945 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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MOTIONS AND RESOLUTIONS
CONSENT AGENDA

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

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

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BY PRESIDENT HOGG:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 98-1123-15, which is levied to defray in full the expense of sidewalk snow removal from sidewalks abutting privately owned parcels of land during the winter of 1997-1998, for which the city has not been reimbursed, as provided for in Chapter 45 of the Duluth City Code, is hereby confirmed.

RESOLVED FURTHER, that pursuant to Section 45-62 of the City Code, the city council hereby imposes a collection fee of \$25 on any sidewalk snow removal assessment levied after January 1, 1999.

Resolution 98-0990 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

HUMAN RIGHTS COMMISSION

Connie Saaristo for a term expiring March 1, 2000, replacing John Day who resigned.

Resolution 98-0971 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of platted Cornwall Street, now known as Cleveland Street, between Triggs Avenue and platted Kennebec Avenue, legally described as: Cornwall Street adjacent to Lots 1 and 16 of Block 16 and Lots 10 and 15 of Block 1, Gray's Addition to Duluth; and

WHEREAS, pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning 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 10, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Cornwall Street, now known as Cleveland Street, described above, and as more particularly described on Public Document No. 98-1123-16.

BE IT FURTHER RESOLVED, that the north 1/2 of the above described right-of-way be retained as a 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 street to be vacated and the easement being retained.

Resolution 98-0978 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Niagara Street between Missouri Avenue and Mississippi Avenue legally described as: Niagara Street adjacent to Lots 1 and 2, Block 7 Superior View Addition and Lots 47 and 48, Block 14, Superior View Second 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 November 10, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of Niagara Street described above, and as more particularly described on Public Document No. 98-1123-17.

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 street to be vacated.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-0979 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, pursuant to city council resolution adopted on August 29, 1966, and No. 95-0586 respectively, the city council has previously granted and amended a special use permit for the construction and operation of a medical clinic at 2900 Piedmont Avenue; and

WHEREAS, Skyline Family Medical Center has submitted to the city council a request for an amendment of said special use permit which allows for a medical clinic in a residential zone on property described as Lot 14, the southerly 1/2 of Lot 15 and all of Lots 16 and 17, Block 1, Grant Park Division and located at 2900 Piedmont Avenue to permit a 25 car expansion of a parking lot on the east side of said clinic; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the special use permit is hereby amended to and for Skyline Medical Center to allow for the 25 space parking lot expansion on the above-described property located at 2900 Piedmont Avenue, on the condition that the improvements to the property be limited to constructed and maintained in accordance with the plans entitled "Skyline Family Medical Center" site plan submitted by LHB Engineers and Architects as identified as Public Document No. 98-1123-18, as well as the terms and conditions of Resolution 95-0586, with the following condition:

That a fence be erected or hedge be planted along the east and west property lines between the retaining wall and the edge of the pavement, and said fence or hedges be completed the time of completion of the expanded parking lot or May 1, 1999, which ever occurs later.

Resolution 98-0983 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that Lakehead Electric, Inc., be and hereby is awarded a contract for installation of the Fourth Street lighting from Sixth Avenue East to 14th Avenue East for the community development division in accordance with specifications on its low specification bid of \$182,852, terms net 30, FOB job site, payable out of CDBG Fund 262, Dept./Agency 621, Object 6110.

Resolution 98-0994 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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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. 98-1123-19, effective upon the passage of this resolution, and does further rescind all former inconsistent golf and golf cart rates.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

FURTHER RESOLVED, that all such fees collected shall be deposited in the Golf Budget No. 503.

Resolution 98-0989 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the Arrowhead Regional Development Commission (ARDC) and the Northwest Regional Planning Commission (NWRPC) have created the Duluth-Superior Metropolitan Interstate Committee (MIC) as the body responsible for conducting urban transportation planning for the Duluth-Superior metropolitan area; and

WHEREAS, ARDC in conjunction with NWRPC in Wisconsin serve as the officially designated Metropolitan Planning Organization (MPO) for the Duluth-Superior metropolitan area; and

WHEREAS, the Federal Transportation Bill (TEA-21) includes an entitled element termed the national corridor planning and development program that targets specific highway corridors across the nation to be eligible for grants aiding planning and programming of projects; and

WHEREAS, Highway 53 from International Falls (MN) to Chippewa Falls (WI) is defined in the transportation legislation as eligible for federal funds within this program; and

WHEREAS, eligible projects are defined in the legislation as those with needs including region-wide connectivity, safe and efficient movement of people and goods and economic development potential; and

WHEREAS, the MIC area long range transportation plan identifies Lower Piedmont Avenue (Highway 53) as a deficient transportation corridor within the regional network; and

WHEREAS, the Duluth-Superior MIC has endorsed the project as a possible recipient in the TEA-21 national corridor planning and development program; and

WHEREAS, the city of Duluth is a participant in the MIC; and

WHEREAS, the city of Duluth will benefit by the project; and

WHEREAS, the city council of the city of Duluth has duly considered this matter and desires to endorse the project;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth endorses the Lower Piedmont Avenue project for funding under the TEA-21 national corridor planning and development program.

Resolution 98-0998 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, the proper city officers are hereby authorized and directed to execute an amendment to an agreement between the city of Duluth and the St. Louis County Board for the furnishing of home delivered meals for senior citizens for the period of July 1, 1998, through December 31, 1998, to increase the payment for elderly waiver meals from \$3.73 to \$3.84. Said agreement is filed as Agreement No. 18301. Monies collected under said agreement shall be deposited in Federal Program Fund 272, Dept. 031, Org. 6308, Rev. Source 4654.

Resolution 98-0968 was unanimously adopted.
Approved November 23, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a lease agreement between the city of Duluth and St. Louis County for the leasing of ten parking spaces near the St. Louis County parking ramp and six parking spaces across from the Government Services Center for an estimated annual consideration of \$5,760, to be paid from Fund 100-500-1950-5441; said lease agreement filed as Public Document No. 98-1123-20.

Resolution 98-0995 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, by Resolution of Intent numbered 98-0895 approved on the fifth day of October, 1998, the council did request the administration to prepare plans and specifications for the construction of a 16 inch water main in the Central Entrance Miller Mall area as shown on the map on file with the city clerk as Public Document No. 98-1123-26.

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 \$350,600, 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 No. 98-1123-13 and which description is hereby incorporated herein by reference to said Public Document No. 98-1123-13; 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 98-0984 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

BE IT RESOLVED, that the proper city officials are authorized to pay to State Farm Insurance Company the sum of \$7,882.55 in full settlement of all subrogation claims for no-fault benefits paid to Felicity Wachsmuth arising from an accident occurring February 3, 1997; payment from self-insurance fund.

Resolution 98-0970 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, by Resolution 98-0534 the city council requested the commissioner of transportation grant the city of Duluth design variances on the proposed rehabilitation of the Aerial Lift Bridge on Lake Avenue (City Job No. 8988MA97) allowing a reduction of the urban state aid standards from the required 7.8 meter bridge width to a 7.32 meter bridge width and a required 50 km/h design speed to 30 km/h design speed; and

WHEREAS, the commissioner has granted the city a variance from Minnesota Rules, Section 8820.9920 and 8820.9936, as to allow a 7.32 meter bridge width in lieu of the required 7.8 meter bridge width and a 30 km/h design speed in lieu of the required 50 km/h design speed, conditioned upon the receipt by the commissioner of a resolution of the city council indemnifying the state for granting such variance.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions of causes of actions arising out of by reason of, the rehabilitation of the Aerial Lift Bridge on Lake Avenue (municipal state aid street No. 140) between 140 feet south of Morse Street to north of Eighth Street in the city of Duluth in any other manner than in accordance with Minnesota Rules Section 8820.9920 and 8892.9936 and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim of whatsoever character arising as a result of the granting of the variance.

Resolution 98-0972 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0825, adopted by the city council on September 14, 1998, authorizing execution of a purchase agreement with Levine & Son, Inc., relating to the remediation of Duluth Dumpsite #1, is hereby amended by substituting a new form of agreement which is on file in the office of the city clerk as Public Document No. 98-1123-21.

Resolution 98-0980 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a guarantee of a \$10,670 loan from the Pioneer National Bank to Reichert Properties, Inc., for roof drain diversions on properties located at 15th Avenue East and Second Street in the city of Duluth; said loan and loan guarantee filed as Public Document No. 98-1123-22.

Resolution 98-0991 was unanimously adopted.

Approved November 23, 1998

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:

- front of 2814 Wicklow Street;
- front of 3010 Vernon Street;
- front of 2628 West Second Street;
- front of 5830 West Eighth Street;

front of 416 North 58th Avenue West;
front of 127 East Fourth Street;
front of 1510 Jefferson Street;
front of 1909 London Road.

Resolution 98-0982 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 98-0981, by Councilor Prettner Solon, granting a special use permit for a community unit plan to Watersedge Estates (formerly Glensheen Estates) for property located at 3400 London Road and 100 North 32nd Avenue East (Oliver Management), was introduced for discussion.

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

William Burns, attorney for the developer, reviewed the history and the makeup of this development and noted how it has been reduced in size. He noted that: the current density is 15 units, which is below what is normally allowed; this is not a rezoning, because community unit plans are allowed within the existing zoning; the 1997 real estate tax legislation defines property that is only separated by streets as "contiguous"; and that the developer has agreed to no commercial development on this property. Mr. Burns added that the issue of the historical use of this property was addressed when the university determined this specific property as excess land and offered it for sale.

Responding to Councilor Prettner Solon, Mr. Burns stated that if the area on both sides of London Road were developed as single family homes, there could legally be 18 houses.

Robert Lyman opposed the development for the following reasons: the development does not meet enough of the required criteria to be considered a community unit plan; it will not preserve the natural, scenic or historic resources of that location; it may jeopardize the historic registry of Glensheen; there is not a proper transition area between existing homes and the development of townhouses; the two areas are not contiguous; the area defined as "community use" space is not useable; and that community unit plans allow for 25 percent of the property to be used for commercial development.

Marta Maddy reviewed her communication (Public Document No. 98-1123-25(b)) opposing this development.

Katy Kettle opposed the development because she felt that it does not meet the conditions required for a community unit plan, and allowing a commercial development in a residential neighborhood sets a serious precedent.

Glen Slotness, representing the Duluth Area Chamber of Commerce, stated that their organization supports this development, and he noted that the revised proposal offers many safeguards for the neighbors and the city.

Lil Stocke, representing the company promoting the development, spoke in support of the resolution and reported that there is a high interest level in this type of housing. She added that the developer has worked with the city and residents in the neighborhood to accommodate their concerns.

Dan Stocke spoke in support of the development and noted that there is a demand for this type of housing and that there are only four townhouse developments in Duluth.

Kent Oliver, project developer, noted the changes that have been requested and that compliance with all requirements have been met.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Ray Blesener, of Blesener Dahlberg Architects, explained how the original proposal has been changed, that all of the criteria required in community unit plans have been met and that the concerns raised regarding the Minnesota Historical Society's historical register can be resolved.

Councilor Prettner Solon reviewed a memo attached to the resolution from Jim Mohn, physical planning division staff, regarding a precedent that this community unit plan may set, that the property is divided by right-of-ways and streets, and that no commercial development for the property is being proposed. She noted that this development is consistent with other developments that have previously been allowed to utilize the community unit plan.

President Hogg and Councilor Gilbert expressed concern that the primary issue is one of property rights and that residents in the area purchased their homes in an area that is zoned residential with the expectation that it would remain residential. They felt that this proposal is a misuse of the community unit plan concept.

Councilor Keenan stated that although he has concerns with the concept of using the community unit plan for this project, his personal concerns of the setback from Tischer Creek, the parking lot on the upper side of London Road and the potential of commercial development have all been resolved to his satisfaction and that he will support the project.

Councilor Hardesty supported the project but noted there is a need to review the policy and definition of what a community unit plan should consist of.

Resolution 98-0981 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Watersedge Estates (formerly known as Glensheen Estates) has submitted to the city council a request for a special use permit for a community unit plan on property described as:

(Lake Superior site - 103,375 square feet = 2.37 acres) Lots 3, 4, 5 & 6, Block 50;

(London Road upper side-181,700 square feet = 4.17 acres) Lot 13, Block 35; Lots 6, 7, 8, 9, and 10, Block 36; Lots 9, 10, 11, 12, 13, 14, 15, and 16, Block 37; Lots 5, 6, 7, 8 and 9, Block 38; Lots 14, 15, and 16, Block 39 and parts of vacated 33rd and 35th Avenues East, subject to an easement for a recreational trail for public use;

(Tischer Creek site - 171,940 square feet = 3.94 acres) Lots 1, 14, 15, and 16, Block 38 and Lots 1, 10, 11, and 12, Block 24, subject to an easement for a recreational trail for public use, all in rearrangement of the part of east Duluth and of First Addition to East Duluth. (457,015 square feet = 10.5 acres - total land area);

and located at 3400 London Road and 200 South 32nd Avenue East; 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 recommended approval to the city council; 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 Watersedge Estates to allow for the development of a community unit plan on the above-described property generally located at 3400 London Road and 200 South 32nd Avenue East, subject to the following:

(a) The project be limited to, constructed and maintained in accordance with plans submitted by Blesener Dahlberg, entitled, "Watersedge Estates," dated October 10, 1998, on file in the office of the city clerk as Public Document No. 98-1123-24 with the following additions and amendments:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(1) A landscape plan provide additional evergreen tree plantings within the east side setback of the Lake Superior site. The plan to be approved by the planning division staff prior to the issuance of any construction permits;

(2) That, prior to the issuance of any construction permits, any agreements with "Glensheen" related to guest parking and emergency access be approved by the planning division and the fire department;

(3) The "guest" parking on the upper side of London Road be eliminated;

(b) That the subject properties be replatted, the replat to provide for the permanent set aside of the easements and open space along Tischer Creek and the upper side of London Road;

(c) That prior to the issuance of any construction permits this community unit plan be reviewed by the Minnesota state historic preservation officer for compliance with the secretary of the interior's standards for new construction in historic areas.

Resolution 98-0981 was adopted upon the following vote:

Yeas: Councilors Hales, Hardesty, Keenan, Prettner Solon and Rapaich -- 5

Nays: Councilors Edwards, Gilbert, Swapinski and President Hogg -- 4

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, Subd. 7, the Charter commission has recommended to the city council that it adopt ordinances amending Sections 8 and 31 of the City Charter and adding a new Section 54(f) to the City Charter; and

WHEREAS, said Section 410.12, Subd. 7, requires that before the council, upon recommendation of the charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks' published notice of the text of the proposed ordinance;

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendments to the City Charter is hereby called for December 21, 1998, 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 ordinances, 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 December 21, 1998, 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 31 of the City Charter and an ordinance adding a new Section 54(f) of the City Charter in the manner hereinafter set forth:

[Text of proposed Ordinance Nos. 98-038-O and 98-039-O]

Resolution 98-0934 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Tension Envelope Corporation be and hereby is awarded a contract for furnishing and delivering 500,000 single send and return envelopes for the water and gas department in accordance with specifications on its low specification bid of \$14,894.03, terms net 30, FOB shipping point, \$4,021.39 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5200 and \$5,957.61 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5200, and \$4,915.03 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0515, Object 5200.

Resolution 98-0987 was unanimously adopted.

Approved November 23, 1998

GARY L. DOTY, Mayor

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Resolution 98-0967, by Councilor Prettner Solon, amending Resolution 89-0323 establishing the Duluth economic development authority to require that an expenditure by the authority in excess of \$25,000 must be approved by the city council, was introduced for discussion.

President Hogg reviewed that a hearing regarding this resolution was held this evening and that a committee meeting has been scheduled to discuss it further.

Councilor Gilbert moved to table the resolution for a committee meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 5

Nays: Councilors Edwards, Hales, Prettner Solon and Rapaich -- 4

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 98-0307, ordering the improvement of the 1999 street improvement program, be amended to increase the amount by \$150,000 for a new total of \$6,650,000 for the extension of the improvement to Niagara Street from 950 feet west of Kenwood Avenue to 1,350 feet west of Kenwood Avenue, payable from the Street Improvement Fund 440.

Resolution 98-0977 was unanimously adopted.

Approved November 23, 1998

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 PRETTNER SOLON

98-041 (9393) - AN ORDINANCE RENAMING A PORTION OF KENWOOD AVENUE TO KENWOOD DRIVE (RESIDENTS).

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

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At this time, 10:45 p.m., Councilor Rapaich moved to suspend the rules and extend the meeting until 11:15 p.m., which motion was seconded and unanimously carried.

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BY COUNCILORS GILBERT AND SWAPINSKI

98-042 - AN ORDINANCE PROHIBITING THE USE OF MOTORIZED VEHICLES AND SNOWMOBILES ON A PROPOSED CITY TRAIL IN THE LAKE SUPERIOR/ST. LOUIS RIVER CORRIDOR AREA.

President Hogg announced that the council will hold a committee meeting to discuss this topic next week, and therefore, the public will have another opportunity to speak on the issue.

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

The following speakers spoke in support of the ordinance: Kathy Winkler, Jeff Brown, Judy Derauf, Bruce Derauf, Pam Johnson, Dan Rosenthal, Anne Holy and Stan Morrow. Reasons stated in support for the ordinance were as follows: concern for safety, pollution, noise and that the quality of life enjoyed in Duluth will be adversely affected.

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At this time, 11:13 p.m., Councilor Keenan moved to suspend the rules, to extend the meeting until 11:30 p.m., which motion was seconded and unanimously carried.

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The following speakers spoke in opposition to the ordinance: John Goldfine, Jeff Mausloff, Sean Flaherty, Pete Gassert, Randy Bannor, Steve Johnson, Brian Daugherty, Russ Stewart and Scott Wolff. Reasons for opposing the ordinance were that: the newer snowmobiles are quieter, most snowmobilers are responsible and this will benefit the community economically.

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

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9393

BY COUNCILOR PRETTNER SOLON:

AN ORDINANCE RENAMING A PORTION OF KENWOOD AVENUE
TO KENWOOD DRIVE (RESIDENTS).

The city of Duluth does ordain:

Section 1. That the following public thoroughfare shall be and is hereby renamed Kenwood Drive: that portion of Kenwood Avenue beginning at its point of intersection of the centerline Maryland Street according to the plat of Farrell and Culvers Addition to Rhodes Division and extending north to its intersection with the centerline of South Road in the plat of Nortons Acre Outlots according to the plat, thereof, on file with the register for St. Louis County, Minnesota.

Section 2. That the city clerk, upon passage of this ordinance, shall:

(a) Notify the director of public works to proceed with erection of street signs relating to such change;

(b) Notify the property owners within 300 feet of the street; and

(c) Notify the following agencies and utilities of the specific changes:

(1) Business office of U.S. West Communications;

(2) Manager of delivery and collection, main post office;

(3) County auditor, St. Louis County;

(4) President, Minnesota Power;

(5) Chief, Duluth fire department;

(6) Chief, Duluth police department;

(7) Director, department of water and gas;

(8) City assessor;

(9) Voter registration department;

(10) Minnesota department of transportation;

(11) St. Louis County 911 agency.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 3, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 23, 1998
Approved November 23, 1998
GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 7, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1207-01 William F. Kuehl, et al. (three signatures) submitting petition to vacate 664-1/2 feet easement located on roadway that goes through First Addition Boehms Acres Lots 1-7 and adjacent Lots 8-11 of Coles Addition -- Assessor

98-1207-03 Duluth Area Chamber of Commerce submitting communications pertaining to proposed changes to DEDA (98-0949R and 98-0967R). -- Received

98-1207-02 The following submitted letters regarding the proposed prohibiting use of motorized vehicles and snowmobiles on a proposed city trail in the Lake Superior/St. Louis River corridor area (98-042-O): (a) Cheryl Dannenbring; (b) Duluth Convention and Visitors Bureau; (c) Jerry Paulson; (d) Lance Reasor. -- Received

REPORTS OF OFFICERS

98-1207-04 Assessor submitting letters of sufficiency regarding petitions to:

(a) Vacate a 664-1/2 foot easement located on a roadway that goes through First Addition Boehms Acres, Lots 1-7 and adjacent to Lots 8-11 of Coles Addition;

(b) Vacate 45th Avenue East between Glenwood and Oakley Streets;

(c) Construct a pressure sanitary sewer in Hagberg Street from 425 feet to 645 feet westerly of Hutchinson Road to serve Lots 47, 48, 49 and 62 of Seventh Ward Garden Division. -- Received

98-1207-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license (raffle) from the Women's Association of the Duluth Superior Symphony Orchestra on February 13, 1999. -- Received

98-1207-17 Finance department director submitting technology project budget update. -- Received

98-1207-06 Parks and recreation department director submitting Lake Superior zoological society minutes of September 23, 1998, meeting. -- Received

REPORTS OF BOARDS AND COMMISSIONS

98-1207-07 Board of zoning appeals minutes of October 27, 1998, meeting. -- Received

98-1207-08 Citywide citizens advisory committee minutes of October 14, 1998, meeting. -- Received

98-1207-09 Civil service board minutes of August 4, 1998, meeting. -- Received

98-1207-15 Environmental advisory council submitting letter regarding the 1999 budget (98-045-O). -- Received

OPPORTUNITY FOR CITIZENS TO BE HEARD

Joseph Michela, representing Duluth Amateur Hockey Association, stated that there is a need for long range planning regarding the city's youth hockey facilities. He noted the great success experienced this past weekend in hosting the Spirit of the North hockey tournament. Mr.

Michela reviewed the history and age of existing structures that currently provide indoor ice for hockey and emphasized that they are in need of continued improvements.

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RESOLUTIONS TABLED

President Hogg moved to remove Resolution 98-0949, amending Resolution 89-0323 establishing the Duluth economic development authority to require that four of the commissioners on the authority be city councilors and to require that a majority of the commissioners present at a meeting must be city councilors for action to be taken, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert moved to remove Resolution 98-0967, amending Resolution 89-0323 establishing the Duluth economic development authority [DEDA] to require that an expenditure by the authority in excess of \$25,000 must be approved by the city council, from the table, which motion was seconded and unanimously carried.

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

K.L. Lewis stated that there is a need for an advisory council for economic development which is controlled by the council as it relates to projects and funding.

Michael Bolen, economic development director for the Duluth Area Chamber of Commerce, supported Resolution 98-0949 and stated that he believes the addition of another councilor as a member of DEDA will be of benefit to the authority. Regarding Resolution 98-0967, he stated that the process works efficiently as it is currently set up and that establishing a cap of \$25,000 for approval of expenditures will cause a tremendous increase to an already busy work load for DEDA.

Cynthia Albright, acting director of planning and development, reviewed discussions that have taken place recently regarding topic. She suggested that the council approve Resolution 98-0949 and table Resolution 98-0967 to allow DEDA to study and make recommendations about issues raised during the past few weeks. Ms. Albright noted that the study should address the future structure of DEDA, its processes for financial decisions and policy decisions and communicating with the council. She stated that if the council chooses to accept her recommendations, DEDA will return to the city council on March 15, 1999, with specific recommendations about how to proceed with this issue.

Resolution 98-0949 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that Resolution 89-0323 of the city of Duluth, adopted on April 24, 1989, is hereby amended by amending paragraph 4 of such resolution and adding a new paragraph 4.a to such resolution to read as follows:

"4. That the DEDA shall be governed by a board of commissioners ("commissioners") consisting of seven members, four of whom shall be members of the council, and all of whom shall be appointed by the mayor with the approval of the council. The term of commissioners' appointments shall be governed by Section 469.095, Subdivision 2(c), of the EDA Act. The appointment of the council commissioners shall expire with their terms of office as members of the council and a vacancy shall be created. No person shall serve as a commissioner while such person holds an elective office other than Duluth city councilor or is a member of any of the following entities: Duluth state convention center administrative board, Duluth transit authority, Spirit Mountain recreation area authority, Duluth airport authority, Seaway Port authority, Western Lake Superior Sanitary District board, Duluth housing and redevelopment authority, city planning commission, city board

of zoning appeals, Duluth downtown housing commission, 1200 Fund, Inc., board of directors, advisory boards for city development districts, housing trust fund and the citywide citizens advisory committee.

4.a. No action shall be taken by DEDA unless a majority of DEDA commissioners present at a meeting are council members.”

Resolution 98-0949 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

(Editor's note: Resolution 98-0949 was reconsidered on December 21, 1998.)

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Responding to councilors, Ms. Albright stated that the review will include comparison of other economic development entities around the state and hearing the city council and community concerns directly.

Councilor Gilbert requested that DEDA include in the review input from the county and school district to help the council understand what affects DEDA has on their respective budgets; study the release of funds and return of tax dollars to the tax rolls before the tax increment districts terminate, and study how the level of business owners that benefit from DEDA can be broadened.

Councilors discussed the merits of tabling Resolution 98-0967 or removing it from the agenda for now.

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

Yeas: Councilors Gilbert, Hardesty, Keenan and Swapinski -- 4

Nays: Councilors Edwards, Hales, Prettner Solon, Rapaich and President Hogg -- 5

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

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to apply to HUD for funds available through HUD's Section 108 loan guarantees program to provide funding for financial incentive programs in the Old Downtown District.

Resolution 98-1006 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

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

WHEREAS, the city of Duluth as a suballocator is authorized to administer 1999 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 1999; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 1999 (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 November 12, 1998, 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 a public hearing was held on December 7, 1998.

NOW, THEREFORE, BE IT RESOLVED, that the 1999 city of Duluth low-income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 98-1207-10, is hereby approved.

Resolution 98-1010 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the Minnesota amateur sports commission (MASC), via the state general fund, provides funds to assist political subdivisions of the state of Minnesota for the development of youth sports and recreation programs; and

WHEREAS, the city of Duluth desires to implement an after school youth sports and activity program.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council of the city of Duluth Minnesota:

(a) Accepted the grant of \$6,000 from the Minnesota amateur sports commission for an after school youth sports and activity program;

(b) Authorizes the proper city officers to execute an agreement Public Document No. 98-1207-16 with the Minnesota amateur sports commission;

(c) Deposit said grant funds received into General Fund Account 100-400-1812.

Resolution 98-1004 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Hawkins Chemical, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 100,000 gallons of caustic soda (50%) for the water and gas department in accordance with specifications on its low specification bid of \$93,700, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5238; to be encumbered out of 1999 budget.

Resolution 98-1013 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Cytec Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 6,600 pounds of magnifloc 985N nonionic polymer for the water and gas department in accordance with specifications on its low specification bid of \$8,837.40, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5239; to be encumbered out of 1999 budget.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Resolution 98-1014 was unanimously adopted.
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 55 tons of liquid chlorine for the Lakewood water treatment plant in accordance with specifications on its low specification bid of \$21,560, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5235; to be encumbered out of 1999 budget.

Resolution 98-1015 was unanimously adopted.
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

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 \$15,200, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5234; to be encumbered out of 1999 budget.

Resolution 98-1016 was unanimously adopted.
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Thunder Bay Chemicals, LTD, be and hereby is awarded a contract for furnishing and delivering approximately 150,000 gallons of aluminum sulfate for the water and gas department in accordance with specifications on its low specification bid of \$45,225, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5237; to be encumbered out of 1999 budget.

Resolution 98-1017 was unanimously adopted.
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 190 tons of liquid hydrofluosilicic acid for the water and gas department in accordance with specifications on its low specification bid of \$33,535, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0575, Object 5236; to be encumbered out of 1999 budget.

Resolution 98-1018 was unanimously adopted.
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BE IT RESOLVED, that the proper city officials are authorized to pay to Felicity Wachsmuth, Dirk Wachsmuth and Kirk Linse, their attorney, the sum of \$10,522.11 in full settlement of her claims for injury and property damage (property damage payment in the amount of \$522.11 has already been made) that arose out of an accident on February 3, 1997, at Sixth Avenue West and Second Street; payment from self insurance fund.

Resolution 98-1000 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized to execute a professional services agreement with F.I. Salter to provide property appraisal services in connection with the condemnation of property on Rice Lake Road owned by the Lepak family, which agreement is on file in the office of the city clerk as Public Document No. 98-1207-11, at an estimated cost to the city of \$15,000, which shall be payable from the self insurance fund.

Resolution 98-1005 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Lake Superior Office Furniture, Inc., be and hereby is awarded a contract for furnishing and delivering modular office furniture for the sewer division in accordance with specifications on its low specification bid of \$22,398.77, terms net 30, FOB jobsite, \$11,199.39 payable out of Sewer Fund 530, Dept./Agency 500, Organization 0505, Object 5580, and \$11,199.38 payable out of Storm Water Fund 535, Dept./Agency 500, Organization 0505, Object 5580.

Resolution 98-1019 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

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 District wastewater facility user charges made to the city, there is established and shall be collected beginning with the meter readings made on January 4, 1999, 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	\$5.89 per month
User charge - Class I	\$2.5301/ccf
User charge - Class II	\$3.5220/ccf
User charge - Class III	\$4.3926/ccf
Miles, Inc.	\$8.1111/ccf
Chroma	\$4.8356/ccf
Kemp	\$5.4478/ccf

BE IT FINALLY RESOLVED, that the rate regulations established and approved by Resolution 96-0992 are rescinded as of January 4, 1999.

Resolution 98-1022 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept grant monies of approximately \$9,500 from the Minnesota department of public safety, office of traffic safety through St. Louis County to reimburse the police department's police overtime expenditures related to the safe & sober grant program; all revenue to be deposited into General Fund 100, Dept. 200, Org. 1620, Revenue Source 4253.

BE IT FURTHER RESOLVED, that Scott Lyons, chief of Duluth police, is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the Duluth police department.

BE IT FURTHER RESOLVED, that the sheriff of St. Louis County is hereby authorized to be fiscal agent and conduct fiscal administration of this grant on behalf of the Duluth police department.

Resolution 98-1001 was unanimously adopted.

Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

RESOLVED, that the city is hereby authorized to accept the donation (for \$1) of a Ford ambulance (VIN #1FDKE30M8JHC09368) from Gold Cross Ambulance for use by the city's police department.

Resolution 98-1021 was unanimously adopted.

Approved December 7, 1998
GARY L. DOTY, Mayor

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The following resolutions were also considered:

Resolution 98-1002, by Councilor Prettner Solon, authorizing skywalk agreement with Duluth Plumbing Supply Company pertaining to the Duluth Plumbing Supply building, was introduced for discussion.

Councilor Keenan stated that he will oppose this resolution and noted that he does not support the philosophy of enhancing economic development by means of expanding the skywalk system.

President Hogg noted that discussions regarding this issue have taken place for some time and that the council needs to be informed early on so that it has a better understanding of the issue before it is presented to the council for approval. He raised concerns regarding the increased costs and that there is no definite commitment from the building owner to remodel the building.

Resolution 98-1002 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth Plumbing Supply Company for the extension of the Downtown skywalk system through the Duluth Plumbing Supply building.

Resolution 98-1002 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Prettner Solon, Rapaich and Swapinski -- 7

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Nays: Councilor Keenan and President Hogg -- 2
Approved December 7, 1998
GARY L. DOTY, Mayor

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Resolution 98-1003, by Councilor Prettner Solon, authorizing condemnation of certain property for the technology village project, was introduced for discussion.

Councilor Prettner Solon stated that the parties have reached agreement and that this resolution is no longer needed. She moved to remove the resolution from the agenda, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, Demolition Landfill Services, L.L.C. (DLS, L.L.C.) has submitted to the city council a request for a special use permit for a permit by rule-demolition debris disposal facility, as defined by Minnesota Rule 7035.285, on property described as: starting at the southeast corner of the northwest ¼ of the southeast ¼ of Sec. 4, T48N, R15W, thence 111.24' @ N87° 34' 56"W, to the point of beginning; thence 656.84' @ N2° 46' 54"E, thence 545.32' @ N87° 42' 10"W, thence 656.68' @ S2° 43' 08"W, thence 544.59' @ S87° 34' 56"E to the point of beginning. Containing a total of 8.21 acres; and located at 1100 West Gary Street; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has failed to approve said request by a tie vote which was subsequently reported to the city council; and

WHEREAS, the city council finds that:

(a) Appropriate safeguards do not exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood;

(b) The proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts on the community;

(c) This special use permit provides for placement of demolition debris in a permit-by-rule solid waste disposal facility, which demolition debris is from demolition which has not occurred on-site, and previous applications for permit-by-rule solid waste disposal facilities, which permits-by-rule have been approved by the city have been for on-site placement of demolition debris;

(d) This permit-by-rule solid waste disposal facility is the same as the demolition and select industrial waste landfill special use permit request which was previously denied by the city council;

(e) There is neighborhood opposition to this special use permit for a permit-by-rule solid waste disposal facility, which opposition is based on, among other reasons, the recommendations of the Gary-New Duluth neighborhood plan, which plan recommended the rezoning of this property to a zoning category which would not permit solid waste disposal facilities.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby denied to Demolition Landfill Services, L.L.C., for the operation of a permit by rule-demolition debris disposal facility at 1100 West Gary Street.

Resolution 98-1012 was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2
Approved December 7, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute and accept a construction permit from the Minnesota department of transportation authorizing the use of state highway right-of-way for an extension of the Lakewalk trail from 26th Avenue East to the existing East Lakewalk trail and the construction of an access road on said right-of-way, said permit filed as Public Document No. 98-1207-12.

Resolution 98-0997 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed as Public Document No. 98-1207-13, with the Minnesota department of transportation for the Lakewalk East trail extension, parking lot and railroad grade stabilization and drainage correction (City Project No. 9026FA98) with total construction costs to be \$363,831.41, funded with \$257,732.40 coming from federal ISTEAA, \$50,000 coming from MnDOT, \$12,000 coming from the St. Louis and Lake counties regional railroad authority, and \$44,099.10 to be paid by the city, with \$41,666 of the city's share coming from Permanent Improvement Fund 411 and \$2,433.10 coming from Fund 450, capital improvements, Agency 015, Org. 1997, Object C719.

Resolution 98-0999 was unanimously adopted.

Approved December 7, 1998

GARY L. DOTY, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILORS GILBERT AND SWAPINSKI

98-042 (9394) - AN ORDINANCE PROHIBITING THE USE OF MOTORIZED VEHICLES AND SNOWMOBILES ON A PROPOSED CITY TRAIL IN THE LAKE SUPERIOR/ST. LOUIS RIVER CORRIDOR AREA.

Councilor Gilbert moved to remove the ordinance from the table, which motion was seconded and carried upon a unanimous vote.

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

The following individuals spoke in opposition to the ordinance: Pete Gassert, Denise Linden, Jeff Mausloff, Sean Flaherty and John Breen.

The following statements were made in opposing the ordinance: the trail has not yet been established, only a feasibility study has been done; DNR regulations only require 12 foot wide trails; there are accurate facts that reflect safe decibel levels for snowmobiles; the majority of Minnesotans interpret the words "responsible recreation" differently than the group supporting this ordinance does; there is a need for face-to-face debate on the issues; the facts that have been presented are inaccurate; only five percent of snowmobile accidents happen on trails; there was agreement that city trails should not be used for snowmobile racing; Minnesotans for Responsible Recreation have been quoted as saying that their mission is to ban all motorized recreation on public lands; the proposed route impacts only a few homes and runs primarily through industrial sites, railroad areas and the bay side of the freeway; if established, the proposed trail will greatly benefit the city's economy; scare tactics should not be used to make an informed decision; snowmobiling is a family sport, and the vast majority of snowmobilers are very responsible;

snowmobiles are not the only machines that produce noise; misinformation regarding this activity includes dated technical information; "quality of life" with regard to the outdoors has a different meaning for different people; increased tax dollars generated by construction of this trail could be used to fund other areas for citizens to enjoy and use; if well planned, a safe trail through the Downtown area is possible; it is easy to say no to the plan before it is looked at in greater detail; and snowmobilers would never contemplate using the Lakewalk.

The following individuals spoke in support of the ordinance: K.L. Lewis; Tim Velner; Dick Kronzer; Rod Raymond; Virginia Borden; Bonnie Fuller-Kask; Pam Johnson; Kathy Winkler; Judy Derauf; Bruce Derauf; Jerry Brown, Phyllis Teige; John Bankson; Dan Rosenthal; John Herold; Margi Preus; and Jeff Brown.

Statements made supporting the ordinance were as follows: it is not safe to mix pedestrians, skiers and snowmobilers on the same trail; it is a poor decision to allow snowmobiles in an area with such high vehicle congestion and dense pedestrian traffic; two cycle snowmobile engines burn fuel inefficiently which creates pollution; experience has shown that some snowmobilers are very disruptive in hotel areas; snowmobiles are allowed on the streets now and the law does not prevent them from leaving the Canal Park area; local residents will drive their snowmobiles through the city to get to the trail; tourists and visitors who come to enjoy the peace and quiet that Duluth has been able to offer will be lost; only a small percentage of citizens are snowmobilers; this issue has been well thought out; the Duluth Audubon Society supports this ordinance because the area proposed for the trail is a unique habitat for Snowy Owls; a plan needs to be developed for the Canal Park area to specify what will be allowed and what the areas best use is; the Canal Park area is a wonderful destination for pedestrians and tourists and does not need snowmobilers; only a non-motorized trail through Duluth is acceptable; studies have been determined that even low noise levels adversely affect people; snowmobiles create air and noise pollution and will not decrease the probability of pedestrian traffic accidents; Minnesota Statute 561-01 defines "nuisances" as they relate to the rights of property owners; a decision of what kind of trail this will be should be made before the trail is designed; older model snowmobiles are still in use which will produce more noise and pollution; the 2001 vision promotes clean air and quietness in the city; the landscape of Duluth creates a natural amphitheater that carries noise carries up the hill; the access into Canal Park will be a "dead end" which will force snowmobilers to backtrack because there is no provision to move them through the city; noise level studies have been done in Minnesota at Canterbury Downs and reflect adverse noise and pollution levels; and the plans submitted were drawn up years ago which proves the intent has always been to construct this trail.

Terry Mattson, executive director of the Convention and Visitors Bureau, stated that questions regarding routes, funding, enforcement, economic impact and noise still need to be addressed. He continued by saying that the facilities Duluth provides to enhance tourism are also constructed for the benefit and utilization of its residents and that the final outcome should consider all concerns. In conclusion, Mr. Mattson felt that "due diligence" still needs to be done on this issue.

Councilor Keenan stated that it is his understanding that there is interest for year round nonmotorized trails.

Councilors discussed at length their concern for not having answers for all of the questions regarding the costs and design and the need to clarify that snowmobiles are not wanted on the trail.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon stated that there needs to be more policy discussion and planning with involvement of all parties to find a way to address the concerns of both sides and not place restrictions on snowmobiles until discussions have been held.

Councilor Hales stressed that "quality of life" has different meanings to citizens in the city and she expressed concern that the message the council is sending to snowmobilers is that they are not welcome here.

Councilor Rapaich questioned whether action should be taken to establish a task force comprised of representatives from both sides to work together for a workable resolution of this issue as was previously discussed.

President Hogg stated that he believes this ordinance addresses the vision that the majority of citizens have for the Downtown regarding this issue.

Councilor Swapinski stated that there has been a concerted effort by certain parties to have this trail developed since 1990 and that this ordinance is needed to send a clear message to all parties that snowmobiles are not wanted on this trail.

Councilor Hardesty noted that she supports this ordinance, but believes there is a need to develop a strategy to transport snowmobilers from one end of Duluth to the other.

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 5

Nays: Councilors Edwards, Hales, Prettner Solon and Rapaich -- 4

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The following entitled ordinances were read for the first time:

BY PRESIDENT HOGG

98-044 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY PRESIDENT HOGG

98-045 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1999 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY PRESIDENT HOGG

98-046 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1999.

- - -

BY PRESIDENT HOGG

98-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$8,000,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY PRESIDENT HOGG AND COUNCILOR KEENAN

98-051 - AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50.37.3 OF THE CITY CODE RELATING TO COMMUNITY UNIT PLANS.

- - -

BY COUNCILOR RAPAICH

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

98-038 - AN ORDINANCE AMENDING SECTIONS 8 AND 31 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

- - -

BY COUNCILOR RAPAICH

98-039 - AN ORDINANCE ADDING A NEW SECTION 54(f) TO THE CITY CHARTER AUTHORIZING THE CITY TO ENTER INTO CONTRACTS FOR THE PURCHASE OF A SUPPLY OF ELECTRICITY, NATURAL GAS AND COMMUNICATIONS SERVICES, AND TO ENTER INTO FINANCIAL ARRANGEMENTS TO PAY FOR SUCH PURCHASES.

- - -

BY COUNCILOR PRETTNER SOLON

98-0047 - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR 26TH AVENUE EAST FROM THE MNDOT FOR \$45,038.50 AND SALE THEREOF TO EDGEWATER SERVICES, INC., FOR \$46,538.50, SUBJECT TO AN ACCESS LIMITATION.

- - -

BY COUNCILOR KEENAN

98-043 - AN ORDINANCE AMENDING SECTION 2-44 OF THE CITY CODE TO REVISE THE COMPOSITION OF THE PARKS AND RECREATION COMMISSION.

- - -

The meeting was adjourned at 9:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9394

BY COUNCILORS GILBERT AND SWAPINSKI:

AN ORDINANCE PROHIBITING THE USE OF MOTORIZED VEHICLES AND SNOWMOBILES ON A PROPOSED CITY TRAIL IN THE LAKE SUPERIOR/ST. LOUIS RIVER CORRIDOR AREA.

The city of Duluth does ordain:

Section 1. That the trail referred to as the Munger Trail extension on Public Document No. 98-1207-14 shall not be designated by the city for use by snowmobiles or motor vehicles other than trail maintenance vehicles.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 17, 1999)

Councilors Gilbert and Swapinski moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gilbert, Hardesty, Keenan, Swapinski and President Hogg -- 5

Nays: Councilors Edwards, Hales, Prettner Solon and Rapaich -- 4

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 7, 1998

Approved December 7, 1998

GARY L. DOTY, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, December 14, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Absent: Councilor Gilbert -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1214-01 T. C. Peterson submitting letter regarding proposed 1999 budget (98-045-O).
-- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Norman Jeffers voiced his concern with the police department and the court system and suggested that a police commissioner and a citizen review board be established to investigate these entities. He continued by saying that his concern is that criminals are not being prosecuted and it is time for the systems to be changed.

- - -

At this time, 7:40 p.m., Councilor Gilbert took his seat.

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Bruce Eisenach spoke regarding various locations in the city where traffic safety hazards occur and requested that the city investigate these problem areas.

- - -

MOTIONS AND RESOLUTIONS

BY PRESIDENT HOGG:

RESOLVED, that the 1999 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3%	1%	1%	Add'l 2%	
	<u>Hotel-Motel</u>	<u>Hotel-Motel</u>	<u>Food & Bev</u>	<u>Hotel-Motel</u>	<u>TOTAL</u>
Duluth public					
arts commission			20,000	10,000	30,000
Sister cities			22,000	13,600	35,600
DECC	586,600		20,000	19,700	626,300
Convention and					
Visitors Bureau	315,900	92,100	411,900	111,400	931,300
Heritage and					
Arts Center		89,900	49,600	8,000	147,500
Spirit Mountain			33,100	25,000	58,100
Donations			30,000	20,000	50,000
Transfer to					
general fund	47,500	135,000	299,900	85,300	567,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Transfer to					
debt service	_____		354,500	293,000	647,500
DECC debt service	_____	_____	<u>620,000</u>	<u>146,500</u>	<u>766,500</u>
	950,000	317,000	1,861,000	732,500	3,860,500

Resolution 98-1007 was unanimously adopted.
 Approved December 14, 1998
 GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

RESOLVED, that the budget for the fiscal year January 1, 1999, to December 31, 1999, in the amount of \$2,323,451 for the Duluth airport authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 98-1008 was unanimously adopted.
 Approved December 14, 1998
 GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 1999, to December 31, 1999, in the amount of \$8,791,542 for the Duluth transit authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 1 of each year.

Resolution 98-1009 was unanimously adopted.
 Approved December 14, 1998
 GARY L. DOTY, Mayor

- - -

BY PRESIDENT HOGG:

RESOLVED, that the operation budget for the fiscal year January 1, 1999, to December 31, 1999, for Duluth Steam District No. 2 in the amount of \$9,522,832 is hereby approved.

Resolution 98-1011 was unanimously adopted.
 Approved December 14, 1998
 GARY L. DOTY, Mayor

- - -

BY COUNCILOR EDWARDS:

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, 1999, subject to departmental approvals and the approval of the liquor control commissioner:

Fitger's Wine Cellars, LLC (Fitger's Wine Cellars), 600 East Superior Street, transferred from Wine Cellars, Inc. (Fitger's Wine Cellars), same address, with Fitger's On The Lake, LLC, 100 percent stockholder.

Resolution 98-1031 was unanimously adopted.
 Approved December 14, 1998
 GARY L. DOTY, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY PRESIDENT HOGG

98-044 (9395) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

Councilor Keenan voiced concern that the city needs to take money from the reserve fund to supplement the operating costs of the city. He continued by saying that the city is too optimistic on the revenues they plan on collecting and that the city needs to monitor the budget better during the year to prevent the shortages. Councilor Keenan also encouraged the city to increase the reserve fund.

Councilor Hales reviewed that last year she did not support the budget proposal increase for community policing and now there is a budget shortfall for the year which does not include the police department but other departments. She continued by saying that she cannot support this ordinance as she did not support the increase to the budget earlier this year.

Administrative Assistant Hartl stated that he, too, was concerned about the budget shortage and that during the past few months there have been significant changes by the department directors to get to this figure; which was at one time larger. He continued by saying that during the past years that council has approved budget adjustments of the previous year well into the new year when the books were being closed. Mr. Hartl added that he felt the councilors should be aware of the adjustment needed for the current year budget before approving the budget for the next year.

Councilor Edwards stated that she would not support these ordinances as she cannot support a tax increase. She continued by saying that Minnesota has a strong economy which should strengthen Duluth's economy and that the election in November showed that the citizens are tired of the government consuming their paychecks.

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

- - -

BY PRESIDENT HOGG

98-045 (9396) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1999 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Mayor Doty reviewed that there has not been a tax increase since 1993 because the city has been fiscally conservative. He continued by saying that the increase he is asking for is approximately three percent, which is an increase of \$.44 a month for the average home in Duluth costing \$71,000. This increase will pick up the cost of the grant programs for police officers to continue community policing, adding 100 new computers for the library along with library services, additional money for maintenance of the parks and for programs for parks. Mayor Doty stated that he has decided that \$.44 a month is worth it for the additional services to the citizens and that the council must decide on behalf of their constituents that the increase is reasonable. He stated that the administration is already looking ahead to the future to come in with a zero percent increase and looking forward to changes next year that will create some efficiencies and make some major changes in the way government is operated.

Councilor Hales stated that although the city is doing a good job managing the budget, the budget process should start in January or February next year, at which time the council can bring

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

the needs they have heard from their constituents to the budget process. She continued by saying that the council has not been actively involved with the budget until the book is completed in September when it is really to late to decide what services should be included in the budget. Councilor Hales stated that she has consistantly opposed increases to the budget and will not support the ordinances that will increase taxes.

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

BY PRESIDENT HOGG

98-046 (9397) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE YEAR 1999.

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

The meeting was adjourned at 8:30 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9395

BY PRESIDENT HOGG:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 1998, INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9356 passed and approved December 15, 1997, is hereby amended by appropriating an additional \$600,000 from the general fund's excess revenues in general sales tax in the amount of \$300,000; and from the undesignated, unreserved fund balance in the amount of \$300,000 as follows:

Department 030 - finance	
Division 1325 - purchasing	\$ 30,000
Department 100 - fire	
Division 1502 - fire operations	\$200,000
Department 500 - public works	
Division 1920 - maintenance	\$100,000
Division 1950 - property management	\$ 70,000
Department 700 - transfers	
Division 1481 - retiree insurance	\$200,000

Section 2. That this ordinance shall take effect and be in force immediately upon its passage. (Effective date: December 14, 1998)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

Passed December 14, 1998
Approved December 14, 1998
GARY L. DOTY, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9396

BY PRESIDENT HOGG:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 1999 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, 1999, 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 finance.

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

Section 2. That the finance director be authorized to approve the payments of \$1,960,000 from the public utility fund to the general fund for administrative services; comprised of \$1,895,000 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 or the administrative assistant or his designee 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 1999. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

be made only upon approval of the city council. For the purpose of this section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 010 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54, of the City Charter, and the accounts numbered 510 in the water division, 520 in the gas division, 530 in the sewer division, 535 in the stormwater division, 540 in the steam division, and 503 in the golf 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 1999.

010 - LEGISLATIVE AND EXECUTIVE

1101	City council - total	\$ 149,100
1102	Mayor's office - total	151,300
1103	Administrative assistant - total	157,500
1104	Attorney's office - total	1,124,900
	Total legislative and executive	<u>\$ 1,582,800</u>

015 - ADMINISTRATIVE SERVICES

1510	Human resources - total	\$ 978,800
1511	Budget - total	172,400
1512	City clerk - total	645,600
1513	Data/word processing - total	1,213,900
1514	Other functions	795,900
	Total administrative services	<u>\$ 3,806,600</u>

020 - PLANNING AND DEVELOPMENT DEPARTMENT

1200	Planning - total	\$ 427,900
1201	Building inspection - total	1,156,500
1202	Business development - total	433,600
	Total planning department	<u>\$ 2,018,000</u>

030 - FINANCE

1321	Director's office - total	\$ 148,000
1322	City assessor's office - total	668,000
1324	City auditor's office - total	1,234,400
1325	Purchasing office - total	291,100
1327	City treasurer's office - total	360,400
	Total finance and records	<u>\$ 2,701,900</u>

100 - FIRE DEPARTMENT

1501	Fire administration - total	\$ 343,400
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

1502	Firefighting operations - total	10,341,900
1503	Fire prevention and training - total	466,500
	Total fire department	<u>\$ 11,151,800</u>

200 - POLICE DEPARTMENT

1610	Administration - total	\$ 1,950,800
1620	Operations - total	10,224,300
	Total police department	<u>\$ 12,175,100</u>

300 - LIBRARY

1701	Director's office - total	\$ 538,900
1702	Library services - total	2,748,300
1703	Buildings and equipment - total	260,300
	Total library	<u>\$ 3,547,500</u>

400 - PARKS AND RECREATION

1810	Director's office - total	\$ 334,100
1812	Recreation and senior services - total	1,030,400
1814	Zoo - total	954,600
	Total parks and recreation	<u>\$ 2,319,100</u>

500 - PUBLIC WORKS

1910	Director's office - total	\$ 309,600
1920	Maintenance - total	5,824,600
1925	Bridges - total	568,700
1930	Engineering services - total	1,677,900
1950	Property management - total	3,573,900
	Total public works	<u>\$ 12,629,400</u>

700 - TRANSFERS

	Total transfers	\$ 7,029,647
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PUBLIC ENTERPRISE

503	Golf fund - total	\$ 1,861,000
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PUBLIC UTILITIES

510	Water fund - total	\$ 9,711,800
520	Gas fund - total	32,236,600
530	Sewer fund - total	16,232,800
535	Stormwater fund - total	3,332,500
540	Steam fund - total	3,433,470

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

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

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

Section 10. That this ordinance shall take effect January 1, 1999. (Effective date: January 1, 1999)

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

Passed December 14, 1998
Approved December 14, 1998
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9397

BY PRESIDENT HOGG:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE YEAR 1999.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 1999 hereby determined to be the sum of \$8,666,791, 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 - 2,499,891

Section 3. For the payment of debt, there will be levied for the general obligation debt service fund the sum of ----- 3,778,000

Section 4. That pursuant to Laws of Minnesota, 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of ----- 390,000

Section 5. 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 ----- 274,400

Section 6. That pursuant to Minnesota Statutes, Section 458A.51, Subd. 1, there will be levied for transit operations the sum of ----- 1,724,500

Section 7. That this ordinance shall take effect immediately upon passage and approval. (Effective date: December 14, 1998)

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

Yeas: Councilors Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Hales -- 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 14, 1998
Approved December 14, 1998
GARY L. DOTY, Mayor

- - -

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 21, 1998, 7:30 p.m. in the council chambers, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

98-1221-01 Gary DeRosier, et al. (two signatures), submitting petition to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly to serve Lots 5-13, Block 5, Rearrangement of Lenroot's Addition to Ironton Division. -- Assessor

98-1221-02 Rolf B. Flaig, et al. (seven signatures), submitting petition to reclassify from R-1-b to C-1 property described as Lots 18 and 19, Block 8, Farrell & Culver Addition. -- Assessor

98-1221-03 Dee Independent Cleaners submitting letter regarding BZA denial to diminish parking spaces from 48 to 0 at 1009 East Superior Street (98-0985R and 98-0986R). -- Received

98-1221-16 Francis and Susan Doering submitting letter regarding Amoco expansion and proposed Lakewalk East parking lot at 26th Avenue East (98-047-O). -- Received

98-1221-15 Donald Olson, et al. (five signatures), submitting waiver agreement to waive hearing by the special assessment board in regards to the construction of a sanitary sewer in Hagberg Street from 425 feet westerly of Hutchinson Road to serve: Lots 47, 48, 49 and 62 of Seventh Ward Garden Division. -- Engineer

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REPORTS OF OFFICERS

98-1221-04 Assessor submitting letter of sufficiency of petition to construct a sanitary sewer in Grand Avenue Place from Gogebic Street to 330 feet southwesterly to serve Lots 5-13, Block 5, Rearrangement of Lenroot's Addition to Ironton Division. -- Received

98-1221-05 Community development and housing division manager submitting HRA housing rehabilitation report for November, 1998. -- Received

98-1221-06 Engineering division submitting monthly project status report of December 1, 1998. -- Received

98-1221-07 Purchasing agent submitting emergency purchase order awarded to Levine and Son for sanitary sewer repair in Michigan Street. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

98-1221-08 Building appeal board minutes of October 21, 1998, meeting. -- Received

98-1221-09 Environmental advisory council minutes of November 4, 1998, meeting. -- Received

98-1221-10 Housing and redevelopment authority of Duluth minutes of October 20, 1998, meeting. -- Received

98-1221-11 Lawful gambling commission minutes of: (a) October 13; (b) October 19; (c) November 10, 1998, meetings. -- Received

98-1221-12 Sanitary sewer board of the WLSSD minutes of November 16, 1998, meeting. -- Received

98-1221-13 Seaway Port authority of Duluth: (a) Minutes of: (1) October 19; (2) October 28, 1998, meetings; (b) September 30, 1998, balance sheet. -- Received

98-1221-14 Special assessment board: (a) Minutes of November 10, 1998, meeting; (b) Report, findings and recommendations for the proposed construction of 16 inch water main in the Central Entrance/Miller Mall area. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

K. Lewis spoke of the poor conditions of the sidewalks and the docking facilities in the area behind the Duluth Entertainment Convention Center (DECC), noting the extent of deterioration.

Councilor Prettner Solon stated that the Duluth economic development authority (DEDA) is presently looking into this issue.

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RESOLUTION RECONSIDERED

Councilor Rapaich moved to reconsider Resolution 98-0949, amending Resolution 89-0323 establishing the Duluth economic development authority to require that four of the commissioners on the authority be city councilors and to require that a majority of the commissioners present at a meeting must be city councilors for action to be taken, which motion was seconded and unanimously carried.

Councilor Rapaich moved to amend the resolution by adding a new paragraph to read as follows:

"RESOLVED FURTHER, that this resolution shall become effective on April 27, 1999," which motion was seconded and unanimously carried.

Resolution 98-0949, as amended, was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that Resolution 89-0323 of the city of Duluth, adopted on April 24, 1989, is hereby amended by amending paragraph 4 of such resolution and adding a new paragraph 4.a to such resolution to read as follows:

"4. That the DEDA shall be governed by a board of commissioners ("commissioners") consisting of seven members, four of whom shall be members of the council, and all of whom shall be appointed by the mayor with the approval of the council. The term of commissioners' appointments shall be governed by Section 469.095, Subdivision 2(c), of the EDA Act. The appointment of the council commissioners shall expire with their terms of office as members of the council and a vacancy shall be created. No person shall serve as a commissioner while such person holds an elective office other than Duluth city councilor or is a member of any of the following entities: Duluth state convention center administrative board, Duluth transit authority, Spirit Mountain recreation area authority, Duluth airport authority, Seaway Port authority, Western Lake Superior Sanitary District board, Duluth housing and redevelopment authority, city planning commission, city board of zoning appeals, Duluth downtown housing commission, 1200 Fund, Inc., board of directors, advisory boards for city development districts, housing trust fund and the citywide citizens advisory committee.

4.a. No action shall be taken by DEDA unless a majority of DEDA commissioners present at a meeting are council members.

RESOLVED FURTHER, that this resolution shall become effective on April 27, 1999.

Resolution 98-0949, as amended, was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

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BY PRESIDENT HOGG:

WHEREAS, Bresnan Communications Company Limited Partnership ("franchisee") owns, operates and maintains a cable television system ("system") in the city of Duluth pursuant to a cable television franchise (the "franchise") granted by the city; and

WHEREAS, franchisee desires to transfer and assign the assets of the system, including all rights and obligations of franchisee under the franchise, to Bresnan Telecommunications Company LLC ("BTC"), subject to, among other conditions, any required approval of the city of Duluth with respect thereto; and

WHEREAS, pursuant to the proposed transaction (the "transaction"), franchisee and various affiliated entities which own and operate cable television systems (the "TCI parties") will first take certain internal restructuring steps, including contribution of certain cable system assets (including franchises), to TCI Bresnan LLC ("TCI LLC"), an entity owned by the TCI parties. As part of the transaction, TCI LLC will then contribute assets relating to such systems and related obligations to Bresnan Communications Company Limited Partnership ("BCC"), the parent company of BTC. As a result, the TCI parties will hold a 50% limited partnership interest in BCC. Thereafter, BCC will transfer its cable television assets, including the franchise, to BTC which will hold the franchise and will own and operate the system; and

WHEREAS, franchisee and BTC have requested consent from the city of Duluth to transfer and assign the assets of the system, including the franchise, to BTC in accordance with the requirements of the franchise; and

WHEREAS, the city of Duluth has determined that the approval of the transaction and transfer and assignment of the franchise from franchisee to BTC is in the best interest of the residents of the city of Duluth and will not adversely affect system subscribers.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby consents to and approves the transfer and assignment of the assets of the system to BTC, including all rights and obligations under the franchise which accrue from and after the date of the consummation of the transaction (the "closing date").

RESOLVED FURTHER, that the transfer and assignment of the franchise to BTC and the assumption by BTC of the obligations of franchisee under the franchise which accrue from and after the closing date shall be contingent upon and take effect only on the closing date and shall be effective only after BTC has accepted the franchise as provided for in the Duluth City Charter.

Resolution 98-1028 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the monthly salary schedule for assistant city attorneys is hereby established as follows:

Effective January 1, 1999
Step 1 Step 2 Step 3 Step 4 Step 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

3432	3607	3781	3958	4132
<u>Step 6</u>	<u>Step 7</u>	<u>Step 8</u>	<u>Step 9</u>	<u>Step 10</u>
4328	4550	4771	4991	5213
<u>Step 11</u>	<u>Step 12</u>	<u>Step 13</u>	<u>Step 14</u>	<u>Step 15</u>
5461	5742	6024	6308	6588

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 one-half 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, 1999, the monthly salary for the city attorney shall be \$7061.

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:

Effective January 1, 1999

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>	<u>Step E</u>
3399	3568	3746	3935	4131

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.

Resolution 98-1064 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth Convention and Visitors Bureau, which agreement is on file in the office of the city clerk as Public Document No. 98-1221-17, and under which agreement the bureau will provide advertising and promotion services to the city during the year 1999, at a cost to the city of not to exceed \$931,300, payable from Fund 258.

Resolution 98-1065 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement with International Association of Fire Fighters Local 101 for year 1999; said agreement to be in substantially the same form and containing the same terms and conditions as that document on file with the city clerk as Public Document No. 98-1221-18.

Resolution 98-1074 was unanimously adopted.

Approved December 21, 1998

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a collective bargaining agreement between the city and Textile Processors, Service Trades, Health Care Professional and Technical Employees International Union Local No. 150 for year 1999; said agreement in substantially the same form and containing the terms and conditions of Public Document No. 98-1228-19 on file with the city clerk.

Resolution 98-1076 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY PRESIDENT HOGG:

WHEREAS, the city has permitted certain vendors to set up carts on city property in the Canal Park area during the summer months in exchange for payment to the city of ten percent of their revenues; and

WHEREAS, these vendors provide competition for the Canal Park merchants during the most important months of the business cycle in that area; and

WHEREAS, the Canal Park Merchants Association has requested that the city provide 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 providing the revenues received from the Canal Park vendors during 1998 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 monies in the amount of \$3,981.05 shall be paid from the General Fund 015-1514-2070 - aid to other agencies.

Resolution 98-1086 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals, application fee of \$200, and any specific restrictions:

ALS Association, Northland Chapter (Eggebrecht Chevrolet/Zenith Kremer fund raiser), Army National Guard building, for January 30, 1999, with Lisa Potswald, manager.

Resolution 98-1029 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

sale nonintoxicating malt liquor license for the period ending April 30, 1999, subject to departmental approvals, and the payment of sales and property taxes:

Arrowhead Equipment Company (Lincoln Park Travel Plaza), 3112 Truck Center Drive.

Resolution 98-1030 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale nonintoxicating malt liquor license and on sale wine license, for the periods ending April 30, 1999, and August 31, 1999, respectively, subject to departmental approvals and the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Zeidan Zeidan (Z's Restaurant), 3904 Grand Avenue.

Resolution 98-1032 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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>
1.	Climb Theatre	Stadium Lanes	December 7, 1998

Resolution 98-1033 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that R.L. Polk and Company be and hereby is awarded a contract for furnishing and delivering 27 city directories for the various departments/divisions in accordance with specifications on its low specification bid of \$5,872.50, terms net 30, FOB shipping point, various funds, dept./agencies, organizations, and objects. To be encumbered out of 1999 budget.

Resolution 98-1038 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

BE IT RESOLVED, that the proper city officials are authorized to purchase insurance from the Workers' Compensation Reinsurance Association for the period January 1, 1999, to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

December 31, 1999, at a cost of \$30,308.27, which shall be payable from the self-insurance fund.

Resolution 98-1042 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to execute agreements with the Epic Life Insurance Company (Epic) under which Epic will provide administrative services and stop loss insurance to the city group health plan during calendar year 1999, for a total fee of \$26.01 per covered employee per month, for a total estimated cost of \$642,031, which shall be paid from the group health fund.

Resolution 98-1043 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with Superior USA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for 1999, 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. 98-1221-20, on file with the city clerk, at an estimated cost of \$13,838, which shall be paid from the General Fund 100, Agency 700, Org. 1479.

Resolution 98-1044 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the city is hereby authorized to renew an agreement with Delta Dental for 1999 for administrative services to the city in connection with its self-funded employee dental plan, at a rate of \$1.85/month for single coverage, \$3.67/month for employee plus spouse and \$5.52/month for employee plus two or more dependents, at an estimated total cost of \$34,144, which shall be payable from Fund 633.

Resolution 98-1045 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the proper city officers are hereby authorized to renew its agreement with Minnesota Mutual Life to provide group term life insurance coverage for city employees and retirees during 1999 at the amounts specified in various bargaining unit contracts, under which agreement the city will purchase such insurance at a rate of \$.34 per thousand per month, at an estimated cost of \$170,277, which shall be payable from various funds and agencies.

Resolution 98-1046 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR EDWARDS:

RESOLVED, that Northland Constructors of Duluth, Inc., be and hereby is awarded a contract for Duluth dump site number one closure for the administrative services department in accordance with specifications on its low specification bid of \$318,741, terms net 30, FOB job site, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1651, Object 5319.

Resolution 98-1049 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

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 1999, which agreement shall be substantially in the form of Public Document No. 98-1221-21, on file in the office of the city clerk, at a cost to the city of \$10,800, which shall be payable from the group health fund - administration account.

Resolution 98-1052 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Jay Brothers, Inc., be and hereby is awarded a contract for rehabilitation of bridge number L8507 on Seven Bridges Road in accordance with specifications on its low specification bid of \$88,959.30, terms net 30, FOB job site, payable out of Capital Improvements Fund 450, Dept./Agency 015, Organization 1997, Object C709.

Resolution 98-1060 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that the administrative assistant is hereby authorized to execute an agreement with the Regents of the University of Minnesota relating to a work-study program, which agreement is on file in the office of the city clerk as Public Document No. 98-1221-22.

Resolution 98-1066 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Cartier Agency, Inc., be and hereby is awarded a contract for furnishing property insurance for city owned structures in accordance with specifications on its low specification proposal of \$45,980, terms net 30, FOB job sites, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1650, Object 5441.

Resolution 98-1087 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR EDWARDS:

RESOLVED, that Henry A. Anderson Agency be and hereby is awarded a contract for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

furnishing and delivering 1999 boiler insurance for the city of Duluth and the Duluth steam cooperative in accordance with specifications on its low specification bid of \$8,795, terms net 30, FOB destination, payable out of Self Insurance Fund 605, Dept./Agency 036, Organization 1654, Object 5360.

Resolution 98-1088 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of systems operations manager, which were approved by the civil service board on November 3, 1998, and which are filed with the city clerk as Public Document No. 98-1221-23, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range and rates shall remain unchanged, pay range 1140, pay rate \$4,911 to \$5,989.

Resolution 98-1055 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of appliance mechanic apprentice, which were approved by the civil service board on October 4, 1998, and which are filed with the city clerk as Public Document No. 98-1221-24, 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 26A-27E, pay rate \$2,357 to \$2,908.

Resolution 98-1056 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of water and gas service leadworker, which were approved by the civil service board on November 3, 1998, and which are filed with the city clerk as Public Document No. 98-1221-25, 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 \$3,038 to \$3,612.

Resolution 98-1057 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire captain, which were approved by the civil service board on September 1, 1998, and which are filed with the city clerk as Public Document No. 98-1221-26, 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 228, pay rate

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

\$3,649.

Resolution 98-1058 was unanimously adopted.
Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR RAPAICH:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of curator/veterinarian which were approved by the civil service board on October 6, 1998, and which are filed with the city clerk as Public Document No. 98-1221-27, are approved, and pay rate shall remain the same.

Resolution 98-1059 was unanimously adopted.
Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the city of Duluth established certain 1997 and 1998 HOME program accounts;
and

WHEREAS, the Duluth Housing Trust Fund (DHTF) for the HOME program passed a resolution recommending funding changes as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund transfers in the Federal Program Fund 260 - 1997 and 1998 HUD-funded HOME accounts as set forth below:

		<u>1997/1998 HOME Program Transfer</u>	
<u>Account</u>	<u>Project</u>		<u>Amount of increase</u>
<u>Revised</u>			<u>or (decrease)</u>
1997	Fund 260, Ag. 020, Org. 2662, Obj. H010 Project Specific Assistance		(\$2,224.00)
1997	Fund 260, Ag. 020, Org. 2662, Obj. H003 HOME Rehab		\$2,224.00
1998	Fund 260, Ag.020, Org. 2672, Object H010 Project Specific Assistance		(\$12,341.77)
1998	Fund 260, Ag. 020, Org. 2672, Obj. H003 HOME Rehab		\$12,341.77

Resolution 98-1024 was unanimously adopted.
Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-1221-28 with Life House, Inc., relating to the rehabilitation of its LIFELINE Project in an amount not to exceed \$175,000, \$12,453 payable from 1997 Federal HOME Program Fund 260, Agency 020, Organization 2662, Object H003 and \$162,547 payable from 1998 Federal HOME Program Fund 260, Agency 020, Organization 2672, Object H003.

Resolution 98-1025 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the East Hillside Area Restoration Program (HARP) agreement, substantially of the form of the copy on file with the city clerk as Public Document No. 98-1221-29 with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) which extends the term of the agreement, with no change in compensation under the terms of the agreement.

Resolution 98-1040 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city of Duluth hereby accepts a grant in the amount of \$4,620 from the St. Louis County Board of Commissioners for the Central Hillside sports court project, to be deposited into Fund 210, Agency 030 Account, Org. 2150, Revenue Source 4253.

FURTHER 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. 98-1221-30 with St. Louis County related to the Central Hillside sports court neighborhood project.

Resolution 98-1048 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a right-of-way easement legally described as: the 33 foot easement south of the south line of lots 8, 9, 10 & 11, Cole's Addition, the 66 foot easement between Lot 5 and Lots 1 through 4 and Lots 8 through 13, First Addition to Boehm's Acre Tracts, and the 33 foot easement south of Lots 13 and 14 to the westerly line of platted Hutchinson Road, First Addition to Boehm's Acre Tracts; 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 8, 1998, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easements described above, and as more particularly described on Public Document No. 98-1221-31.

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

Resolution 98-1084 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 45th Avenue East from Glenwood Street to Oakley Street legally described as: 45th Avenue East, between Lots 10 and 11, Block 12 and Lots 1, 11, 12 and 13, Block 13, Lakeside 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 meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of 45th Avenue East from Glenwood Street to Oakley Street described above, and as more particularly described on Public Document No. 98-1221-32.

BE IT FURTHER RESOLVED, that a utility easement be retained along the easterly 20 feet of the vacated 45th Avenue East right-of-way adjacent to lot 10, Block 12, Lakeside Gardens Division and a utility easement be retained over the southerly 80 feet of the westerly half of the 45th Avenue East right-of-way adjacent to Lots 11 and 12, Block 13, Lakeside Gardens Division.

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 right of way to be vacated and the easements to be retained.

Resolution 98-1085 was unanimously adopted.

Approved December 21, 1998

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 with the city clerk as Public Document No. 98-1221-33, with Benedek Broadcasting Corporation and Melrose Pyrotechnics for the fireworks display at Zoo Year's Eve on December 31, 1998.

Resolution 98-1053 was unanimously adopted.

Approved December 21, 1998

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. 98-1221-34, with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 1999, through December 31, 1999, for the operation of the Duluth senior dining program.

Resolution 98-1069 was unanimously adopted.

Approved December 21, 1998

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. 98-1221-35 with the Holy Cross Lutheran Church of Duluth Heights, for the nonexclusive use of the basement of the Holy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Cross Lutheran Church of Duluth Heights, from January 1, 1999, through December 31, 1999, for the operation of the Duluth senior dining program at a cost of \$6,480, payable at \$540 per month. All funds expended by the city pursuant to this agreement shall be drawn upon Fund 272, Dept. 031, Org. 6309.

Resolution 98-1070 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR KEENAN:

WHEREAS, the water and gas department has property located at 40th Avenue West and Jay Street, more particularly described as Block 104, London Road Addition to Duluth, that it no longer needs to carry out its operations; and

WHEREAS, the water and gas department plans to demolish the facilities on such property and dispose of such property; and

WHEREAS, the city believes this property would provide an excellent site for park and/or recreation uses, and would like to retain it for those purposes.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the transfer of the above described property from the water and gas department to the parks and recreation department to be used for park and/or recreation purposes.

Resolution 98-1072 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, the St Louis County social services department hereby is awarded a contract (Public Document No. 98-1221-36) for furnishing approximately 68,500 hot meals for senior citizens at eight mealsite locations in Duluth for a 12 month period for the senior dining division in accordance with specifications of its proposal of \$2.37 per regular meal, \$1.60 per meatless meal, and \$3.53 per picnic meal or approximately \$161,823, payable out of Federal Program Fund 272, Dept/Agency 031, Organization 6309, Activity SD04 and SD06, Object 0070/0071/0072/0073.

Resolution 98-1067 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HARDESTY:

WHEREAS, the St Louis County social services department hereby is awarded a contract (Public Document No. 98-1221-37) for furnishing approximately 49,500 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 \$3.50 per meal for eligible senior citizens and \$4.00 per meal for guest or approximately \$173,500, payable out of Federal Program Fund 272, Dept/Agency 031, Organization 6309, Activity SD04, Object 0071.

Resolution 98-1068 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Goodin Company, Inc., be and hereby is awarded a contract for furnishing and delivering approximately 14 clamps for the water and gas department in accordance with specifications on its low specification bid of \$7,229.22, terms net 30, FOB destination, payable out of Water Fund 510, Dept./Agency 900, Organization 0540, Object 5227.

Resolution 98-1034 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth desires certain consulting services to be completed for the legal services related to Northern Natural Gas rate filing and interconnecting to Great Lakes Pipeline projects; and

WHEREAS, the city desires to hire a consulting engineer to provide the legal services required for this project; and

WHEREAS, Dahlen, Berg and Company, Inc., 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 Dahlen, Berg and Company, Inc., to provide the city with such consulting services.

BE IT FURTHER RESOLVED, that the cost of said consulting services, estimated at \$8,500, will be payable from the Gas Fund 520, Dept./Agency 900, Organization 0545, Object 5319.

Resolution 98-1035 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Sim Supply, Inc., be and hereby is awarded a contract for furnishing and delivering gas testers for the water and gas department in accordance with specifications on its low specification bid of \$11,643.23, terms net 30, FOB destination, payable out of Gas Fund 520, Dept./Agency 900, Organization 0505, Object 5580.

Resolution 98-1036 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to pay to John Soetebier and Gretchen Soetebier, proprietor of Patty Cake Shop, the amount of \$6,672.96 in full settlement of all claims for damage to their land, building, contents and business near 15th Avenue East and Superior Street which occurred on August 7, 1998; payment to be made from the self insurance fund.

Resolution 98-1051 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

RESOLVED, that Resolution 98-0537 to St. Louis County public works department for replacement of a six inch water main in Morris Thomas Road, be amended to increase the amount by \$5,415.48 for a new total of \$23,355.98, payable out of Water Fund 510, Dept./Agency 900, Organization 0505, Object 5533.

Resolution 98-1073 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that Pitney Bowes, Inc., be and hereby is awarded a contract for furnishing annual maintenance on a mailing/inserting machine for the water and gas department in accordance with specifications on its low specification bid of \$5,053, terms net 30, FOB destination, \$2,021 payable out of Water Fund 510, Dept./Agency 900, Organization 0515, Object 5404 and \$3,032 payable out of Gas Fund 520, Dept./Agency 900, Organization 0515, Object 5404.

Resolution 98-1080 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that the proper city officers are hereby authorized and directed to execute railroad water main crossing agreements, on file with the city clerk as Public Document No. 98-1221-38, between the city of Duluth and Burlington Northern and Santa Fe Railroad Company necessary for the reconstruction of Railroad Street between Garfield Avenue and Eighth Avenue West for a cost of \$2,750, to be paid from Special Assessment Fund 810.

Resolution 98-0996 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, it appears that it may be necessary to construct a sanitary sewer in Hagberg Street from 425 feet to 645 feet westerly of Hutchinson Road.

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 98-1026 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Klassic Constructors, Inc., be and hereby is awarded a contract for reconstruction of lift station number 26 located at Jean Duluth Road for the sewer division in accordance with specifications on its low specification bid of \$87,044.70, terms net 30, FOB job site, payable out of Sewer Construction Fund 531, Dept./Agency 500, Object 5532.

Resolution 98-1054 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

RESOLVED, that Resolution 97-0662 to Seaway/S.E.H. for furnishing construction engineering services required for the Woodland Avenue and 21st Avenue East traffic improvement project, be amended to increase the amount by \$31,426 for a new total of \$101,166, payable out of Permanent Improvement Fund 411, Dept./Agency 035, Organization 2156, Object 5303.

Resolution 98-1061 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR SWAPINSKI:

WHEREAS, in Resolution 98-0229, the Duluth City Council approved an agreement with Hardesty and Hanover, LLP, to provide professional engineering services in connection with the rehabilitation of the Aerial Lift Bridge, said agreement filed as Public Document No. 98-0316-31; and

WHEREAS, during the performance of the above mentioned contract, it became evident to both the city and Hardesty and Hanover, LLP, that additional engineering work should be done with respect to strengthening the lifting girder and associated framing on the bridge to increase the capacity of the inboard counter weight rope support framing;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute an amendment to the city's contract with Hardesty and Hanover, LLP, filed as Public Document No. 98-0316-31, said amendment on file with the city clerk as Public Document No. 98-1221-39, authorizing additional engineering services regarding strengthening the lifting girder and associated framing of the bridge to increase the capacity of the inboard counter weight rope support framing, in an amount not to exceed \$50,000, payable from the Permanent Improvement Fund 411, Dept./Agency 035, Organization 2102, Object 5303, to be reimbursed from the municipal state aid fund.

Resolution 98-1071 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97.8 of the Duluth City Code, 1959, as amended, that on East Ninth Street from Seventh Avenue East to 14th Avenue East alternate side parking shall apply only from 1 A.M. to 7 A.M. each day of the week, and at all other times parking shall be permitted on both sides of the street.

Resolution 98-1023 was unanimously adopted.

Approved December 21, 1998
GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to establish a community youth diversion program and a cultural arts program; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run both the youth diversion program and the cultural arts program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, Woodland Hills has submitted a proposal for the program 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 Woodland Hills to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$37,577, will be payable from the Police Grant Programs Fund 215, Dept./Agency 200, Organization 2452, Objects 5310, 5334, 5219, 5319 and 5441.

Resolution 98-1079 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to establish a community family art program and a family support program; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run both the family art program and the family support program; and

WHEREAS, Family Services Collaborative has submitted a proposal for the program 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 Family Services Collaborative to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$17,425, will be payable from the Police Grant Programs Fund 215, Dept./Agency 200, Organization 2452, Objects 5310, 5219, 5319 and 5441.

Resolution 98-1081 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

WHEREAS, the city of Duluth desires to establish a community truancy action project; and

WHEREAS, the city desires to hire an agency/organization to provide the services required to design, implement and run the truancy action project; and

WHEREAS, Lutheran Social Services has submitted a proposal for the program 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 Lutheran Social Services to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$25,058, will be payable from the Police Grant Programs Fund 215, Dept./Agency 200, Organization 2452, Objects 5310, 5219, 5334 and 5441.

Resolution 98-1082 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR HALES:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

WHEREAS, the city of Duluth desires to establish a youth program focusing on being safe in the community in which they live; and

WHEREAS, the city desires to hire an organization to provide the services required to design, implement and run the community youth "safe on the hillside" program; and

WHEREAS, Fond du Lac Indian Reservation has submitted a proposal for the program 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 Fond du Lac Indian Reservation to provide the city with such complete program services.

BE IT FURTHER RESOLVED, that the cost of said program services, estimated at \$10,800, will be payable from the Police Grant Programs Fund 215, Dept./Agency 200, Organization 2452, Objects 5219, 5319 and 5441.

Resolution 98-1083 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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At this time, 8:00 p.m., President Hogg announced that the public hearings regarding the following would begin: (a) A proposed amendment of Charter sections 8 & 31 to authorize the council to delegate to administrative officers the power to approve contracts; and (b) A proposed new Charter Section 54(f) authorizing the city to enter into contracts for various utilities & to enter into financial arrangements to pay for such purchases.

Todd Torvinen, director of finance, reviewed the background on the first amendment, noting that this would allow the city council to delegate to the administrative officers to approve contracts up to the amount of \$25,000. He noted that if this change was allowed, the council would have to approve another ordinance which would specify the actual dollar limitation. Mr. Torvinen noted that the existing \$5,000 limitation was adopted in 1956, and with inflation would now be approximately \$30,000. He stated that, with regard to the second amendment, the administration is requesting that it be referred back to them.

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At this time, 8:02 p.m., the hearings were closed.

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At this time, 8:03 p.m., President Hogg announced that the public hearing giving host approval to the issuance of revenue obligations (Pinewood-Duluth, Inc., project) would begin.

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There were no speakers, so at 8:03 p.m. the public hearing was closed.

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At this time, 8: 04 p.m., President Hogg announced that the public hearing on the tax increment financing (TIF) plan for District No. 19 would begin.

Todd Torvinen, director of finance, reviewed that Resolution 98-1077 would remove the block bordered by Superior Street and First Street, between Lake Avenue and First Avenue East, from TIF District 2 and create a new TIF District 19. He noted that the increment received from this district would be used to offset some of the public improvements that are planned.

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At this time, 8:08 p.m., the hearing was closed and the regular order of business was resumed.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

The following resolutions were also considered:

BY PRESIDENT HOGG:

WHEREAS, the Pinewood-Duluth, Inc. (the company), desires to renovate its existing facilities at 1102 East Fourth Street, in the city of Duluth and to discharge a taxable contract for deed relating to the existing facilities (the project); and

WHEREAS, the company has proposed that the city of Cloquet, Minnesota, issue revenue obligations in the approximate principal amount of \$307,000 (the obligations) to finance the project; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended, requires that each governmental unit in which facilities to be financed by the obligations are located must approve the issuance of the obligations following a public hearing; and

WHEREAS, a public hearing on this matter was held by the city of Duluth, Minnesota (the city), on Monday, December 21, 1998; and

WHEREAS, the obligations are payable solely from revenues of the company, will not be a general or moral obligation of the city of Duluth, the city of Cloquet or any other political subdivision of the state of Minnesota, but will be payable solely from revenues of the company, to the extent and in the manner provided in the documents executed in connection with the issuance of the obligations;

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

(a) The city hereby gives the host approval required under the Internal Revenue Code to the issuance of the obligations;

(b) The actions of city staff in causing the notice of public hearing to be published in the official newspaper are hereby ratified, confirmed and approved.

Resolution 98-1041 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1063, by President Hogg, establishing the salary and fringe benefits of the administrative assistant, was introduced for discussion.

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

Tom Allnew suggested that the administrative assistant look at reductions of staffing of the city attorney's office and to solicit proposals from the private sector when additional legal services are required.

Resolution 98-1063 was adopted as follows:

BY PRESIDENT HOGG:

RESOLVED, that effective January 1, 1999, the monthly salary of the administrative assistant shall be \$7,339.

RESOLVED FURTHER, that the administrative assistant shall be entitled to the same fringe benefits as the confidential unit employees of the city, excluding longevity.

Resolution 98-1063 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolutions 98-0985 and 98-0986, by Councilor Prettner Solon, affirming and reversing, respectively, a decision of the board of zoning appeals to deny reduced parking requirements in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

conjunction with the proposed remodeling of the Litman Building at 1009 East Superior Street into a retail outlet, were introduced for discussion.

Councilor Prettner Solon stated that she, as committee chairperson, recommends the adoption of Resolution 98-0985.

Councilors Keenan and Hardesty, also members of the planning committee, stated that they support Resolution 98-0986, noting that the developer is making major improvements to save this building, which will draw some new businesses, and this should be allowed.

Councilor Swapinski noted that if the developer is not allowed to do this, this historical building will be demolished.

President Hogg noted that he liked the look of the plan, but has concerns over the problems with the parking and the effect it will have in that area. He felt that the requirement to have 48 parking spots for this size of a building is not realistic and would hope that the administration would review this requirement and see if it is really needed.

Councilor Prettner Solon reviewed that the developer stated that there might be four separate retail stores at this location, which could have significant traffic. She added that there are two existing employers close by with over 1,400 employees who have a parking concern. Councilor Prettner Solon noted that getting through this intersection is already quite difficult and supporting the board of zoning appeals decision is needed here.

Resolution 98-0985 was removed from the agenda.

Resolution 98-0986 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the owner, Andrew Baertsch applied to the board of zoning appeals for a variance to remodel the existing building into a retail outlet located at 1009 East Superior Street and to decrease the number of required parking spaces from 48 to 0 spaces; and

WHEREAS, the board of zoning appeals denied the variance to diminish the number of parking spaces; and

WHEREAS, the owner, Andrew Baertsch, has appealed the decision denying the parking space variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do justify a reduction in parking spaces from 48 to 0;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of July 28, 1998.

Resolution 98-0986 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolutions 98-0992 and 98-0993, by Councilor Prettner Solon, affirming and reversing, respectively, a decision of the board of zoning appeals to deny allowing an oversized pole sign to be increased in size from 180 square feet to 210 square feet, were introduced for discussion.

Councilor Prettner Solon stated that the planning committee unanimously supports Resolution 98-0993.

Resolution 98-0992 was removed from the agenda.

Resolution 98-0993 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, Todd Sign Company and Melhus Management Corporation applied to the board of zoning appeals for a variance to allow an oversized pole sign to be increased in size from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

180 square feet to 210 square feet on property located at 1602 Woodland Avenue and known as Mount Royal Shopping Center; and

WHEREAS, Todd Sign Company and Melhus Management Corporation have appealed the decision denying the increased sign variance to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and determined that the facts of this case do justify an increase in the allowed size of the sign from 180 square feet to 210 square feet;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of October 27, 1998.

Resolution 98-0993 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1027, by Councilor Prettner Solon, authorizing a HOME program grant agreement with Northern Communities Land Trust in an amount not to exceed \$20,000, was introduced for discussion.

Councilor Hales stated that she felt there is a duplication of services and that the council needs to meet with the community development and housing division to review the nature of some of the housing projects that the city supports.

Resolution 98-1027 was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the proper city officials are hereby authorized to enter into a HOME program grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 98-1221-40 with Northern Communities Land Trust relating to its homeland project in an amount not to exceed \$20,000, payable from 1998 Federal HOME Program Fund 260, Agency 020, Organization 2672, Object H003.

Resolution 98-1027 was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Hales -- 1

Approved December 21, 1998

GARY L. DOTY, Mayor

- - -

Resolution 98-1047, by Councilor Prettner Solon, approving the fair housing implementation plan of the city of Duluth, was introduced for discussion.

Councilor Prettner Solon reviewed the background that went into preparing this plan and that, in doing this, it is necessary to identify any impediments regarding the issue of housing discrimination such as the city's human rights ordinance that is not finalized yet. She went on to explain that language under Impediment III references an adoption of a human rights ordinance by the end of 1998, which is not going to happen in that timeframe, and thus would suggest an amendment to that section. Councilor Prettner Solon moved to amend the public document, the fair housing implementation plan, as follows:

(a) Under Impediment III on page 7, under Recommendations, number 1, after the words "The city of Duluth," delete the words "by the end of 1998, adopt" and insert the words "will study and consider";

(b) In the same paragraph, delete the words "and will have retained sufficient city staff to enforce compliance" and insert the words "A component of this study will be to determine resources available and analyze the enforcement needs";

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(c) Under Impediment III on page 8, under Time Line, delete the word "adoption" and insert the word "consideration," which motion was seconded for discussion.

Councilor Hardesty stated that this amendment allows for flexibility and thus does not predispose the council to do one thing or another and that the council will be able to consider the recommendations from the human rights commission and the public before finalizing how the council will address this issue.

Councilor Prettner Solon's amendment unanimously carried.

Resolution 98-1047, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Housing and Community Development Act of 1974, as amended, and the regulations promulgated there under require its grantees, such as the city of Duluth, to have in place a fair housing implementation plan in order to receive funding under this program.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth hereby approves the Duluth fair housing implementation plan, a copy of which is on file with the city clerk as Public Document No. 98-1221-41.

Resolution 98-1047, as amended, was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

RESOLVED, that the city council of the city of Duluth does hereby approve the general fund budget, the debt service budget, the capital projects fund budget and the storefront loan fund budget of the Duluth economic development authority for the year 1999.

Resolution 98-1050 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1077, by Councilor Prettner Solon, approving a tax increment financing plan for Tax Increment Financing District No. 19 in Development District No. 17 as proposed by the Duluth economic development authority, was introduced for discussion.

Councilors Swapinski and Gilbert expressed their concerns over the increased public costs for the technology center parking ramp and skywalks.

Councilor Hales noted that there have been several phases to this project and that each had its own costs. She noted that the property value increase will be an asset and that much of the information that explains those costs have been covered in great detail at DEDA meetings.

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

Robert Link discussed that the original figures were a very rough estimate given the magnitude of the project at that time. He noted that the scope of the project has changed and with that change the costs have increased. Mr. Link added that all the businesses that had to be relocated are approximately in a three block radius.

Councilor Prettner Solon noted that the projects in the TIF district have many of the costs covered through the developers. She noted that changes have been looked at and that costs are, at this time, approximately where it was estimated to be. Councilor Prettner Solon added that the skywalks have been deferred for now.

President Hogg stated that, in the area of acquisition of property, news of a development will drive up the selling price and is one factor that affects cost increases.

Resolution 98-1077 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

Section 1. Recitals; findings.

1.01 The council has established the Duluth economic development authority ("DEDA") to promote development and redevelopment of property located in the city.

1.02 In order to promote such development, DEDA has established Development District No. 17 (the "development district") in the city and adopted a development program (the "development program") therefor pursuant to Minnesota Statutes, Sections 469.090 through 469.180 and Sections 469.124 through 469.134 (collectively, the "act"). DEDA has prepared the development program in accordance with Sections 469.125 and 469.126 of the act.

1.03 DEDA proposes to establish Tax Increment Financing District No. 19 (the "TIF district") within the development district and adopt a tax increment financing plan (the "TIF plan") therefor pursuant to Minnesota Statutes, Sections 469.174 through 469.179 (the "TIF act") for the purpose of financing public improvements and encouraging investment in the development district. DEDA has prepared the TIF plan in accordance with the TIF act (Public Document No. 98-1221-42).

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, DEDA has requested the city to hold a public hearing on the TIF plan and approve the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.05 DEDA has transmitted a copy of the TIF plan to the council in a document entitled "Third Amendment to Development Program Development District No. 17 and Tax Increment Financing Plan Tax Increment Financing District No. 19 Technology Village and Thirteenth Modification to Tax Increment Financing Plan Tax Increment Financing District No. 2," which is now on file in the office of the city clerk.

1.06 Pursuant to Minnesota Statutes, Section 273.1399 (the "section"), upon creation of the TIF district, the city will experience a reduction in state aids to be paid to the city (the "reduction") unless an exemption provided in the section applies.

1.07 Pursuant to the section, the TIF district is exempt from the reduction if the city elects at the time of approving the tax increment financing plan for the TIF district to make a qualifying local contribution (the "contribution").

1.08 After investigation of the facts, the council is of the opinion that:

(a) It is necessary for the sound and orderly development of the development district and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the act and the TIF act be exercised by DEDA to provide public financial assistance to the development district;

(b) Proper development of the development district and implementation of the development program in accordance with the city's long range plans is essential to (i) the economic viability of the development district, (ii) the economic well-being of the city and its residents, (iii) the orderly development of the city, and (iv) the orderly and beneficial development of the development district to ensure the construction of and provide moneys for the payment of the cost of certain public improvements within the development district, including site improvements, in order to provide and finance development of suitable and necessary sites for development;

(c) There is a need for new development within the development district (i) to provide employment opportunities for residents of the city, the surrounding communities and the state of Minnesota (the "state"), (ii) to improve the tax base of the city and the state, (iii) to improve the

general economy of the city and the state, and (iv) to provide other facilities identified in the development program and TIF plan;

(d) Creation of the development district and TIF district is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; and

(e) The TIF district is intended and, in the judgment of the city, its effect will be to promote the public purposes and accomplish the objectives specified in the development program, which are all consistent with the efforts already made for the development of the development district.

1.09 The council has fully reviewed the contents of the TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district, in order to provide employment opportunities, to improve the tax base, and to improve the general economy of the state.

2.02 Establishment of the TIF district will provide impetus for commercial development; increase employment; protect pedestrians from vehicle traffic and inclement weather; provide the necessary linkage between peripheral parking facilities and places of employment and shopping; and provide off-street parking to serve the shoppers and employees of the development district and the TIF district.

2.03 The actions required to assist the implementation of the development program are a public purpose and the execution and financing of the development program are a public purpose.

2.04 It is the opinion of the council, based on discussions with developers of projects proposed to be constructed in the TIF district and information contained in the development program and the TIF plan that:

(a) Development and redevelopment within the TIF district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future;

(b) The increased market value of the site to be included in the TIF district 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 development in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan; and

(c) The use of tax increment financing is necessary.

2.05 Based on information contained in the development program and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.06 Based on information contained in the development program and the TIF plan, the TIF plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development and redevelopment of the development district by private enterprise.

Section 3. Approval.

3.01. The TIF plan is approved.

3.02 The geographic boundaries of the development district and TIF district are described in the development program and the TIF plan which documents are incorporated herein by reference and which together with this resolution contain the requirements set forth in Section 469.175, Subd. 3 of the TIF act.

Section 4. Designation of TIF district.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

4.01 The proposed TIF district is a "redevelopment district" as defined in Section 469.174, Subdivision 10 of the TIF act because it consists of a portion of the development district within which the following conditions, reasonably distributed throughout the TIF district, exist:

Parcels consisting of 70 percent of the area of the TIF district are occupied by buildings, streets, utilities or other improvements and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

4.02 The reasons and supporting facts for the determination that the TIF district meets the criteria set forth in Section 4.01 hereof will be retained and made available to the public by DEDA until the TIF district has been terminated.

4.03 At least 90 percent of the revenues derived from tax increments from the TIF district will be used to finance the cost of correcting conditions that allowed designation of the TIF district under Section 469.174 of the TIF act.

Section 5. Qualifying local contribution.

5.01 Since the TIF district is a redevelopment district, the city hereby elects to make a contribution equal to five percent of the increment from the TIF district.

5.02 The contribution for all tax increment financing districts in the city is limited to two percent of the city net tax capacity, except as otherwise provided by the section.

5.03 The executive director of DEDA has been authorized and directed by DEDA to submit to the commissioner of revenue by March 15 of each year a report on the contributions made for the TIF district in the preceding year.

5.04 The contribution will be paid out of unrestricted money of the city or DEDA, including but not limited to moneys from the general fund, a property tax levy or a federal or state grant in aid which may be spent for general government purposes, and will not be made directly or indirectly with tax increments or developer payments.

5.05 The contribution will be used solely to pay project costs set forth in the TIF plan and will not be used for general governmental purposes or for improvements or costs that the city or DEDA plans to incur absent the project described in the TIF plan.

Resolution 98-1077 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

Section 1. Recitals; findings.

1.01 The council has established the Duluth economic development authority ("DEDA") to promote development and redevelopment of property located in the city.

1.02 In order to promote such development, DEDA has established Development District No. 17 (the "development district") in the city and adopted a development program (the "development program") therefor pursuant to Minnesota Statutes, Sections 469.090 through 469.180 and Sections 469.124 through 469.134 (collectively, the "act"). DEDA has prepared the development program in accordance with Sections 469.125 and 469.126 of the act.

1.03 DEDA has previously created Tax Increment Financing District No. 2 in the development district (the "TIF district") and has adopted a tax increment financing plan therefor (the "tax increment plan").

1.04 DEDA proposes to modify the tax increment plan (as modified, the "TIF plan") and the TIF district by removing parcels therefrom pursuant to Minnesota Statutes, Sections 469.174

through 469.179 (the "TIF act") for the purpose of creating Tax Increment Financing District No. 19. DEDA has prepared the TIF plan in accordance with the TIF act (Public Document No. 98-1221-43).

1.05 Pursuant to Section 469.175, Subdivision 3 of the TIF act, DEDA has requested the city to hold a public hearing on the TIF plan and approve the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.06 DEDA has transmitted a copy of the TIF plan to the council in a document entitled "Third Amendment to Development Program Development District No. 17 and Tax Increment Financing Plan Tax Increment Financing District No. 19 Technology Village and Thirteenth Modification to Tax Increment Financing Plan Tax Increment Financing District No. 2," which is now on file in the office of the city clerk.

1.07 After investigation of the facts, the council is of the opinion that:

(a) It is necessary for the sound and orderly development of the development district and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the act and the TIF act be exercised by DEDA to provide public financial assistance to the development district;

(b) Proper development of the development district and implementation of the development program in accordance with the city's long range plans is essential to (i) the economic viability of the development district, (ii) the economic well-being of the city and its residents, (iii) the orderly development of the city, and (iv) the orderly and beneficial development of the development district to ensure the construction of and provide moneys for the payment of the cost of certain public improvements within the development district, including site improvements, in order to provide and finance development of suitable and necessary sites for development;

(c) There is a need for new development within the development district (i) to provide employment opportunities for residents of the city, the surrounding communities and the state of Minnesota (the "state"), (ii) to improve the tax base of the city and the state, (iii) to improve the general economy of the city and the state, and (iv) to provide other facilities identified in the development program and TIF plan;

(d) Modification of the TIF district is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; and

(e) The modification of the TIF district is intended and, in the judgment of the city, its effect will be to promote the public purposes and accomplish the objectives specified in the development program, which are all consistent with the efforts already made for the development of the development district.

1.08 The council has fully reviewed the contents of the TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district, in order to provide employment opportunities, to improve the tax base, and to improve the general economy of the state.

2.02 Modification of the TIF district will provide impetus for commercial development; increase employment; protect pedestrians from vehicle traffic and inclement weather; provide the necessary linkage between peripheral parking facilities and places of employment and shopping; and provide off-street parking to serve the shoppers and employees of the development district and the TIF district.

2.03 The actions required to assist the implementation of the development program are a public purpose and the execution and financing of the development program are a public purpose.

2.04 Based on information contained in the development program and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.05 Based on information contained in the development program and the TIF plan, the TIF plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development and redevelopment of the development district by private enterprise.

Section 3. Approval.

3.01. The TIF plan is approved.

3.02 The new geographic boundaries of the TIF district are described in the TIF plan which document is incorporated herein by reference and which together with this resolution contain the requirements set forth in Section 469.175, Subd. 3 of the TIF act.

Resolution 98-1078 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, a comprehensive municipal plan is a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs; and

WHEREAS, a comprehensive plan will represent a recommendation for the future development of the community; and

WHEREAS, the city council finds that it is in need of a comprehensive municipal plan in order to guide future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, and to promote the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby indicates its intent to develop a comprehensive municipal plan for the city of Duluth and declares its support of actions necessary to further the development of the comprehensive municipal plan, including the allocation of staff resources and funds.

Resolution 98-1092 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1093, by Councilor Prettner Solon, of intent to support a study of the Rice Lake Road/Arrowhead Road area, to be undertaken in cooperation with the Duluth economic development authority, was introduced for discussion.

Councilor Keenan noted that it was his belief that while DEDA felt that this issue was more a planning issue than an economic development issue, DEDA would share 1/2 of the costs if the city council would approve the expenditure for the other 1/2. He questioned that aspect, of each body contributing \$12,500, as it is not addressed in this resolution.

Councilor Hardesty requested that this study look at the impact of this development to the technology village Downtown.

President Hogg expressed concern that the proposed study outline is too vague and that, with the council just passing a resolution regarding the comprehensive land use plan, this study

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

does not become worthless because of the outcome of the comprehensive land use plan that will be adopted.

Councilor Keenan moved to amend the resolution by adding at the end of the resolution, after the words "for the development of this area" the following: "which study would cost \$25,000 and would be funded 1/2 by DEDA and 1/2 by the city," which motion was seconded for discussion.

President Hogg requested that the issues that Councilor Hardesty and he raised be addressed in this study.

Councilor Swapinski requested that the possibility of a new public works facility in this area also be addressed.

Councilor Hales called the question on the amendment, which motion was seconded and carried as follows:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich and Swapinski -- 8

Nays: President Hogg -- 1

Resolution 98-1093, as amended, was adopted as follows:

BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Duluth economic development authority (DEDA) has requested the the Duluth City Council to indicate its support of a proposed study of the Rice Lake Road/Arrowhead Road area; and

WHEREAS, the area of the proposed study has been suggested as a location for information technology businesses, manufacturing and office uses; and

WHEREAS, the study would provide guidance for the development of this area.

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council, that the council hereby indicates its support for a study of an area bounded by Rice Lake Road, Arrowhead Road, Haines Road (as extended to the east) and Blackmun Avenue, which study will provide guidance for the development of this area, which study would cost \$25,000 and would be funded 1/2 by DEDA and 1/2 by the city.

Resolution 98-1093, as amended, was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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BY COUNCILOR PRETTNER SOLON:

WHEREAS, the Duluth economic development authority ("DEDA") has reviewed a budget for the technology village parking ramp project (the "ramp"), which budget shows DEDA contributing tax increment financing to support the construction of the ramp; and

WHEREAS, DEDA has provided funds to the city of Duluth in the amount of \$500,000 to purchase property from the Kwapicks and the Duluth Federation of Teachers for the ramp; and

WHEREAS, in addition to the foregoing property, the city needs to acquire the "M. C. Solon Property", which property is located at 20 East First Street in the city of Duluth, in order to construct the ramp; and

WHEREAS, DEDA has entered into a development agreement, dated December 18, 1998, with A & L Development, which development agreement authorizes the developer to proceed to acquire property and undertake the demolition of the buildings on the site of the proposed ramp and authorizes DEDA to reimburse developer therefore; and

WHEREAS, the developer has agreed to acquire the M.C. Solon Property and to transfer title thereto to the city upon being reimbursed by DEDA for its costs of acquisition in the amount

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

of \$340,000 as provided for in said development agreement and as authorized by DEDA Resolution No. 98D-110; and

WHEREAS, the acquisition of the M.C. Solon property, in combination with property which the city of Duluth has previously purchased from the Kwapicks and the Duluth Federation of Teachers, is necessary for the ramp project.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth hereby accepts title to the M.C. Solon property; and authorizes the expenditures made for acquisition of property and the demolition of buildings thereon for the technology village parking ramp by the Duluth economic development authority ("DEDA") to be a credit against future funding of the ramp project to be constructed by the city of Duluth; and authorizes DEDA to proceed to demolish the buildings, including M.C. Solon, the Kwapick and Duluth Federation of Teachers buildings, pursuant to the development agreement between DEDA and A & L Development.

Resolution 98-1094 was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1089, by Councilor Hardesty, authorizing execution of an agreement with St. Louis County relating to an exchange of snow plowing and sanding services for 1999 at a cost to the city of \$50,000, was introduced for discussion.

To make the body of the resolution consistent with the reference in the statement of purpose, Councilor Hardesty moved to amend the resolution by adding after the words "sanding services during" the words "the period January 1, 1999, through March 31," which motion was seconded and carried as follows:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

Resolution 98-1089, as amended, was adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with St. Louis County (Public Document No. 98-1221-44) relating to an exchange of snow plowing and sanding services during the period January 1, 1999, through March 31, 1999, at a cost to the city of \$50,000, which shall be payable from the General Fund 100-500-1920.

Resolution 98-1089, as amended, was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Rapaich, Swapinski and President Hogg -- 8

Nays: Councilor Prettner Solon -- 1

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1091, by Councilor Hardesty, approving the city's 1999 state legislative program, was introduced for discussion.

Councilor Hales questioned why her request to lift the animal pound seizure requirements was not included since it was discussed at a recent meeting.

Administrative Assistant Hartl noted that it was inadvertently left off and that it will be added to the agenda.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Hales moved to amend the legislative agenda to include: "Animal Pound Seizures — The city supports legislation which would restrict the sale of animals for research purposes," which motion was seconded and unanimously carried.

Councilor Swapinski expressed his pleasure with the language used in supporting the McQuade Road Safe Harbor project.

President Hogg moved to divide out the issue of the McQuade Road Safe Harbor project from the rest of the legislative agenda, which motion was seconded and failed upon the following vote:

Yeas: Councilors Edwards, Swapinski and President Hogg -- 3

Nays: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon and Rapaich -- 6

Councilors discussed the merits of bridge repainting with the rehabilitation of the bridge and possible legislative funding.

Councilor Keenan moved to reconsider the question of dividing the question of the legislative agenda, by voting on the McQuade Road Safe Harbor project separately from the rest of the legislative agenda, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Swapinski and President Hogg -- 7

Nays: Councilors Edwards and Rapaich -- 2

Resolution 99-1091(b), as amended, excluding the McQuade Road Safe Harbor project, was adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves the city's 1999 state legislative program, which program is set forth in Public Document No. 98-1221-45(b) on file in the office of the city clerk.

Resolution 98-1091(b), as amended, was unanimously adopted.

Approved December 21, 1998

GARY L. DOTY, Mayor

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Resolution 98-1091(a), regarding the McQuade Road Safe Harbor project, was adopted as follows:

BY COUNCILOR HARDESTY:

RESOLVED, that the city council hereby approves the city's 1999 state legislative program, which program is set forth in Public Document No. 98-1221-45(a) on file in the office of the city clerk.

Resolution 98-1091(a) was adopted upon the following vote:

Yeas: Councilors Edwards, Gilbert, Hales, Keenan, Prettner Solon and Rapaich -- 6

Nays: Councilors Hardesty, Swapinski and President Hogg -- 3

Approved December 21, 1998

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 EDWARDS

98-052 - AN ORDINANCE AMENDING SECTIONS 50-37, 50-37.1 AND 50-37.3 OF THE CITY CODE RELATING TO THE REGULATIONS FOR COMMUNITY UNIT PLANS.

Councilor Prettner Solon moved to refer the ordinance to the planning commission for their review, which motion was seconded and carried upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon and Rapaich -- 7

Nays: Councilor Swapinski and President Hogg -- 2

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The following entitled ordinances were read for the second time:

BY PRESIDENT HOGG

98-048 (9398) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$8,000,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

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BY PRESIDENT HOGG AND COUNCILORS KEENAN AND SWAPINSKI

98-051 - AN ORDINANCE REPEALING SECTIONS 50-37, 50-37.1 AND 50.37.3 OF THE CITY CODE RELATING TO COMMUNITY UNIT PLANS.

President Hogg felt that while there might be a place for the community unit plan concept, what it is being used for now is not working. He expressed his desire that, with the repealing of these sections of the Code and during the analysis of the comprehensive land use plan, this whole process can be reviewed without the community paying the price that it has.

To questions from Councilor Hardesty, City Attorney Dinan stated that if this ordinance passes, the existing community unit plans are "grandfathered in," except if the developers of the existing community unit plans wish to amend their plans. He stated that a plan amendment would not be allowed, unless through the approval of a variance.

Councilor Keenan stated his belief that community unit plans have not worked, citing how all the existing ones already have had to be amended or dropped. He noted that the developers cannot live up to what they agreed to originally.

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

Dan King noted the lack of zoned land to build family housing on and, with the expansion of businesses, where are all those new families going to live. He felt that in comparison to rezoning, which does not happen easily, the community unit plan process is good because it involves review of development plans by the planning staff, planning commission and also the city council.

Councilor Swapinski supported the ordinance, noting that improvements could better come from starting over rather than making changes to what is in place.

Councilor Gilbert expressed his support of the ordinance, but felt that there is some validity to what is being said from opponents, noting the need to have this in place while working with the existing community unit plans and until changes could be adopted.

Councilor Hales supported sending both this ordinance and Councilor Edwards' ordinance to the planning commission for their review. She noted that if developers come, and would be willing to conform to the existing community plan, or modified community unit plan, the city needs to be more thoughtful about abolishing this before something new can be drafted and adopted.

Councilor Keenan noted that if existing community unit plans need to be modified, with this ordinance being adopted, that the council can approve needed changes through the approval of nonconforming use of an area.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

Councilor Prettner Solon voiced her concern that there needs to be some sort of a community unit plan even if adhering to it becomes more strict.

Councilor Gilbert moved to table the ordinance for further discussion and study, which motion was seconded and unanimously carried.

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BY COUNCILOR RAPAICH

98-038 (9399) - AN ORDINANCE AMENDING SECTIONS 8 AND 31 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

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

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BY COUNCILOR RAPAICH

98-039 - AN ORDINANCE ADDING A NEW SECTION 54(f) TO THE CITY CHARTER AUTHORIZING THE CITY TO ENTER INTO CONTRACTS FOR THE PURCHASE OF A SUPPLY OF ELECTRICITY, NATURAL GAS AND COMMUNICATIONS SERVICES, AND TO ENTER INTO FINANCIAL ARRANGEMENTS TO PAY FOR SUCH PURCHASES.

There was a motion to remove the ordinance from the agenda and refer it to the administration, which motion was seconded and unanimously carried.

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BY COUNCILOR PRETTNER SOLON

98-047 - AN ORDINANCE AUTHORIZING ACQUISITION OF CERTAIN PROPERTY NEAR 26TH AVENUE EAST FROM THE MNDOT FOR \$45,038.50 AND SALE THEREOF TO EDGEWATER SERVICES, INC., FOR \$46,538.50, SUBJECT TO AN ACCESS LIMITATION.

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

Sue Doering spoke of her concern, and her neighbor's, Jean Swenson, over the development that would take place with the adoption of this ordinance. She reviewed her communication (Public Document No. 98-1221-16) noting the history of this project and the feeling that the neighbors' concerns would be taken into consideration, which has not been done. Ms. Doering noted that it is not their intent to stop the project, just that certain conditions should be met to help reduce the adverse affect on the neighbors.

Fran Doering questioned where the 40-50 cars that park on this area now will be parked when this project is completed. He noted that it is important to have a landscaped buffer between the two areas. Mr. Doering requested that the issues raised in their communication be addressed prior to the adoption of this ordinance.

To Mr. Doering's inquiry as to if Councilor Keenan had a conflict of interest because of contributions to Grandma's Marathon from Amoco Oil out of Minneapolis, which Dan Thompson is a part of, Mr. Dinan stated that there is no conflict of interest.

Dan Thompson, owner of the Amoco station, stated that he would be tearing down the existing building and part of the new building and parking would be on this property. He noted that when I-35 was put in, 40 feet of his front property was lost. To councilor questions, Mr. Thompson stated that there will be an Amoco gasoline/convenience store built with the purchase of this land and it would probably be a one level building of approximately 4,000 square feet. He noted that he would be willing to work with the city to create a buffer on the back side of the property.

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At this time, 10:58 p.m., Councilor Hardesty moved to suspend the rules to extend the council meeting until 11:10 p.m., which motion was seconded and unanimously carried.

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Councilor Prettner Solon moved to table the ordinance until further information on the issues raised is received, which motion was seconded and unanimously carried.

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BY COUNCILOR KEENAN

98-043 (9400) - AN ORDINANCE AMENDING SECTION 2-44 OF THE CITY CODE TO REVISE THE COMPOSITION OF THE PARKS AND RECREATION COMMISSION.

Councilor Keenan moved passage of the ordinance and the same was unanimously adopted.

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The meeting was adjourned at 11:05 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9398

BY PRESIDENT HOGG:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$8,000,000 GENERAL OBLIGATION DECC IMPROVEMENT BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The City Council has determined it to be necessary and expedient and in the public interest that the City finance a portion of the improvements to the Duluth Entertainment Convention Center (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, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The project is of the nature contemplated by said law. The Duluth Entertainment and Convention Center Authority has been awarded a grant from the State of Minnesota of funds in aid of the Project. The State grant of \$12,000,000 requires a local match of \$8,000,000, and the proceeds of bonds issued by the City in an amount not to exceed \$8,000,000 will be sufficient to pay the total project costs. The amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation DECC Improvement Bonds of the City of Duluth in an amount not to exceed \$8,000,000 (plus such additional amounts of bonds, if any, as the City Council shall by resolution determine to issue as additional obligations, representing part of the interest cost as authorized by Minnesota Statutes, Section 475.56), and pledges the full faith

and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The City hereby creates the DECC Improvement Capital Project Fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with the grant funds and any additional funds which may be available and are appropriated for the improvement program or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. SALES TAX PLEDGE.

4.01 There shall be and is hereby pledged the proceeds of sales tax revenues, as authorized by Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, and Sections 2 and 3, as amended, in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. Proceeds of said sales tax revenues are hereby appropriated and shall be paid when collected into such account. It is estimated that the sales tax revenues 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 thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the bonds is not limited to the sales tax revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the bonds, without limitation as to rate or amount. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such sales tax revenues pledged for payment of principal and interest on such bonds for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The City Clerk is directed to file with the County Auditor of St. Louis County a certified copy of this ordinance, and such other information as the County may require, and to

obtain from the County Auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

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

Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 24, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

Passed December 21, 1998
Approved December 21, 1998
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9399

BY COUNCILOR RAPAICH:

AN ORDINANCE AMENDING SECTIONS 8 AND 31 OF THE DULUTH CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO DELEGATE TO ADMINISTRATIVE OFFICERS THE POWER TO APPROVE CONTRACTS.

The city of Duluth does ordain:

Section 1. That Section 8 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 8. Ordinances--required for all legislation and appropriations; exception; recordation of votes; filing of copies with city clerk before introduction.

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 which are not subject to the competitive bidding requirements of Section 31 of this Charter and which involve less than five thousand dollars (\$5,000.00), 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 (12) 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 31 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Sec. 31. Procurement and purchases; board of standardization; bids and letting of contracts.

Within one of the departments authorized in Section 20 of this Charter the council shall by ordinance, establish a division of procurement and purchases and a board of standardization, or the city may contract with the state or any local governmental subdivision for the services of any existing purchasing and procurement agency, or to establish a joint purchasing and procurement agency.

The council shall regulate the making of bids and the letting of contracts by ordinance subject to the following conditions:

(a) In all cases of work to be done by contract or the purchase of property of any kind, or the rendering of any service to the city other than professional services, competitive bids shall be secured before any purchase is made or any contract awarded;

(b) The awarding of contracts which are subject to competitive bidding under this section, and which involve twenty-five thousand dollars (\$25,000) or less, may, by ordinance, be delegated to administrative officers. Such contracts involving more than such limit shall be awarded only after authorization by the council;

(c) The council may reject, or by ordinance authorize administrative officers to reject, any and all bids;

(d) Contracts shall be let to the lowest responsible bidder and purchases shall be made from the responsible bidder who offers to furnish the article desired for the lowest sum; that contracts may be awarded to rehabilitation facilities described in Minnesota Statutes 1992, Section 268A.06 within the guidelines set forth in Minnesota Statutes 1992, Section 471.345, Subd. 12;

(e) In determining the lowest responsible bidder, in addition to price, the following may be considered:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required;

(8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(9) The number and scope of conditions attached to the bid;

(f) Specifications shall not be so prepared as to exclude all but one type or kind but shall include competitive supplies and equipment, and competitive bids shall be secured before purchase by contract or otherwise is made, provided, however, that unique or noncompetitive articles which are determined by the standardization board, subject to the approval of the council, to be sufficiently superior for the service intended by the city, may be purchased without regard to other bids;

(g) The council shall by ordinance establish proper procedure whereby the head of any using agency may purchase directly any supplies immediate procurement of which is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of citizens. A full report of the circumstances of every emergency purchase shall be made to the council at the meeting of the council next held after such emergency purchase, and the report regarding such purchase shall be entered in the minutes of the council and be open to public inspection.

Section 3. That this ordinance shall take effect and be in force 90 days from and after its passage and publication. (Effective date: April 8, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettnner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

Passed December 21, 1998
Approved December 21, 1998
GARY L. DOTY, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9400

BY COUNCILOR KEENAN:

AN ORDINANCE AMENDING SECTION 2-44 OF THE CITY CODE
TO REVISE THE COMPOSITION OF THE PARKS AND RECREATION
COMMISSION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 1998

The city of Duluth does ordain:

Section 1. That Section 2-44 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-44. Composition; appointment; qualifications and terms of members generally; filling vacancies.

The parks and recreation commission shall consist of 15 voting and three nonvoting members, who shall be appointed by the mayor, subject to the approval of the council. The voting membership shall be comprised of one resident of each of the ten planning districts in the city, one at large member, two members with formal education in recreation who are employed in that field, one member who works with recreation programs and facilities as a staff member in the community schools program and one member with formal education in land management who is employed in that field; provided that those persons who are members of the commission on the effective date of this ordinance shall be allowed to complete their terms. Each voting member shall be a resident of the city of Duluth, except that the recreation and land management professionals and the community schools representative may either be residents of the city or work in the city. All appointments of voting members shall be for terms of three years, except such appointments as may be made for the remainder of expired terms or to provide for staggered terms. The nonvoting membership shall be comprised of one Duluth City Council member, one Duluth school board member and one St. Louis County commissioner. Such nonvoting members shall be recommended for appointment by their respective governmental bodies and shall serve for indefinite terms. Vacancies caused by death, resignation or otherwise shall be filled by the mayor only for the unexpired terms, subject to approval of the city council, in the same manner as for initial appointments. Members shall be eligible for reappointment. The term of any member of the commission shall be deemed vacant upon failure to attend two consecutive meetings or three meetings in a year unless advance notice is given to the president of the commission and such nonattendance resulted from justifiable cause. The city shall provide one parks and recreation staff member and one public works staff member to assist the commission in carrying out its responsibilities.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 7, 1999)

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

Yeas: Councilors Edwards, Gilbert, Hales, Hardesty, Keenan, Prettner Solon, Rapaich, Swapinski and President Hogg -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 21, 1998
Approved December 21, 1998
GARY L. DOTY, Mayor

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