



CITY
OF
DULUTH

**proceedings of the
CITY COUNCIL
2005**

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, January 3, 2005, 6:00 p.m. in the Harborside Ballroom, Duluth Entertainment Convention Center, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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ELECTION OF OFFICERS

Jim Stauber, 2004 council president, announced that the election of officers for 2005 would now take place.

Councilor Ness was elected president upon a unanimous vote.

Councilor Stewart was elected vice president upon a unanimous vote.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR GILBERT:

RESOLVED, that the city council of the city of Duluth supports the application of St. Louis County's housing and redevelopment authority (HRA) to the Minnesota housing finance agency

(MHFA) for an allocation pursuant to the Minnesota city participation program, said funds to be loaned to low- and moderate-income first-time home buyers at below market interest rates.

Resolution 05-0005 was unanimously adopted.

Approved January 3, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form of the contract on file with the clerk as Public Document No. 05-0103-02, with Noah A. Dennis, independent licensed teacher, to serve as a .75 FTE contract teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth Workforce Center for the period January 1, 2005, through June 30, 2005, at a cost of \$15,600; payment to be made from Fund 0268.

Resolution 05-0013 was unanimously adopted.

Approved January 3, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-002 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50 TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY BOUNDED BY SUPERIOR STREET AND 28TH AVENUE WEST AND FIRST STREET ALLEY (JACKSON AND LANTHIER).

The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

04-078 (9713) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA FOR SIDEWALK/BIKE PATH, RETAINING WALL, BACK SLOPES, STREET LIGHTINGS AND OTHER IMPROVEMENTS IN THE EASEMENT OR RIGHT-OF-WAY OF JUNCTION AVENUE, BUFFALO STREET AND ST. MARIE STREET (UNIVERSITY OF MINNESOTA, UNIVERSITY OF MINNESOTA-DULUTH).

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

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BY COUNCILOR STOVER

04-079 (9714) - AN ORDINANCE DEDICATING A STREET EASEMENT AND A SNOW STORAGE EASEMENT OVER CERTAIN CITY PROPERTY IN THE VICINITY OF MESABA AVENUE AND WEST EIGHTH STREET AND AUTHORIZING THE SALE OF PROPERTY REMAINDER TO EDNA M. DAVIS.

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

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BY COUNCILOR STOVER

04-080 (9715) - AN ORDINANCE DEDICATING STREET EASEMENT, AUTHORIZING CONVEYANCE OF UNDERLYING PROPERTY RIGHTS IN CRESCENT VIEW PARK TO ROBERT AND CYNTHIA BACKSTROM AND REPEALING ORDINANCE NO. 9524.

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

President Ness thanked councilors for their support and introduced Mayor Bergson.

Mayor Bergson presented the 2005 State of the City Address (Public Document No. 05-0103-01.) - - -

Outgoing President Stauber reflected on the past year and thanked councilors for their support. - - -

Mayor Bergson introduced the 2004 employees of the month and announced the selection of Marlene Vanpuymbrouck as employee of the year. - - -

The meeting was adjourned at 6:58 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9713

BY COUNCILOR GILBERT:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO THE UNIVERSITY OF MINNESOTA FOR SIDEWALK/BIKE PATH, RETAINING WALL, BACK SLOPES, STREET LIGHTINGS AND OTHER IMPROVEMENTS IN THE EASEMENT OR RIGHT-OF-WAY OF JUNCTION AVENUE, BUFFALO STREET AND ST. MARIE STREET (UNIVERSITY OF MINNESOTA, UNIVERSITY OF MINNESOTA-DULUTH).

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 the University of Minnesota, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain sidewalk/bike path, retaining wall, back slopes, street lighting and other improvements in that part of Junction Avenue, Buffalo Street and St. Marie Street as described as follows:

The easterly 25 feet of right-of-way of Junction Avenue, southwesterly 25 feet of Buffalo Street and southerly 25 feet of St. Marie Street, all between a line from the north lot line of Lot 1, Block 10, Superior View Addition, First Division, extended 25 feet and a line running northwesterly from the southwest lot line of Lot 7, Block 40, of vacated Nortondale Development, Second Division, extended 25 feet, and that part of Niagara Street between Lot 1, Block 10, Superior View Addition, First Division, and Lot 47, Block 11, Superior View Addition, Second Division, the same as dedicated to the use of the public and the plats on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota.

Section 2. The concurrent use permit granted pursuant to this ordinance shall be conditioned upon the permittee agreeing and permanently committing, as a condition running with the land and binding upon permittee and its successors and assigns, to be bound by the terms and conditions contained in that certain Agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-0103-03, between the city and the regents of the University of Minnesota dated April 16, 2004, including but not limited to the obligations contained in paragraph

5 thereof, except that the granting of this concurrent use permit shall be deemed to meet any requirement of the agreement pertaining to the granting of any easement to permittee.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said sidewalk/bike path, retaining wall, back slopes, street lighting and other improvements and all fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such sidewalk/bike path, retaining wall, back slopes, street lighting and other improvements shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Junction Avenue, Buffalo Street and St. Marie Street and agree that the city of Duluth shall not be liable for damage caused to such sidewalk/bike path, retaining wall, back slopes, street lighting and other improvements 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, watermains, pipes, conduits or other public utilities made necessary by the presence of such sidewalk/bike path, retaining wall, back slopes, street lighting and other improvements in said Junction Avenue, Buffalo Street and St. Marie Street.

Section 6. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 13, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed January 3, 2005
Approved January 3, 2005
HERB W. BERGSON, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9714

BY COUNCILOR STOVER:

AN ORDINANCE DEDICATING A STREET EASEMENT AND A SNOW STORAGE EASEMENT OVER CERTAIN CITY PROPERTY IN THE VICINITY OF MESABA AVENUE AND WEST EIGHTH STREET AND AUTHORIZING THE SALE OF PROPERTY REMAINDER TO EDNA M. DAVIS.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby dedicates to the general public an easement for street and roadway purposes over the following described property in St. Louis County, Minnesota, as shown on Public Document No. 05-0103-04, and to execute all documents necessary thereto:

All that part of Lot 8, Block 90, Duluth Proper Third Division; lying southeasterly of the following described line: beginning at a point on the west line of said Lot 8 distant 94 feet south of the northwest corner of said Lot 8; thence in a northeasterly direction 78.1 feet more or

less to a point on the east line of said Lot 8; said point distant 34 feet south of the northeast corner of Lot 8, and there terminating.

Section 2. That the city of Duluth hereby dedicates to the general public an easement for snow storage purposes over the following described property as shown on Public Document No. 05-0103-04:

Across and upon all of the northerly ten feet of said Lot 8.

Section 3. That upon recording of the easements granted pursuant to sections 1 and 2 above in the office of the county recorder for St. Louis County, Minnesota, the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Edna M. Davis for \$1,890, to be deposited in General Fund 0100-700-1448-4640, and to execute all documents necessary with regard to said conveyance:

All of Lot 8, Block 90, Duluth Proper Third Division according to the recorded plat thereof. Excepting and reserving to the state of Minnesota, in trust for taxing districts concerned, all minerals and mineral rights, as provided by law.

Subject to easements and encumbrances of record.

Section 4. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: February 13, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed January 3, 2005

Approved January 3, 2005

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9715

BY COUNCILOR STOVER:

AN ORDINANCE DEDICATING STREET EASEMENT, AUTHORIZING CONVEYANCE OF UNDERLYING PROPERTY RIGHTS IN CRESCENT VIEW PARK TO ROBERT AND CYNTHIA BACKSTROM AND REPEALING ORDINANCE NO. 9524.

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public an easement for street purposes over the following-described property in St. Louis County, Minnesota:

Block Y, CRESCENT VIEW PARK DIVISION, according to the plat thereof.

Section 2. That upon the recording of the easement in the office of the county recorder for St. Louis County, Minnesota, the proper city officials are hereby authorized to sell and convey, by quit claim deed, the following-described property in St. Louis County, Minnesota to Robert H. Backstrom and Cynthia M. Backstrom, husband and wife, as joint tenants, for the sum of \$200, payable to General Fund 0100-700-1448-4640:

that portion of Block Y, CRESCENT VIEW PARK DIVISION lying southerly of the following-described line:

beginning at the intersection of the center line of platted Crescent View Avenue and the centerline of platted 38th Avenue East; thence southeasterly along the centerline of platted 38th Avenue East to the centerline of platted East Fourth Street and the centerline of platted 38th Avenue East; thence continuing on the same line extended southeasterly to its intersection with the westerly right-of-way line of Third Street and then terminating.

Section 3. That Ordinance No. 9524 is hereby repealed.

Section 4. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: February 13, 2005)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and
President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 3, 2005
Approved January 3, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 10, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meetings held on September 13, 16, 27, October 12 and 25, 2004, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0110-01 Robert A. Bauers, et al. (three signatures), submitting petition to improve the water and sewer mains in West Palm Street from Robin Avenue to 83 feet west of center line of Teak Avenue. -- Assessor

05-0110-02 Maple Crest Village Association, et al. (41 signatures), submitting petition to remove the partial sidewalk currently in Maple Crest Village development in 2005 when the improvement plan known as Duluth Heights Southeast 3 (Wildwood Drive) is being constructed. -- Assessor

05-0110-03 Summit Management, LLC, et al. (two signatures), submitting petition to vacate the streets and alleys within and around the property located north of Davis Street, east of Connecticut Avenue, north of Howtz Street, east of Blackman Avenue and southwest of Rice Lake Road. -- Assessor

05-0110-05 Sixth Judicial District Chief Judge David P. Sullivan submitting order appointing Jeffery Davin Anderson, replacing Richard Abrams, to the Charter commission for a term expiring June 1, 2006. -- Received

05-0110-20 Dean Casperson submitting communication regarding the proposed contract with the Minnesota Council on Compulsive Gambling, Inc. (05-0040R). -- Received

05-0110-04 Robert Johannessen submitting appeal of the planning commission decision to deny a front yard parking permit at 912 East 11th Street. -- Committee 2 (Planning and economic development)

05-0110-22 The following submitting communications regarding the proposed agreement with St. Louis County to acquire property for an animal shelter (05-0009R): (a) Jody Berquist; (b) Bruce Carlson. -- Received

05-0110-23 The following submitting communications regarding the proposed rezoning of property located below the Horseshoe Bend of 40th Avenue West/Haines Road above the Canadian Pacific Railroad right-of-way (05-0011R and 05-001-O): (a) Anita N. Gille; (b) Anne R. Velasco. -- Received

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REPORTS OF OFFICERS

05-0110-06 Assessor submitting letter of sufficiency of petition to remove the partial sidewalk currently in Maple Crest Village development in 2005 when the improvement plan known as Duluth Heights Southeast 3 (Wildwood Drive) is being constructed. -- Received

05-0110-21 Community development and housing division manager submitting Village Place project report related to the one for one replacement of housing units on the development site. -- Received

05-0110-07 Engineering division submitting report of acceptance of local improvement - Fountain Gate - City Project #0280TR, pursuant to Section 45-89 of the Duluth City Code. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0110-08 Duluth airport authority: (a) Balance sheet of October 31, 2004; (b) Minutes of: (1) November 16; (2) December 3, 2004, meetings. -- Received

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At this time, 7:07 p.m., President Ness announced that the public hearing on the issuance of capital improvement bonds would begin.

Administrative Assistant Winson reviewed the requirement for the hearing and the proposed list of capital improvement projects for 2005.

At this time, 7:11 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Garry Krause expressed concern over the sale of the Barnes Ames building by the school district for use as a methamphetamine treatment facility and noted that this area already has a high concentration of undesirable activities and that it would be better to have the proposed facility located in a different area of the city.

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KL Lewis commented on the need for businesses to do a better job of clearing snow off the sidewalks, especially at the corners where the wheelchair cuts are.

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RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 04-0778, amending the standing rules of the city council; creating a new Rule 19 regulating use of electronic mail, from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to amend paragraph (b) of the resolution to read as follows:

“(b) When a councilor decides to use electronic mail to inform a number of councilors, which number is equal to at least a quorum of the council, or any committee or subcommittee thereof, of any matter, he or she should make the distribution through the city clerk’s established council distribution group (which is public). The councilor’s notice shall not invite any response or discussion,”

which motion was seconded and unanimously carried.

Resolution 04-0778, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the Standing Rules of the Duluth City Council, as amended May 13, 2002, are amended by adding a new Rule 19, to read as follows:

Rule 19. USE OF ELECTRONIC MAIL.

(a) It is the policy of the Duluth city council to comply with the Minnesota open meeting law (Minnesota Statutes Chapter 13D, as amended, or its successor). In order to comply with this policy, neither the council, nor a member of it, shall engage in council deliberations about a matter that has been, is, or may be before the council in any forum, including use of electronic mail, other than a duly held meeting of the council that is held in compliance with the Minnesota open meeting law.

(b) When a councilor decides to use electronic mail to inform a number of councilors, which number is equal to at least a quorum of the council, or any committee or subcommittee thereof, of any matter, he or she should make the distribution through the city clerk’s established council distribution group (which is public). The councilor’s notice shall not invite any response or discussion;

(c) If a councilor decides to use electronic mail to invite a response, or analysis, from another councilor, then the electronic mail shall be sent only to one other councilor, without copies to any other councilors. Likewise, the response shall be sent only to the sender, without copies to other councilors.

(d) A councilor shall not engage in a series of electronic mail communications, on a subject that was, is, or may be before the council, with more than one other councilor, and then inform other councilors, in a number that is equal to at least a quorum of the council or any committee or subcommittee of it, of the substance or outcome of the series of e-mail communications.

(e) If more than one councilor receives the same electronic mail communication from a sender, and the communication concerns a matter of council business or concern, and it invites a response, then any response sent by the councilor shall be sent only to sender, without copies to other councilors the number of which is at least equal to a quorum of the council or any committee or subcommittee of it.

Resolution 04-0778, as amended, was unanimously adopted.
Approved January 10, 2005
HERB W. BERGSON, Mayor

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MOTIONS AND RESOLUTIONS

The following entitled resolutions were read for the first time:

BY COUNCILOR GILBERT

05-0019R - RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE AGREEMENT FOR FORGIVABLE LOAN OF MINNESOTA INVESTMENT FUND (MIF) WITH UNITED HEALTHCARE SERVICES, INC., AND AUTHORIZING THE TERMINATION OF THE CITY'S GRANT AGREEMENT WITH MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT (DEED).

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BY COUNCILOR GILBERT

05-0025R - RESOLUTION APPROVING FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA), UNITED HEALTHCARE SERVICES, INC., AND DULUTH UNITED, LLC, PURSUANT TO MINNESOTA STATUTE §116J.

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CONSENT AGENDA

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

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

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2005 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 05-0110-09, at a cost to the city of not to exceed \$21,115, which shall be payable from the General Fund 100-700-1402-5312.

Resolution 05-0022 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 was investigated by the Duluth police department and reviewed and approved by the Duluth alcohol, gambling, and tobacco 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.

Licensee	Gambling Site
National Multiple Sclerosis Society	All American Club
Piedmont Heights Hockey Association	Horseshoe Billiards
Piedmont Heights Hockey Association	Off site gambling: 2415 West Superior Street, January 28,29,30, 2005

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Resolution 05-0017 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

WHEREAS, the Rotary Club of Duluth has applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Rotary Club of Duluth and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

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

Resolution 05-0018 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the pay range for the civil service classification of senior library technician, the specifications for which were approved by the civil service board on April 6, 2004, and which are filed with the city clerk as Public Document No. 04-0426-17, and by the city council on April 26, 2004, as Resolution No. 04-0284 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 125 to Pay Range 128. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0010 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Michael Sayers to the American Indian commission for a term expiring on May 12, 2007, replacing Lynn Nell Begay, who resigned, is confirmed.

Resolution 05-0014 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Lewis Martin (Superior, Wisconsin, representative) to the Duluth transit authority for a term expiring on June 30, 2006, replacing Harold Brown, who resigned, is confirmed.

Resolution 05-0015 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of James Mohn to the joint airport zoning board for a term expiring on January 2, 2008, is confirmed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED FURTHER, that the appointment by Mayor Bergson of Robert M. Busch to the joint airport zoning board for a term expiring on January 2, 2008, replacing John Morrison, is confirmed.

Resolution 05-0016 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the southerly two feet of a 16 foot utility and pedestrian easement in St. Andrews Street between Dunedin Avenue to the east and Hartley Field to the west, between 2151 Dunedin Avenue and 2201 Dunedin Avenue, legally described as the southerly two feet of the 16 foot wide utility and pedestrian easement lying between Lot 1, Block 11, and Lot 14, Block 10, Glen Avon Third Division in St. Andrews Street, Exhibit A; and

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

WHEREAS, the city planning commission approved the southerly two foot vacation of the utility and pedestrian easement and petition at its December 14, 2004, meeting (Reference File No. 04135).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the southerly two feet of a 16 foot utility and pedestrian easement in St. Andrews Street between Dunedin to the east and Hartley Field to the west between 2151 Dunedin Avenue and 2201 Dunedin Avenue (Public Document No. 05-0110-10).

RESOLVED FURTHER, 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 and pedestrian easement to be vacated.

Resolution 05-0012 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of portions of Lake Avenue and West Superior Street, legally described as:

Westerly 0.3 feet of Lake Avenue abutting the northerly 110 feet and southerly 28 feet and the westerly 0.9 feet abutting the northerly two feet of the southerly 30 feet of Lot 1; and the vacation of the northerly 0.3 feet of Superior Street abutting the east half of Lot 1, all in Duluth Proper First Division, West Superior Street (File No. 04129); 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 sidewalk vacation petition at its December 14, 2004, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above and as more particularly described on Public Document No. 05-0110-11.

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

Resolution 05-0021 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement, on file in the office of the city clerk as Public Document No. 05-0110-12, with the St. Louis County social services department for furnishing approximately 33,754 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 \$4.63 per meal for eligible senior citizens, \$5.03 per meal for guests, and an additional \$0.29 per meal for dining room management provided at Lincoln Park, or approximately \$161,778, payable out of Federal Program Fund 0272, Department/Agency 031, Organization 6305, Activity SD04, Object 0071.

Resolution 05-0002 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2005, including paying for the city's share of the consultant agreement with Jeff Van Wychen at a cost to the city of \$11,500 which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 05-0034 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, pursuant to sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the sewer utility, there is established and shall be collected beginning with the meter readings made on February 1, 2005, 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	\$ 3.64/ccf
User charge - Class II	\$ 5.07/ccf
User charge - Class III	\$ 6.25/ccf
Tate and Lyle, Inc.	\$10.76/ccf
Ikonics Corporation	\$ 6.46/ccf

BE IT FURTHER RESOLVED, that the rate regulations established and approved by Resolution 04-0426 are rescinded as of August 1, 2004.

Resolution 05-0007 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 50 percent of the abutting property to reconstruct 12th Avenue West, 100 feet southerly from West Third Street;

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 05-0008 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that D.P.C. Industries, Inc., be and hereby is awarded a contract for furnishing and delivering 55 tons of liquid chlorine for the utility operations division in accordance with specifications on its low specification bid of \$28,765, terms net 30, FOB destination, payable out of Water Fund 510, Department/Agency 500, Organization 1955, Object 5216-02.

Resolution 05-0026 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that C&S Chemicals, Inc., be and hereby is awarded a contract for furnishing and delivering 150,000 gallons of liquid aluminum sulfate for the utility operations division in accordance with specifications on its low specification bid of \$68,550, terms net 30, FOB destination, payable out of Water Fund 510, Department/Agency 500, Organization 1955, Object 5216-04.

Resolution 05-0027 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

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 utility operations division in accordance with specifications on its low specification bid of \$19,200, terms net 30, FOB destination, payable out of Water Fund 510, Department/Agency 500, Organization 1955, Object 5216-01.

Resolution 05-0028 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Hawkins, Inc., be and hereby is awarded a contract for furnishing and delivering 100,000 gallons of caustic soda for the utility operations division in accordance with specifications on its low specification bid of \$144,000, terms net 30, FOB destination, payable out of Water Fund 510, Department/Agency 500, Organization 1955, Object 5216-05.

Resolution 05-0029 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Hawkins, Inc., be and hereby is awarded a contract for furnishing and delivering 145 tons of liquid hydrofluosilicic acid for the utility operations division in accordance with specifications on its low specification bid of \$26,245, terms net 30, FOB destination, payable out of Water Fund 510, Department/Agency 500, Organization 1955, Object 5216-03.

Resolution 05-0033 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR REINERT:

RESOLVED, 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. 05-0110-13, with the Holy Cross Lutheran Church of Duluth Heights, for the nonexclusive use of the basement of the Holy Cross Lutheran Church of Duluth Heights, from January 1, 2005, through December 31, 2005, for the operation of the Duluth senior dining program at a cost of \$7,200, payable at \$600 per month.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

All funds expended by the city pursuant to this agreement shall be drawn upon Fund 0272, Department 031, Organization 6305.

Resolution 05-0001 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, the proper city officers are hereby authorized to execute an agreement, on file in the office of the city clerk as Public Document No. 05-0110-14 with the Woodland Gardens Association, for the nonexclusive use of the recreation room of the Woodland Gardens Apartments, from January 1, 2005, through December 31, 2005, for the operation of the Duluth senior dining program.

Resolution 05-0003 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, 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. 05-0110-15, between the city of Duluth and the Arrowhead Regional Development Commission for the furnishing of meals for eligible senior citizens during the period from January 1, 2005, through December 31, 2005.

RESOLVED FURTHER, that monies collected under said contract shall be deposited in Federal Program Fund 0272, Department/Agency 031, Organization 6305.

Resolution 05-0004 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, the city of Duluth desires to contract with 29 individual persons to act as referees; and

WHEREAS, the city desires to hire these 29 referees to provide the services required for the year 2004/2005 fall and winter sports; and

WHEREAS, these individuals have submitted a proposal for the referee 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 these individuals to provide the city with such referee services.

BE IT FURTHER RESOLVED, that the cost of said referee services, estimated at \$1,000 per individual for a total of \$29,000, will be payable from the Special Project Fund 210, Department/Agency 030, Organization 3190, Object 5319.

Resolution 05-0032 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to execute a major sponsorship agreement with Grandma's Marathon-Duluth, Inc., for the 2005 Grandma's Marathon, which agreement is on file in the office of the city clerk as Public Document No. 05-0110-16, at a cost to the city not to exceed \$15,000 plus in-kind services, which shall be paid from Fund 258-030-5436-06.

Resolution 05-0020 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

BE IT RESOLVED, by the city council (the council) of the city of Duluth, Minnesota (the city), as follows:

Section 1. Under and pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Section 475.521 (collectively the act), the city is authorized to issue general obligation capital improvement bonds to provide funds for capital improvements pursuant to a capital improvement plan approved by the council on December 6, 2004 (the plan).

Section 2. The city council held a public hearing on January 10, 2005, on the city's intention to issue bonds in 2005 in an amount not to exceed \$1,300,000 for the purposes set forth in the notice of public hearing and on the reallocation of certain bond proceeds as set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were accepted.

Section 3.

(a) The council hereby finds and determines that it is necessary, expedient, and in the best interests of the city's residents that the city issue, sell and deliver its general obligation capital improvement bonds, Series 2005 (the bonds), in an amount not to exceed \$1,300,000, for the purpose of providing funds for continuation of the restoration of the granite and brick facades of City Hall; continuation of the installation of ventilation systems in firehalls; construction of a steel framed, fabric covered storage building to store salt/sand deicing material to protect surface water quality; and construction of a police station in West Duluth;

(b) Further, the city previously issued its \$800,000 general obligation capital improvement bonds, Series 2004A, dated March 1, 2004 (the 2004A bonds). The council hereby finds and determines that it is necessary, expedient and in the best interest of the city's residents that the city reallocate, in accordance with the plan, the sum of \$170,192 of the proceeds from the 2004A bonds to finance costs of the construction of a police station in West Duluth.

Section 4.

(a) The city clerk shall publish a notice of intent to issue capital improvement bonds and reallocate proceeds of capital improvement bonds in substantially the form on file as Public Document No. 050110-17 as soon as practicable following the public hearing in the official newspaper of the city;

(b) If, within 30 days after the date of adoption of this resolution, a valid petition is filed with the city clerk calling for a vote on the proposition of issuing the bonds and/or the reallocation of the proceeds of the 2004A bonds, as applicable, signed by voters residing within the boundaries of the city equal to five percent of the votes cast in the city in the last general election, the bonds and/or such reallocation, as applicable, shall not be issued or reallocated until the question of their issuance and/or reallocation, as applicable, has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question.

Resolution 05-0023 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0024, by President Ness, authorizing an agreement with Historic Union Depot, Inc., in the amount of \$147,607, was introduced for discussion.

Councilor Stewart stated that he would not support this resolution because there are other areas where the tourism tax dollars could be better used.

Resolution 05-0024 was adopted as follows:

BY PRESIDENT NESS:

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. 05-0110-18, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$147,607, payable from Fund 0258.

Resolution 05-0024 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stover and President Ness -- 8

Nays: Councilor Stewart -- 1

Approved January 10, 2005
HERB W. BERGSON, Mayor

- - -

At this time, 7:41 p.m., President Ness announced that the public hearing regarding a business subsidy agreement amendment for United HealthCare would begin.

Heidi Timm-Bijold, business developer reviewed the background and details on the default of this state of Minnesota loan due to the failure of the applicant to create the amount of jobs that were required under the loan agreement terms.

KL Lewis expressed concern over the duration of the jobs that had to be created.

At this time, 7:47 p.m., President Ness closed the public hearing and the regular order of business was resumed.

- - -

Resolution 05-0011, by Councilor Gilbert, denying a rezoning petition to Sherman and Associates for property located below the horseshoe bend of 40th Avenue West/Haines Road above the Canadian Pacific Railroad right-of-way (Sherman and Associates), was introduced for discussion.

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

Jack Smith, Jim Schulzetenberg, Tom Ryther, Jon Bergstrand, Wally Pfister and Jim Anderson expressed support for the resolution, for reasons of: this project will only add to the area's already severe water runoff problem; the aged sewer and storm system can not maintain the existing levels of water runoff; pictures of existing poor conditions during water runoff were reviewed; a citywide comprehensive plan needs to be adopted before allowing this type of development; it has been the legacy of early Duluthians that this area between the railroad and Skyline Parkway be preserved as open space; planning staff is recommending denial of the rezoning; the planning commission has voted to make no recommendation; the concept of this project is good but the proposed place and time for it are wrong; the infrastructure to handle the additional water runoff should be in place before proceeding with this project; 17 acres of impervious surface is proposed for development; the neighborhood planning district does not support this development and this rezoning should not be granted because the developer does not own the land yet.

Councilor Gilbert moved to table the resolution until the time of the second reading of Ordinance 05-001, which motion was seconded and unanimously carried.

- - -

Resolution 05-0009, by Councilor Stauber, authorizing an agreement with St. Louis County to acquire property for an animal shelter for \$500 subject to conditions, was introduced for discussion.

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

Beverly Patronas, executive director of Animal Allies; Jody Berquist; Robert Berquist and David Ross, executive director of the Duluth Area Chamber of Commerce, spoke in support of the resolution and cited reasons of: Animal Allies will do all they can to reduce liability to the city relative to the cemetery; the benefits of having a new facility on this property would outweigh the risks; St. Louis County will not transfer this land with any amendments that the council would add to the agreement; this proposed location is well suited to serve the county, police, animal control and the public; the cemetery area could receive proper reverence by being fenced in with its historical significance noted on a plaque and this is a privately funded solution for a shared community challenge without any taxpayer expense.

Resolution 05-0009 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that, subject to the following conditions, the proper city officials are authorized to enter into a agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0110-19 with St. Louis County for the purchase of property for the animal shelter in the amount of \$500, payable from Fund 100, Agency 200, Organization 1610, Object 5510.

FURTHER RESOLVED, that the above authorization shall not be effective unless and until the city council has approved by resolution an agreement with a qualified third party entity to

accept title to the cemetery portion of the above-referenced property and to maintain said cemetery in perpetuity in compliance with all applicable laws, rules and regulations and said agreement shall have been executed by all parties thereto.

Resolution 05-0009 was unanimously adopted.

Approved January 10, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0031, by Councilor Reinert, authorizing the proper city officials to enter into an agreement with Dr. Mary Wictor to provide veterinary health care for animals estimated at \$49,800, was introduced for discussion.

A motion was made to remove the resolution from the agenda, which motion was seconded and carried upon a unanimous vote.

- - -

Resolution 05-0040, by Councilor Little, authorizing a contract with the Minnesota Council on Compulsive Gambling, Inc., for the operation of a compulsive gambling prevention and education program during year 2005 at a cost to the city of \$148,096, was introduced for discussion.

Councilor Little 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 COUNCILOR STEWART

05-003 - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR GILBERT

05-001 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50 TO PROVIDE FOR THE RECLASSIFICATION FROM S-1, SUBURBAN, TO R-1-A, SINGLE-FAMILY RESIDENTIAL, PROPERTY LOCATED BELOW THE HORSESHOE BEND OF 40TH AVENUE WEST/HAINES ROAD ABOVE THE CANADIAN PACIFIC RAILWAY (SHERMAN AND ASSOCIATES).

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-002 (9716) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50 TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY BOUNDED BY SUPERIOR STREET AND 28TH AVENUE WEST AND FIRST STREET ALLEY (JACKSON AND LANTHIER).

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

- - -

The meeting was adjourned at 8:37 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9716

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 21 AS CONTAINED IN THE APPENDIX TO CHAPTER 50 TO PROVIDE FOR THE RECLASSIFICATION FROM M-1, MANUFACTURING, TO C-2, HIGHWAY COMMERCIAL, PROPERTY BOUNDED BY

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

SUPERIOR STREET AND 28TH AVENUE WEST AND FIRST
STREET ALLEY (JACKSON AND LANTHIER).

The city of Duluth does ordain:

Section 1. That Plate No. 21 of the zoning district maps as contained in the Appendix to Chapter 50 of the Duluth City Code 1959, as amended, is amended to read as follows:

(MAP)

[see Map No. 21 at end of meeting]

(Reference Planning Commission File No. 04133)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: February 20, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 10, 2005
Approved January 10, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 24, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meetings held on November 4, 8, 22, December 2, 6 and 20, 2004, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0124-01 Fletcher Hinds, et al. (29 signatures), submitting petition to construct a permanent alley in Block 10, Park Drive Division Duluth, Chester Park Drive alley from 18th Avenue East to Kent Road. -- Assessor

05-0124-02 Michael W. Saxton submitting petition to vacate a 20 foot wide pedestrian easement over and across Parcel 1, Lot 1, Block 2, Miller Creek Division. -- Assessor

05-0124-03 St. Louis County Board of Commissioners submitting resolution appointing commissioners Dennis Fink and Bill Kron to the Northwest Airlines Tax Increment Financing District board (Duluth) for terms expiring on December 31, 2005, and Commissioner Steve O'Neil as alternate. -- Received

05-0124-22 Greater Downtown Council submitting communication regarding the appointment of members to the advisory board for the Downtown Waterfront Special Service District (05-0077R). -- Received

05-0124-23 Mary Juntunen submitting communication regarding the proposed contract with the Minnesota Council on Compulsive Gambling, Inc. (05-0040R). -- Received

05-0124-24 Public Financial Management, Inc., submitting presale analysis regarding sale of \$13,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2005 (05-0044R). -- Received

05-0124-25 The following submitting communications regarding the proposed repeal of Section 45-4.5, Duluth City Code, eliminating pedestrian transit zone legislation (05-003-O): (a) Greater Downtown Council; (b) Rick Heimbach; (c) Bruce Stender. -- Received

05-0124-26 The following submitting communications regarding reclassification from S-1, suburban, to R-1-a, single-family residential, property located below the horseshoe bend of 40th Avenue West/Haines Road above the Canadian Pacific Railway (Sherman and Associates) (05-0011R and 05-001-O): (a) Jim Anderson; (b) Tyler Behnke; (c) Anita Gille; (d) Bob MacLean; (e) Brian and Sue Matuszak; (f) Nancy Nelson; (g) Tom Ryther (supported by 55 signatures); (h) Jim Schulzetenberg. -- Received

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REPORTS OF OFFICERS

05-0124-04 Assessor submitting letters of sufficiency of petitions to:

(a) Construct water and sewer mains in West Palm Street from Robin Avenue to 83 feet west of center line of Teak Avenue;

(b) Vacate the streets and alleys within and around the property located north of Davis Street, east of Connecticut Avenue, north of Howtz Street, east of Blackman Avenue and southwest of Rice Lake Road. -- Received

05-0124-05 Clerk submitting reports in the matter of the on sale intoxicating liquor licenses of:

- (a) Alpine Bar and Lounge, Inc. (Alpine Bar), 1308 Commonwealth Avenue;
- (b) Wizner Company (Norman's), 113 West First Street. -- Received

05-0124-27 Parks and recreation department director submitting Lake Superior zoological society minutes of January 11, 2005, (a) annual; (b) regular meetings. -- Received

05-0124-06 Purchasing agent submitting emergency purchase order awarded to Environmental Troubleshooters, Duluth, MN, for soil remediation at Grant Recreation Center. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0124-08 Duluth/North Shore Sanitary District board minutes of December 7, 2004, meeting. -- Received

05-0124-07 Parking commission minutes of November 9, 2004, meeting. -- Received

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolution 05-0011, denying a rezoning petition to Sherman and Associates for property located below the horseshoe bend of 40th Avenue West/Haines Road above the Canadian Pacific Railroad right-of-way (Sherman and Associates), from the table, which motion was seconded and carried upon a unanimous vote.

A motion was made, seconded and unanimously carried to suspend the rules to consider Ordinance 05-001 at this time.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-001 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 17 AS CONTAINED IN THE APPENDIX TO CHAPTER 50 TO PROVIDE FOR THE RECLASSIFICATION FROM S-1, SUBURBAN, TO R-1-A, SINGLE-FAMILY RESIDENTIAL, PROPERTY LOCATED BELOW THE HORSESHOE BEND OF 40TH AVENUE WEST/HAINES ROAD ABOVE THE CANADIAN PACIFIC RAILWAY (SHERMAN AND ASSOCIATES).

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

Walley Pfister, chairperson for the West Duluth planning district; Anita Gille, Tom Ryther; Doug Stevens and Nancy Nelson, representing the Skyline Planning and Preservation Alliance, supported the resolution for reasons of: there is already natural runoff in this area that is causing problems; with the creation of 17 acres of impervious surfaces, the situation will worsen; responsible development that has the proper infrastructure is welcomed; homeowners have made investments in their homes and do not want to have problems from this development; a communication (Public Document No. 05-0124-26(g)) supported by 55 signatures opposes this rezoning; this is about community values and recognizing the environmental resources; the use of this unique land area needs to be addressed in the comprehensive plan; in 1888 the Skyline Parkway concept was presented to the city council and that view should not be compromised with this development; this area has traditionally been an open space corridor and Skyline Parkway is a state designated scenic byway and is eligible to become a national scenic byway with public funding that could be adversely affected.

Dick Hicks, representing developers Mike French and David Chmielewski of LHB Engineering, supported the ordinance for reasons of: attempts have been made to address the stormwater concerns; professional engineers have addressed the issues relative to not increasing more water to the existing runoff conditions; the developer is committed to working with the neighbors; meetings have taken place with the county road engineers, the fire marshal and with the public works and utilities department for their approvals; this development proposes only 26 living units or 13 town homes that will contribute minimally to the majority of issues of concern; relative to the stormwater problem, there will be curb and gutters, landscaping, grass diversion ditches and stormwater retention basins; the problems that the neighbors have is from existing

ground water; the project will be developed to the protection extent of a "100 year event/storm"; there have been four meetings in West Duluth to address the concerns; there are only three acres, not 17, of proposed impervious surface with this project and the West Duluth comprehensive plan of 1986 recommended this rezoning.

The ordinance failed upon the following vote (Public Document No. 05-0124-19):

Yeas: Councilor Stauber -- 1

Nays: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

- - -

Resolution 05-0011 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Sherman and Associates has submitted to the city council a petition to rezone property described as the N1/2 of NW1/4, SE1/4, Section 6, T49, R14, except a strip of land 80 feet wide, transferred to Village of West Duluth, except roadway right-of-way, and said petition was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its no recommendation to the city council; and

WHEREAS, the planning commission conducted a public hearing and received information regarding the applicant on November 9, 2005. The petition was tabled and readdressed on December 14, 2004.

NOW, THEREFORE, BE IT RESOLVED, that based upon the information and evidence on the record before it, the petition to rezone the subject properties to allow for a R-1-a, one family residential, zoning classification is denied based on the following findings:

(a) The site is physically separated from the traditional West Duluth neighborhood by the railroad;

(b) The site has physical limitations in terms of geology and topography as well as vehicular access issues for the potential density permitted by R-1-a zoning;

(c) The site is impacted by the railroad use;

(d) Development of this site would alter the strong edge provided by the railroad between the skyline corridor and the developed neighborhood;

(e) These issues make rezoning of this property to R-1-a inappropriate at this time.

Resolution 05-0011 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Little moved to remove Resolution 05-0040, authorizing a contract with the Minnesota Council on Compulsive Gambling, Inc., for the operation of a compulsive gambling prevention and education program during year 2005 at a cost to the city of \$143,096, from the table, which motion was seconded and unanimously carried.

Councilor Little moved to amend the resolution and the contract, No. 2, by changing the amount "\$143,096" to "\$90,000," which motion was seconded and discussed.

Councilor Little stated that the purpose of the amendment is to have the same contract amounts in this resolution as in Resolution 05-0076, which will be considered later in the meeting.

Councilors opposing the amendment felt that: these are negotiated contracts and the council should not amend the amount that has been negotiated; concerns about the scope of work to be performed for a lesser amount have not been addressed and this resolution should not be compared to the other resolution just because it also deals with gambling issue.

Councilor Little's amendment failed upon the following vote:

Yeas: Councilors Atkins, Little and Stauber -- 3

Nays: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Councilors opposing the resolution felt: that with major cutbacks in many areas, all expenditures need to be reviewed and justified; the city might not be getting their money's worth; and questioned whether there has been a reduction in local gambling addiction because of this

program and the resolution should be tabled for the administration to consider a lower dollar amount.

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

Yeas: Councilors Atkins, Gilbert, Reinert and Stover -- 4

Nays: Councilors Johnson, Little, Stauber, Stewart and President Ness -- 5

Resolution 05-0040 failed upon the following vote (Public Document No. 04-0124-09):

Yeas: Councilors Atkins, Little, Stauber and President Ness -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stewart and Stover -- 5

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MOTIONS AND RESOLUTIONS

The following resolutions were read for the second time:

Resolution 04-0019, by Councilor Gilbert, authorizing a second amendment to the agreement for forgivable loan of Minnesota investment fund (MIF) with United Healthcare Services, Inc., and authorizing the termination of the city's grant agreement with Minnesota department of employment and economic development (DEED), was introduced for discussion.

Councilors Stewart and Stover felt that the applicant did not meet the terms of the original contract and therefore, it should not be renegotiated and that the rules have changed.

Resolution 05-0019 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into the second amendment to the agreement for forgivable loan of MIF substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0124-10 with United HealthCare Services, Inc., (United) terminating all security interests required under the agreement, terminating the agreement and note, and changing the interest rate and prorating the amount of the business subsidy to be repaid by United, said repayment in the amount of \$155,390 to be paid into Fund 0255.

FURTHER RESOLVED, that the proper city officials are authorized to execute any and all documents necessary to effectuate the termination of the agreement, note and security interests set forth above.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute any and all documents necessary to terminate its grant agreement with the DEED, repayment in the amount of \$155,390 to be paid from Fund 0255.

Resolution 05-0019 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Little, Reinert, Stauber and President Ness -- 6

Nays: Councilors Johnson, Stewart and Stover -- 3

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that pursuant to Minnesota Statute Section 116J.994, subdivision 3(d), the first amendment to the agreement between DEDA, United HealthCare Services, Inc., and Duluth United, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0124-11, as approved by the DEDA board at its meeting of December 6, 2004, pursuant to DEDA Resolution No. 04D-70, is hereby approved by the Duluth City Council.

Resolution 05-0025 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Little, Reinert, Stauber and President Ness -- 6

Nays: Councilors Johnson, Stewart and Stover -- 3

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

CONSENT AGENDA

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

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

BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the city), as follows:

(a) 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 \$13,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2005 (the certificates). The certificates are hereby authorized and shall be issued pursuant to the authority contained in Minnesota Statutes, Sections 410.325 and 412.261, and Minnesota Statutes, Chapter 475, in anticipation of collection of taxes and state aids;

(b) The terms and conditions of the certificates and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 05-0124-12. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the certificates and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the certificates;

(c) Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale of the certificates in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) The form, specifications and provisions for repayment of the certificates shall be set forth in a subsequent resolution of this city council.

Resolution 05-0044 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the issuance of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Grand Avenue, Inc. (Grandma's Saloon and Grill), 4602 Grand Avenue, with Michael Paulucci, 90 percent stockholder, and Andy Borg, ten percent stockholder and CEO.

Resolution 05-0036 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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, 2005, subject to departmental approvals and the payment of sales and property taxes:

Black River Mills, Inc. (The Cider House), 109 West Superior Street, with Eric Ringsred, president/treasurer and 100 percent stockholder, and Miles Ringsred, secretary, transferred from Grandma's Grand Avenue, Inc. (Grandma's Saloon and Grill), 4602 Grand Avenue.

Resolution 05-0037 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts as set forth in Public Document No. 05-0124-05(b) regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Wizner Company (Norman's), 113 West First Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council imposes a \$500 fine to be paid in 30 days and a two day license suspension commencing on the first Friday

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

after city council action on Wizner Company (Norman's), 113 West First Street, as a result of nonpayment of a liquor license fee.

Resolution 05-0041 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

WHEREAS, copies 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 alcohol, gambling and tobacco 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 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	Gambling Site
Moose Lodge #1478	1306 Commonwealth

Resolution 05-0047 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts as set forth in Public Document No. 05-0124-05(a) regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Alpine Bar and Lounge, Inc. (Alpine Bar), 1308 Commonwealth Avenue.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council, pursuant to Duluth City Code, Chapter 8, Section 8.9(b)(1), imposes a \$500 fine to be paid in 30 days on Alpine Bar and Lounge, Inc. (Alpine Bar), 1308 Commonwealth Avenue, as a result of a violation of state gambling regulations.

Resolution 05-0049 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Louise Curnow (at large) to the environmental advisory council for a term expiring on January 5, 2008, is confirmed.

RESOLVED FURTHER, that the appointments by Mayor Bergson of Charles E. Gessert (environmental) and David J. Smith (environmental) to the environmental advisory council for terms expiring on January 5, 2008, replacing Russell C. Boheim and James Harvie, are confirmed.

Resolution 05-0035 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Melanie Hendrickson (District 1) to the Duluth transit authority for a term expiring on June 30, 2006, replacing Guy E. Sederski, is confirmed.

Resolution 05-0038 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Carol Bearheart to the housing and redevelopment authority for a term expiring on January 4, 2010, replacing Janet Carter, is confirmed.

Resolution 05-0039 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a Section 108 loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0124-21 with HRA, DEDA and the developer relating to acquisition of properties for the Fifth Street redevelopment housing project in the amount of \$594,000 payable from Fund 262, said authorization is subject to HUD's approval of said redevelopment housing project and DEDA's approval by resolution of the Section 108 loan agreement.

Resolution 05-0069 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR GILBERT:

WHEREAS, David Bell of Freedom Development and Consulting, Inc., has submitted to the city council, a request for a special use permit for a low-density planned development on property legally described as the southwest quarter of the southwest quarter of the southwest quarter, Section 16, Township 50 North, Range 14 West; and said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its recommendation of conditional approval to the city council; and

WHEREAS, the city council finds that the conditions contained in this resolution address the shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that with the conditions contained herein, appropriate safeguards will exist to protect the comprehensive plan and to conserve and protect property values in the neighborhood if said conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to David Bell of Freedom Development and Consulting, Inc., to allow the operation of a low-density planned development, consisting of 21 residential units on 10.07 acres of property located at the southwest corner of Como Avenue and Hickory Street, on the condition that the project be developed consistent with the plans entitled Bluff Ridge Estates as submitted by RHA Architects, Inc., and identified as Public Document No. 05-0124-20 and subject to the following terms and conditions:

(a) That prior to the issuance of any construction permits, the following must be approved in writing by the secretary of the planning commission:

(1) Submission of delineation of wetlands and information to the department of planning and development for review and recommendation, with the final result being compliance with Chapter 51 of the city code and the Wetland Conservation Act (The applicant has submitted documentation.);

(2) Written documentation by a professional engineer that the site meets building code requirements in particular construction on fill materials (This has been submitted.);

(3) Written documentation by a professional engineer that the retaining walls and ponds are engineered and constructed so they do not fail (This has been submitted.);

(b) That prior to the issuance of any construction permits, the city engineer must approve the following in writing:

(1) Stormwater management plan;

(2) Street design plans;

(c) That the project sign is moved out of the right-of-way and a permit secured from the city;

(d) That the extension of Hickory Street will require compliance with city utility and street requirements;

(e) That prior to the issuance of any construction permits, the city fire marshal must approve the following in writing:

(1) Placement of fire hydrants;

(2) Fire line/fire fighting access to all structures;

(f) That prior to issuance of any construction permits, stormwater permits must be secured from the Minnesota pollution control agency.

Resolution 05-0078 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are authorized to enter into an agreement with the state of Minnesota department of administration to sublease office space in the Minnesota Workforce Center - Duluth, located on the second floor of the Government Services Center, 320 West Second Street; lease period runs from August 1, 2005, through July 31, 2007; based on current square footage and rental rates, rent is expected to total \$43,626. In the event that rental rates or square footage are increased, total costs are not to exceed \$50,000, payable from Fund 0268.

FURTHER RESOLVED, a copy of this agreement shall be on file in the city clerks office as Public Document No. 05-0124-13.

Resolution 05-0006 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2005, 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. 05-0124-14, on file with the city clerk, at an estimated cost of \$11,250, which shall be paid from the General Fund 100, Department 700, Division 1431.

Resolution 05-0043 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 54.74 percent of the abutting property to resurface Bay View Alley between Piedmont Avenue and Diamond Avenue;

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 05-0042 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, the Minnesota department of transportation (Mn/DOT), St. Louis County and the city of Duluth have previously adopted the Miller Trunk Highway implementation plan for needed improvements to T.H. 53 (Miller Trunk Highway); and

WHEREAS, Mn/DOT intends to proceed with the reconstruction of T.H. 53 (Miller Trunk Highway) from approximately Trinity Road to approximately Haines Road in 2007-2008 as outlined in the Miller Trunk Highway implementation plan; and

WHEREAS, St. Louis County and the city of Duluth have previously agreed to participate in this project through the reconstruction of adjacent county roads and city streets as appropriate; and

WHEREAS, Mn/DOT, St. Louis County and the city of Duluth desire to hire an attorney to provide an examination and report of property titles for this project; and

WHEREAS, William D. Muldoon, a sole proprietor, has been selected by Mn/DOT in cooperation with St. Louis County and the city of Duluth as the attorney to provide these services in connection with this project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into joint contract in substantially the form of that on file in the office of the city clerk as Public Document No. 05-0124-15 with the Minnesota department of transportation, St. Louis County and William D. Muldoon, a sole proprietor, to provide such services.

BE IT FURTHER RESOLVED, that the cost of said services, estimated at \$7,785, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5530, and would be reimbursed from the city's municipal state aid construction account, Project PI0391TR.

Resolution 05-0045 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file with the city clerk's office as Public Document No. 05-0124-16, with Camp, Dresser and McKee, Inc., to provide professional engineering services related to the development of a long term plan for annual evaluation of and elimination of overflows in the city's sanitary sewer system in an amount not to exceed \$200,000, payable from the Sewer Fund 530, Department/Agency 500, Organization 1930, Object 5303.

Resolution 05-0046 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0549 to Morton Salt Division, c/o Hallett Dock Company, for furnishing road salt for year 2004/2005 winter season, be amended to increase the amount by \$298,732.50 for a new total of \$613,238.18, payable out of General Fund 0100, Department/Agency 500, Organization 2550, Object 5223.

Resolution 05-0054 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering two dump bodies and accessories for the utility operation division in accordance with specifications on its low specification bid of \$54,315, terms net 30, FOB destination, \$40,736.25 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$13,578.75 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0055 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 116 South 59th Avenue West.

Resolution 05-0050 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established: west side of Fifth Avenue West from Third Street to Fourth Street Alley.

Resolution 05-0051 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established: north side of Partridge Street from Kenwood Avenue westerly to the cul-de-sac.

Resolution 05-0052 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

The following resolutions were also considered:

Resolution 05-0076, by Councilor Stewart, authorizing a contract with Gamblers Intervention Services for the operation of an outreach gambling program during year 2005 at a cost to the city of \$90,000, was introduced for discussion.

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

Steven Dettinger, executive director of Gamblers Intervention Services, spoke in support of the resolution for reasons of: the organization has been providing this service in Duluth since 1988; Gamblers Intervention Services was the first agency to contract with the Minnesota department of human services to provide this service; for the last four years the agency has been the number one volume provider of out-patient therapy in the state and provides a service beyond what traditional medical insurance covers.

Al Netland, co-chair of the board for Gamblers Intervention Services, encouraged support for the resolution because this agency is the only agency in town that provides this type of treatment and that their certified therapists have had the problem themselves.

Resolution 05-0076 failed upon the following vote (Public Document No. 05-0124-17) (requires 7/9 vote):

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Little and Stauber -- 3

Resolutions 05-0082 and 05-0083, by Councilor Gilbert, upholding and reversing, respectively, the Duluth planning commission's denial of a front yard parking permit to Robert Johannessen for property located at 912 East 11th Street, were introduced for discussion.

Resolution 05-0082 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Section 50-140(c) of the Duluth City Code, Robert Johannessen has appealed to the city council regarding the city planning commission's denial of a front yard parking permit for property legally described as Lot 14, Block 25, Lakewater Division of Duluth; and

WHEREAS, the city planning commission, at a public hearing held during the regular December 14, 2004, meeting, resolved to deny this request by a vote of 10-0-2; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, the city council's planning and economic development committee held a committee hearing January 24, 2005, to consider this appeal and determined that the city planning commission's action was appropriate because the request does not meet the requirements of Section 50-30 of the City Code for the following reasons:

(a) Adequate off street parking is available for the property, including a two-car garage plus rear yard parking for two vehicles;

(b) The proposed parking space is located in the street right-of-way (reference Planning Commission File No. 04132).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth, in accordance with Section 50-141, finds that the decision of the planning commission is upheld and that no front yard parking permit shall be issued to the requestor.

Resolution 05-0082 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Atkins -- 1

Approved January 24, 2005

HERB W. BERGSON, Mayor

Resolution 05-0083 failed upon the following vote (Public Document No. 05-1024-18):

Yeas: Councilor Atkins -- 1

Nays: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

BY PRESIDENT NESS:

WHEREAS, Ordinance No. 9701 approved by the city council created an advisory board for the Downtown Waterfront Special Service District; and

WHEREAS, Ordinance No. 9701 provides that 11 members of said advisory board will be appointed by the Greater Downtown Council and approved by vote of the city council; and

WHEREAS, the Greater Downtown Council has acted to appoint the following persons to the advisory board:

Rick Heimbach, Bagley's	term expiring December 31, 2005
Tim Pichetti, Mansel Properties	term expiring December 31, 2005
Russ Stewart, city councilor	term expiring December 31, 2005
Mike Polzin, Minnesota Power	term expiring December 31, 2006
Bill Roberts, A&L Properties	term expiring December 31, 2006
Roger Wedin, Oneida Realty	term expiring December 31, 2006
Rick Dunbar, Uncle Dunbar's	term expiring December 31, 2006
Dean Casperson, Service Printers	term expiring December 31, 2007
Ron Anderson, Grandma's	term expiring December 31, 2007
Sandy Hoff, FI Salter	term expiring December 31, 2007
Barb Perrella, Labovitz Enterprises	term expiring December 31, 2007
Dan Maddy, Greater Downtown Council chair (ex-officio member)	
Kristi Stokes, Greater Downtown Council executive director (ex-officio member)	

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the above as the members of the advisory board for the Downtown Waterfront Special Service District.

Resolution 05-0077 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stewart, Stover and President
Ness -- 8

Nays: None -- 0

Abstention: Councilor Little -- 1

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0030, by Councilor Stover, authorizing execution of an agreement with Northern Energetics for professional services relating to energy audits for year 2005, year 2006, year 2007 and year 2008, in an amount not to exceed \$156,000, was introduced for discussion.

Councilor Stewart moved to amend the title, body and statement of purpose of the resolution by striking the words "year 2006, year 2007 and year 2008" and changing the amount "\$156,000" to "\$37,050," which motion was seconded and unanimously carried.

Resolution 05-0030, as amended, was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Northern Energetics for professional services relating to energy audits of approximately 650 single and multi family homes per year, for year 2005, payment not to exceed \$37,050, payable from the Home Energy Fund 0555, Department/Agency 500, Object 5441.

Resolution 05-0030, as amended, was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of the below-described property in St. Louis County, Minnesota, from the heirs of William R. Tonkin and to execute all documents necessary with regard thereto:

Lot 18, Block 6, MESABA HEIGHTS SECOND DIVISION (450-0060-01620).

FURTHER RESOLVED, that the city hereby expresses its appreciation for said donation from the heirs of William R. Tonkin.

Resolution 05-0048 was unanimously adopted.

Approved January 24, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

05-004 - AN ORDINANCE REPEALING ORDINANCE 8244, REPEALING DULUTH CITY CODE, CHAPTER 14A.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

05-003 - AN ORDINANCE ELIMINATING PEDESTRIAN TRANSIT ZONES IN THE CITY OF DULUTH; REPEALING SECTION 45-4.5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart, as sponsor of the ordinance, requested that it be removed from the agenda, which action was done without objections.

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The meeting was adjourned at 8:43 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 10, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0210-01 The PFM Group submitting: (a) Official statement; (b) Bid results regarding the sale of \$13,000,000 G.O. tax and aid anticipation certificates of indebtedness of 2005. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 05-0089, by Councilor Stauber, providing for the issuance, sale and delivery of \$13,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2005 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.

Kathy Kardell, representing the PFM Group, explained the bids and recommended approval of the low bidder.

Resolution 05-0089 was adopted as follows:

BY COUNCILOR STAUBER:

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. Purpose and authorization.

1.01 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. 05-0044, adopted January 24, 2005, authorized the issuance and provided for the sale of \$13,000,000 general obligation tax and aid anticipation certificates of indebtedness of 2005 (the certificates) in anticipation of collection of taxes levied in the year 2004 for collection during the year 2005 and state aids receivable in 2005 for the general fund of the city (the general fund), which is necessary for timely payment of anticipated expenditures from the general fund.

1.02 Public Financial Management, Inc., financial consultant to the city, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc., to be prospective bidders on the certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the certificates. All actions of the mayor, the clerk and Public Financial Management, Inc., taken with regard to the sale of the certificates are hereby ratified and approved.

Section 2. Pursuant to such solicitation for bids for the sale of the certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of CIBC World Markets of New York, New York (the purchaser), to purchase the certificates at a cash price of \$13,105,025, plus accrued interest on the total principal amount from February 24, 2005, to the date of delivery of the certificates and upon condition that the certificates mature and bear interest at the times and annual rate set forth in Section 4. 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 bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

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.

Section 4. The certificates to be issued hereunder shall be dated February 24, 2005, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and shall mature on December 30, 2005 (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 3.25 percent per annum. Interest on the certificates shall be payable on the maturity date. Interest shall 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 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, 2005, 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 Wells Fargo Bank, 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). To provide for the bond registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-03. 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 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 or facsimile signature of the mayor and attested by the manual or facsimile 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 2005

R-1 \$13,000,000

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	December 30, 2005	February 24, 2005	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: THIRTEEN MILLION DOLLARS

The City of Duluth, in the County of St. Louis, State of Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, together with interest thereon from the date of original issue specified above until paid at the annual interest rate specified above. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. 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 Wells Fargo Bank, 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, 2005, 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 \$13,000,000, 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 February 10, 2005 (the "Resolution").

It is hereby certified and recited that a sum of \$32,164,400 was the amount (i) embraced in the tax levies for the general fund (the "Fund") of the City levied in the year 2004 for collection during the year 2005, and (ii) the estimated amount of state aids receivable by the City for the Fund in the year 2005; 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 facsimile signatures of the mayor and the city clerk; and the City has caused this Certificate to be dated the 24th day of February, 2005.

Attest:

City Clerk

Mayor

Date of Authentication: _____

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.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Minneapolis, Minnesota

By _____
Authorized Representative

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 Wells Fargo Bank, 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 Wells Fargo Bank, National Association in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
2/24/05	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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

(Name and Address of Assignee)

Social Security or other
Identifying Number of
Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

(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 2005, 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

Section 14. A. The treasurer shall credit \$13,000,000, 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 treasurer shall credit to the debt service account all proceeds of the certificates in excess of \$13,000,000, 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 levied \$210,000, pursuant to Section 3 of Ordinance No. 9708 (the certificates interest levy), to be utilized in part to pay the interest on the certificates. The city council covenants and agrees that it will deposit into the debt service account, as received, all of the certificates interest levy up to 100 percent of the amount necessary to pay the interest on the certificates. The city council hereby certifies that the general fund taxes are \$6,510,500, and based on notices from the Minnesota department of revenue, the state aids are reasonably expected to be \$25,653,900.

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 3 of Ordinance No. 9708, adopted by the city council on December 20, 2004 (the general fund taxes), and the amounts of state aids from local government aid receivable from the state of Minnesota for the general fund in 2005 (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 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, 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 as Public Document No. 04-0219-03.

Resolution 05-0089 was unanimously adopted.

Approved February 10, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0124, by Councilor Stewart, authorizing a temporary increase of \$150,000 in the cash management fund authorized in the Great Lakes Aquarium amended and restated operating and revenue participation agreement, was introduced for discussion.

Councilor Stewart stated that Ripley Management is doing a good job at the Great Lakes Aquarium, but that the revenue is not there to put the facility in the black. He reviewed that this revolving account was set up to help with the cash flow during the winter when attendance is slow and is only used for current on going expenses. Councilor Stewart also reviewed that a 1998 resolution passed by the city council requires the city to keep the aquarium solvent.

Councilor Stewart moved to table the resolution until the February 14, 2005, meeting to enable councilors' questions to be answered, which motion was seconded and unanimously carried.

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The meeting was adjourned at 5:25 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 14, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meetings held on January 3, 10 and 24, 2005, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0214-01 Katie Beeman, et al. (29 signatures), submitting petition to vacate the 41st Avenue East and alley easements between Dodge and Peabody streets. -- Assessor

05-0214-02 Charles Bell submitting petition to reclassify from S to R-1-b property located at 7402 West Skyline Parkway. -- Assessor

05-0214-03 J&S Partnership, by William Burns, attorney, submitting petition to vacate portions of 43rd, 44th and 45th avenues West north of Second Street, a/k/a Traverse Street. -- Assessor

05-0214-04 Bruce Peterson, et al. (three signatures), submitting:

(a) Petition to construct a sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue. -- Assessor

(b) Waiver agreement for construction of a sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue. -- Engineering

05-0214-21 David C. Rutford, et al. (seven signatures), submitting petition to construct an eight inch water main in Surrey Avenue (90th Avenue East) from 100+ feet northwesterly of the northwesterly line of Seafield Street to Old North Shore Road, and in Old North Shore Road from 100+ feet southwesterly of the centerline of Cant Road to 1,926+ feet northeasterly of the centerline of Surrey Avenue. -- Assessor

05-0214-05 Grace Urie submitting petition to vacate the alley, easements and slopes in Fifth Street Alley in the west 20 feet of Lot 190, Block 41; slopes and fills; easement for slopes and fills; easement for slopes and fills in Fifth Street in Lot 192, Block 41, Duluth Proper Third Division. -- Assessor

05-0214-39 Janet S. Karon submitting communication regarding the Great Lakes Aquarium (05-0124R). -- Received

05-0214-40 The following submitting communications regarding the proposed replacement for Peterson Arena (05-0088R): (a) Shawn Hansen; (b) Carla Holm; (c) Duane Holm; (d) Jodie Johnson; (e) Douglas H. Lewis; (f) Rick and Jennifer Madden; (g) Anne Thomas. -- Received

05-0214-41 The following submitting communications regarding the proposed operation of a temporary seasonal greenhouse at 1219 North 57th Avenue West (05-0079R): (a) Daniel McKillop; (b) Ernest and Shirley Simonson. -- Received

05-0214-42 The following submitting communications regarding the proposed contract with Gamblers Intervention Program (05-0128R): (a) CHUM Emergency Shelter; (b) Dawn Eisenach; (c) Senator Becky Lourey; (d) Rick Luck; (e) Roger R. Skogman. -- Received

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REPORTS OF OFFICERS

05-0214-43 Administrative assistant submitting wage report of December 31, 2004, pursuant to Section 2-139 of the Duluth City Code, 1959, as amended. -- Received

05-0214-06 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, February 8, 2005, at 3:30 p.m. in Room 106A, City Hall, regarding the proposed resurfacing of Bay View Alley between Piedmont Avenue and West Diamond Avenue. -- Clerk

(b) For confirmation the assessment rolls levied to defray the assessable portions of sanitary sewer extension in 44th Avenue West, Contract 70649 (assessable - \$6,411.49);

(c) Letters of sufficiency of petitions to:

(1) Construct a permanent improvement alley in Block 10, Park Drive Division, Chester Park Drive Alley from 18th Avenue East to Kenwood Avenue;

(2) Reclassify from S to R-1-b property located at 7402 West Skyline Parkway;

(3) Vacate:

(A) Easement along Miller Creek Division, Lot 1, Block 2;

(B) Portions of 43rd, 44th and 45th Avenues West north of Second Street, a/k/a Traverse Street. -- Received

05-0214-07 Clerk submitting applications to the Minnesota gambling control board for exemption from lawful gambling licenses from: (a) Duluth Memorial Day Committee on May 7, 2005 (raffle); (b) Holy Family Catholic Church on September 10, 2005 (raffle); (c) Minnesota Citizens Federation - Northeast, on May 28, 2005 (raffle); (d) St. George's Serbian Orthodox Church on June 26, 2005 (raffle). -- Received

05-0214-08 Community development division manager submitting Fourth Street revitalization project report related to the one for one replacement of housing units on the development site. -- Received

05-0214-09 Engineering submitting notification of the establishment of a 48 hour time limit within the parking lot at 18-1/2 Avenue West south of Fourth Street, pursuant to Section 33-222 of the Duluth City Code. -- Received

05-0214-10 Parks and recreation department director submitting Lake Superior zoological society minutes of January 26, 2005, meeting. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0214-11 Alcohol, gambling and tobacco commission minutes of: (a) November 3, (b) December 1, 2004; (c) January 5; (d) January 12, 2005, meetings. -- Received

05-0214-12 Commission on disabilities minutes of January 5, 2005, meeting. -- Received

05-0214-13 Duluth airport authority: (a) Balance sheet for November 30, 2004; (b) Minutes of December 21, 2004, meeting. -- Received

05-0214-14 Duluth human rights commission minutes of December 8, 2004, meeting. -- Received

05-0214-15 Duluth state convention center administrative board minutes of December 22, 2004, meeting. -- Received

05-0214-16 Duluth transit authority minutes of December 1, 2004, meeting. -- Received

05-0214-17 Environmental advisory council minutes of January 5, 2005, meeting. -- Received

05-0214-18 Parking commission minutes of January 11, 2005, meeting. -- Received

05-0214-19 Parks and recreation commission minutes of December 8, 2004, meeting. -- Received

05-0214-20 Planning commission minutes of: (a) November 9; (b) December 14, 2004; (c) January 11, 2005, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Eric Lehto, representing AFSCME, Local 66, explained that he is responding to the Chamber of Commerce's public statement that blamed the labor movement for a business moving from Duluth to take advantage of Proctor's JOBZ program. He reviewed that the chamber actually endorsed the rules that the council set for Duluth's JOBZ requirements while the unions wanted the minimum wages to be higher.

--

Greg Price thanked the council for its help in getting the state to approve the name change of the Highway 23 bridge over the St. Louis River in honor of Native American veterans and stated that the next step is to get congress to approve the name change.

--

KL Lewis thanked the public works and utilities department for clearing the streets and local people for shoveling their sidewalks in a timely manner. She stated that the proposed new hotel on Superior Street is a good idea but should have a smaller budget.

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RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 05-0124, authorizing a temporary increase of \$150,000 in the cash management fund authorized in the Great Lakes Aquarium amended and restated operating and revenue participation agreement, from the table, which motion was seconded and unanimously carried.

Councilor Stewart reviewed that in order to meet the financial obligations, the aquarium is asking the city to increase their revolving account by \$150,000, and reminded the councilors of the 1998 resolution that requires the council to commit the appropriate resources in order for the aquarium to stay open.

Councilor Gilbert stated that city does not need to rubber stamp the aquarium's action and thanked councilors Stewart and Johnson for being on the aquarium board and giving information to the council. He voiced his concern that according to the figures, the aquarium will have a million dollar shortfall next year with no plan to get out of the deficit because the city will be there to bail it out. Councilor Gilbert continued saying that the aquarium needs to increase their revenue by building the confidence of the citizens of Duluth and to get those who guaranteed the loan to fulfill their pledge as they have an obligation to the community.

President Ness and Councilor Atkins urged the public to take part in helping the aquarium become solvent as the public needs to stop being negative and become a part of the project.

Resolution 04-0124 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that notwithstanding the provisions of subparagraph D of paragraph 6 of the amended and restated operating and revenue participation agreement bearing City Contract No. 18,364, as amended on March 15, 2004, the proper city officers are hereby authorized to increase the amount of funds made available by the city to the cash management fund as provided for in that subparagraph by an additional \$150,000, to a total amount of not to exceed amount of \$400,000, for fiscal year 2005 only, said sum to be made available from General Fund 100.

Resolution 05-0124 was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Reinert, Stauber, Stewart and President Ness -- 6

Nays: Councilors Gilbert, Little and Stover -- 3

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Stauber moved to consider Resolution 05-0088, by councilors Stauber and Atkins, to determine funding sources for construction of a replacement for Peterson arena, at this time, which motion was seconded and unanimously carried.

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

Anita Stech and Judy Peterson urged councilors to support the resolution for funding for a new arena as there has been a need for a new arena and/or improvements to the current two arenas for over ten years. Ms. Stech continued saying that hockey tournaments bring in teams from all over area which helps the local economy.

Steve Pitoscia, hockey coach, explained that losing Peterson Arena now means that teams are renting ice in surrounding towns as far away as Moose Lake with practices starting 8:30 - 9:00 at night which makes it tough on the kids in school. He continued saying that the current hockey facilities are behind the times and that coaches and players from outside the area complain about how bad the city's facilities are.

Councilor Reinert stated that using money from the street improvement program fund will not make everyone happy.

Councilor Reinert moved to amend the resolution by adding the following paragraph:

“(h) Construction on the project shall not commence until there exists an approved building design, a realistic construction budget and sufficient funds are collected, approved and in hand to satisfy the revenue requirements for the entire construction budget,”

which motion was seconded and unanimously carried.

Councilor Gilbert stated his support of a new arena and questioned whether the new arena should go next to Fryberger Arena so there would be two sheets of ice there and two sheets of ice at the Peterson Arena site if the Kroc center is built.

Councilor Atkins stated that the city needs to take a leadership role in this project as this needs to be built now since the Kroc project is still two to three years away.

Councilor Stewart voiced his concern that the city is using too much money from the community investment trust fund for projects other than rebuilding our streets. He continued saying that the city is setting a dangerous precedent by taking money out of this fund for a capital project when it should go through the normal funding process.

President Ness moved to amend the resolution further by adding the following paragraph:

(i) Should state funding be secured, local match will be comprised of 50 percent city of Duluth funds and 50 percent privately raised and donated funds," which motion was seconded and carried upon a unanimous vote.

Resolution 05-0088, as amended, was adopted as follows:

BY COUNCILORS STAUBER AND ATKINS:

WHEREAS, a fire has destroyed the Peterson Hockey Arena; and

WHEREAS, the destruction of the hockey arena deprives the citizens of a necessary and heavily used recreational facility; and

WHEREAS, a replacement facility should be promptly constructed.

NOW, THEREFORE, BE IT RESOLVED, that city of Duluth and the city council shall do the acts necessary to pay for a replacement facility for Peterson Hockey Arena in the following manner:

(a) For each dollar contributed by gift by the Duluth Amateur Hockey Association (DAHA) to the city of Duluth for the public purpose of constructing a replacement hockey arena, up to a maximum limit of \$1.8 million, the city shall contribute one dollar for the same public purpose. The source of the city's matching contribution shall be the following funds in the order shown and the amount shown:

First, up to \$500,000 from the proceeds of any insurance policy paid for by the city covering Peterson Arena for its loss by the fire and explosion that occurred;

Next, up to \$100,000 from the capital improvement program general fund which had been dedicated to heat, ventilation and air conditioning improvements at Peterson Arena;

Next, up to \$1.2 million from the Community Investment Trust Fund 256;

(b) The city will contribute the gift matching amounts set out above for money gifts actually received by the city before midnight, December 31, 2005;

(c) If the city of Duluth receives less than \$500,000 in insurance proceeds under (a) above, then the maximum amount of matching contribution available shall be reduced from \$1.8 million by the difference between the amount of insurance proceeds received and \$500,000.

BE IT FURTHER RESOLVED, that the funding system set out above is subject to the following conditions:

(a) The gifts and the matching contributions combined constitute an amount sufficient to construct a suitable replacement for Peterson Arena;

(b) To be enacted, this resolution requires the affirmative vote of seven councilors because the funding plan includes money from the community investment trust fund;

(c) The replacement arena will be owned by city of Duluth. Upon the city's request, DAHA will operate the arena for public recreational purposes;

(d) Duluth public schools may use the replacement arena for a fee that is proportional to operating costs;

(e) City of Duluth has the right to include the replacement arena, or the replacement arena project, into the city's Kroc Foundation project, and the funding therefore, without consent or participation of DAHA or any other party;

(f) Any amount paid to city of Duluth by an insurer of DAHA is not a gift that qualifies for a matching contribution from the city;

(g) All contracts, acts or fund transfers are authorized by law;

(h) Construction on the project shall not commence until there exists an approved building design, a realistic construction budget and sufficient funds are collected, approved and in hand to satisfy the revenue requirements for the entire construction budget;

(i) Should state funding be secured, local match will be comprised of 50 percent city of Duluth funds and 50 percent privately raised and donated funds.

BE IT FURTHER RESOLVED, that the city of Duluth requests the state legislature to bond up to \$1.7 million to replace Peterson Arena and thanks Representative Mike Jaros for his efforts in this regard.

Resolution 05-0088, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber and President Ness -- 7

Nays: Councilors Stewart and Stover -- 2

Approved February 14, 2005

HERB W. BERGSON, Mayor

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President Ness moved to consider Resolution 05-0101, by Councilor Reinert, authorizing the city to enter into an agreement with Lou Campbell, d/b/a/ Lou Campbell Productions, allowing for the use of Bayfront Festival Park to present three special events including the annual Fourth Fest at a cost of \$20,000, at this time, which motion was seconded and unanimously carried.

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

Lou Campbell gave the itinerary for the Fourth of July celebration at Bayfront Festival Park and urged support of the resolution.

Resolution 05-0101 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized and directed to enter into an agreement with Lou Campbell, d/b/a Lou Campbell Productions, providing for the use of Bayfront Festival Park as the site of three special events; said agreement to be substantially in the form of Public Document No. 05-0214-31 on file in the office of the city clerk; payment to be made from Fund 0100-700-1410, Object 5408.

Resolution 05-0101 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized to enter into a consultant agreement with SEH (Short-Elliott-Hendrickson, Inc.) for the sum of not to exceed \$99,930, from Capital Fund 0450, Agency 030, Object 5530, for providing certain engineering services to the city of Duluth in connection with Lakewalk East extension (26th East to 36th East), 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. 05-0214-22.

Resolution 05-0085 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, the proper city officers are hereby authorized to enter into a consultant agreement with Northland Consulting Engineers, LLP, for the sum of not to exceed \$30,500, from Capital Fund 0450 as follows: \$16,500, Agency 030, Object 5530, Project OT-0501; and \$14,000, Agency 030, Organization C403, Object 5520 for providing certain engineering services to the city of Duluth in connection with City Hall masonry restoration/Phase 2, 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. 05-0214-23.

Resolution 05-0091 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following: sanitary sewer in 44th Avenue West (Contract #70649 - assessable amount - \$6,411.49, is hereby confirmed.

Resolution 05-0104 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, there is an available fund balance in the tourism taxes fund of the city of Duluth; and

WHEREAS, the city desires to improve its tourist related facilities by performing a design study on the Minnesota Slip Pedestrian Bridge.

NOW, THEREFORE, BE IT RESOLVED, that \$75,000 be allocated to the Capital Project Fund 450 for the design study of the pedestrian bridge.

Resolution 05-0105 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that, pursuant to Section 68 of the Duluth City Charter, the following rates of interest are to be charged on the unpaid portion of any assessment for any project for which an assessment role is approved by the council during the year 2005:

(a) If the rate of interest paid by the city on bonds to finance the construction of the project to which assessment is related was less than eight percent per annum, the rate of interest to be charged on the assessment then unpaid shall be equal to the rate of interest on the city's bonds plus 1.25 percent, provided that in no event shall the rate exceed eight percent;

(b) If the rate of interest paid by the city on bonds to finance the construction of the project to which assessment is related was eight percent per annum or higher, the rate of interest to be charged on the assessment then unpaid shall be equal to the rate of interest on the city's bonds.

FURTHER RESOLVED, that all previous resolutions establishing the assessment rates of interest under Section 68 of the Charter shall have no prospective application but shall continue to apply to any assessments to which they previously applied.

Resolution 05-0125 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar equipment as needed for year 2005 for the fleet services division in accordance with specifications at an estimated amount of \$30,000, terms net 30, FOB destination, \$25,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$5,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 05-0057 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Poms Tire Service, Curtis Oil Company and North Central-Team Tire be and hereby is awarded a contract for furnishing and delivering tires and tubes as needed for a 12 month period during year 2005 for the fleet services division in accordance with specifications at a total estimated amount of \$57,000, terms net 30, FOB destination, \$45,000 payable out of Fleet Fund 660, Department/Agency 015, Organization 1560, Object 5221 and \$12,000 payable out of Fleet Fund 660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 05-0058 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with International Business Machines Corporation covering the existing software license rental and computer hardware maintenance as needed during year 2005 for the MIS division in accordance with specifications at an estimated amount of \$20,000, terms net 30, FOB destination, \$10,000 payable out of General Fund 100, Department/Agency 015, Organization 1513, Object 5319 and \$10,000 payable out of General Fund 100, Department/Agency 015, Organization 1513, Object 5404.

Resolution 05-0059 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Insight Public Sector, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contracts #426490 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2004 budget allocation for computer equipment in the amount of \$80,000.

Resolution 05-0060 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Gateway Companies, Inc., be and hereby are awarded a contract for furnishing and delivering miscellaneous microcomputer hardware ordered as needed during a 12 month period in accordance with specifications and referencing state of Minnesota Contracts #432980 pricing for the various city departments/divisions, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects; not to exceed the year 2005 budget allocation for computer equipment in the amount of \$150,000.

Resolution 05-0061 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Software House International be and hereby is awarded a contract for furnishing and delivering computer software as needed during year 2005 for the MIS division in accordance with specifications and referencing state of Minnesota Contract #425551, Release C-816(5) at an estimated amount of \$80,000, terms net, FOB destination, payable out of payable out of various funds, department/agencies, organizations and objects.

Resolution 05-0062 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that GovDocs be and hereby is awarded a contract for furnishing online subscription management and document delivery system for the MIS division in accordance with specifications on its low specification bid of \$15,500, terms net, FOB destination, payable out of General Fund 100, Department/Agency 015, Organization 1513, Object 5201.

Resolution 05-0063 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the year 2005 for the first four months for the fleet services division, in accordance with specifications at an estimated amount of \$176,667, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5212.

Resolution 05-0064 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Boyer Ford Trucks, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Ford vehicles as needed for year 2005 for the fleet services division in accordance with specifications at an estimated amount of \$16,000, terms net 30, FOB destination, \$14,000 payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$2,000 payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 05-0071 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale 3.2 percent malt liquor license for the period ending April 30, 2005, subject to departmental approvals and the payment of sales and property taxes:

Lakehead Oil Company, Inc. (London Road Spur), 2031 London Road, with William Kanuit, president, and J. Thomas Tracy, vice president and secretary.

Resolution 05-0099 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Golden Eagle Liquors, LLC (Sportsmen's Liquor), 3904 Grand Avenue, with Paul Riesland, 50 percent stockholder, and Richard McArthur, 50 percent stockholder, transferred from Kenwood Liquor, Inc. (Sportsmen's Liquor), same address.

Resolution 05-0100 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Kollmer Consultants, Inc., for professional services relating to water tower engineering and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

inspection services, payment not to exceed \$35,600, payable from Fund 510, Department/Agency 500, Organization 1955, Object 5401.

Resolution 05-0118 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Resolution 03-0416 to LHB Engineers and Architects for furnishing professional engineering services for Bridge L8477 over Miller Creek, be amended to increase the amount by \$71,263 for a new total of \$93,532, payable out of Fund 411, Department/Agency 035, Object 5530, Project PI0102TR.

Resolution 05-0119 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Minnesota Elevator, Inc., be and hereby is awarded a contract for upgrade of City Hall elevators in order to comply with the Americans with Disabilities Act in accordance with specifications on its low specification bid of \$48,735, terms net 30, FOB job site, payable out of General Fund 100, Department/Agency 700, Organization 1420, Object 5530.

Resolution 05-0127 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson of Francis (Frank) M. Nash (District 7) and Neale Roth (community education) to the parks and recreation commission for terms expiring on February 13, 2008, are confirmed.

Resolution 05-0090 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Samuel Resendez to the Duluth human rights commission for a term expiring on April 20, 2006, replacing Cruz Mendoza, who resigned, is confirmed.

Resolution 05-0106 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to enter into an amendment to Agreement No. 19629 with HRA, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0214-24, increasing the amount payable thereunder from \$830,000 to \$880,000 and payable from Fund 262-020-5434, Project CD04CD-HOUS-1734, said additional funding being received from Neighborhood Housing Services (NHS) revolving loan fund program income and deposited into Fund 262-020-4211.

Resolution 05-0093 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, Western Lake Superior Sanitary District has submitted to the city council a request for a special use permit to construct an emergency electrical generator on property legally described as Lots 7 & 8, Block 12, Endion Division of Duluth; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, said permit application was duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its recommendation of conditional approval to the city council; and

WHEREAS, the city council finds that the conditions contained in this resolution address the shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that with the conditions contained herein, appropriate safeguards will exist to protect the comprehensive plan and to conserve and protect property values in the neighborhood if said conditions are observed (reference Planning Commission File No. 04142).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to the Western Lake Superior Sanitary District for the construction of an emergency generator located at 505 South 18th Avenue East, on condition that the project be developed consistent with plans entitled "Project Description for Planning and Zoning Application, Endion Pump Station Generator Installation and Switching Upgrades" as submitted by Sebesta Blomberg and Associates, Inc., dated January 5, 2005, and identified as Public Document No. 05-0214-25; and subject to the following terms and conditions:

- (a) The project is to be limited to, constructed and maintained in accordance with submitted plans;
- (b) Tree plantings are to include a minimum of at least five Black Hills spruces with a height of at least four feet with a one year guaranty at or from the time of planting as shown on the site plan;
- (c) Other required permits are to be secured prior to construction;
- (d) Substantial compliance with conditions (such as tree size) can be approved in writing by the director of the planning department. Changes in permit conditions (larger building) will need planning commission approval.

Resolution 05-0096 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2005 CDBG accounts pursuant to Resolution 04-0826; and

WHEREAS, the community development committee (CD committee) for the community development program passed a resolution recommending funding the following programs as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increase in the Federal Program Fund 262, Agency 020, 2005 HUD-funded community development accounts as set forth below.

2005 CDBG Program - Fund 262 - Project CD05CD
Account Revised 2005

Sub Project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Duluth property rehabilitation HRA/NCLT	\$728,000	\$749,954	\$21,954
ADMC	AD01	Program administration	\$457,826	\$461,700	<u>\$ 3,874</u>
					\$25,828

Resolution 05-0111 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, the city of Duluth established certain 2005 HOME accounts pursuant to Resolution 04-0827; and

WHEREAS, the community development committee (CD committee) for the community development program passed a resolution recommending funding programs as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increases in the Federal Program Fund 260, Agency 020, 2005 HUD-funded community development accounts as set forth below.

2005 HOME Program - Fund 260 - Project CD05HM
Account Revised 2005

Sub Project	Activity	Project	Amount	New Grant	Difference
GN05	AD01	Administration	\$69,600	\$76,000	\$ 6,400
CD05	1226	San Marco Apartments	\$18,525	\$76,909	\$58,384

Resolution 05-0112 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth established certain 2005 ESGP accounts pursuant to Resolution 04-0828; and

WHEREAS, the city received an increased award of ESGP funding over the original program estimate; and

WHEREAS, the community development committee (CD committee) for the community development program recommended funding the following programs as set forth below.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to make the following fund increases in the Federal Program Fund 262, Agency 020, 2005 HUD-funded community development accounts as set forth below:

2004 ESGP Program - Fund 262 - Project CD05ES
Account Revised - 2005

Subproject	Project	Original Amount	New Grant	Difference
AD01	Program administration	\$4,630	\$5,625	\$995

Resolution 05-0113 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, 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 home-delivered meals for senior citizens for the period of January 1, 2005, through December 31, 2005. Monies collected under said contract shall be deposited in Federal Program Fund 272, Department 031, Revenue Source 4654-02.

Resolution 05-0120 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Carlson and Kirwan be and hereby is awarded a contract for furnishing and marketing and media purchasing services for the natural gas advertising program of the public

works and utilities department in accordance with specifications on its low specification bid of \$95,600, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0053 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Gopher State One-Call, Inc., be and hereby is awarded a contract for furnishing one-call system services as needed during year 2005 for the utility operation divisions in accordance with specifications on its low specification bid of \$1.15 per call for an estimated total of \$10,000, terms net 30, FOB job site, \$2,500 payable out of Water Fund 0510, Department/Agency 500, Organization 1930, Object 5486; \$2,500 payable out of Gas Fund 0520, Department/Agency 500, Organization 1930, Object 5486; \$2,500 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1930, Object 5486; \$2,500 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1930, Object 5486.

Resolution 05-0056 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Minnesota Municipal Utility Association be and hereby is awarded a contract for furnishing gas circuit rider program for the utility operation divisions in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, payable out of Gas Fund 520, Department/Agency 500, Organization 1900, Object 5433.

Resolution 05-0070 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide hot water supply and return line from Steam District #1 to the Duluth Entertainment Convention Center; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and equipment specification phases; and

WHEREAS, L.H.B. Architects and Engineers 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 \$90,000, will be payable from the Steam District #1 Fund 540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 05-0073 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering two tippers with bleeding hoist for the utility operation division in accordance with specifications on its low specification bid of \$47,047.44, terms net 30, FOB destination, \$11,761.86 payable out of Water Fund 510, Department/Agency 500, Organization 1905, Object 5580; \$11,761.86 payable out of Gas Fund 520, Department/Agency 500, Organization 1905, Object 5580; \$11,761.86 payable out of Sewer Fund 530, Department/Agency 500, Organization 1905, Object 5580; \$11,761.86 payable out of Stormwater Utility Fund 535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0074 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northwest Outlet be and hereby is awarded a contract for furnishing and delivering uniforms as needed for year 2005 for the utility and maintenance operation divisions in accordance with specifications at an estimated amount of \$36,400, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0075 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to accept the donation of an easement for street and highway purposes substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0214-26 from Schneiderman Duluth, LLC, at no cost to the city.

Resolution 05-0092 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, in May of 2001, the city of Duluth became the 101st city to join the cities for climate protection (CCP), a performance-oriented campaign that offers a framework for local governments to develop a strategic agenda for reducing global warming and air pollution emissions with the goal of improving community livability, thereby pledging to assume a leadership role in reducing greenhouse gas emissions and in developing and implementing a plan to reduce both greenhouse gas and air pollution emissions; and

WHEREAS, the city of Duluth established the energy management fund in 2003, committing resources to a comprehensive energy management fund and dedicating dollars for personnel resources, energy saving projects and educational programs; and

WHEREAS, the city of Duluth authorized accepting energy efficiency rebates and grants in 2003 to be deposited into the energy management fund; and

WHEREAS, the city of Duluth desires to make the energy management fund self-supporting.

RESOLVED, that 50 percent of all energy project savings resulting from the energy management program be transferred into the Energy Management Fund 257 in order to fund additional energy-saving projects, including but not limited to: energy saving city projects, projects that positively impact climactic change, renewable energy projects, the cities for climate protection program and programs which enhance education and awareness of all of the above.

FURTHER RESOLVED, that the city of Duluth hereby reaffirms its commitment to cities for climate protection.

Resolution 05-0102 was unanimously adopted.
Approved February 14, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into a steam service agreement and membership application with the Duluth Steam Cooperative Association, substantially in the form of that on file in the office of the city clerk as Public Document

No. 05-0214-27, for the provision of steam service to various city-owned buildings and establishing the terms of service and disconnect.

Resolution 05-0103 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0254 to Quality Underground Services, Inc., for furnishing construction of gas meters and services at various locations, be amended to increase the amount by \$92,579.38 for a new total of \$230,979.38, payable out of Gas Fund 0520, Department/Agency, 500, Organization 1905, Object 5533.

Resolution 05-0114 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct water and sewer mains in West Palm Street from Robin Avenue to 83 feet west of centerline of Teak Avenue; and

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of the city 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 05-0122 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to conduct an in depth inspection and study of the electrical, mechanical and structural components of the Minnesota Slip Pedestrian Bridge; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for the study phase; and

WHEREAS, HNTB Corporation 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 HNTB Corporation to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$74,714 will be payable from the Capital Improvement Fund 0450, Department/Agency 030, Organization 2005, Object 5530.

Resolution 05-0123 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that proper city officials are hereby authorized to pay the county of St. Louis an approximate \$50,000 payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5445 for the St. Louis County jail during the year 2005 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 05-0067 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that Arrowhead Regional Corrections be and hereby is awarded a contract for providing for reimbursement of the St. Louis County sheriff for certain identification services during year 2005, at an estimated cost to the city of \$13,495 payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5319.

Resolution 05-0068 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are hereby authorized to execute a subgrant agreement with Safe Haven Shelter for Battered Women (SHS) relating to the U. S. department of justice grant to operate a domestic violence response team, which agreement shall be substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0214-28, in an amount not to exceed \$93,451, payable from Fund 215, Agency 200, Organization 2470.

Resolution 05-0086 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are hereby authorized to execute a subgrant agreement with Domestic Abuse Intervention Project (DAIP) relating to the U.S. department of justice grant to operate a domestic violence response team, which agreement shall be substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0214-29, in an amount not to exceed \$144,707, payable from Fund 215, Agency 200, Organization 2470.

Resolution 05-0087 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 1042 85th Avenue West;

front of 822 North Ninth Avenue East.

Resolution 05-0121 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that Sivertson Fisheries, Inc., be and hereby is awarded a contract for furnishing cold storage rental as needed for year 2005 for the Lake Superior Zoo in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 400, Organization 1814, Object 5419.

Resolution 05-0066 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

WHEREAS, the Superior Hiking Trail Association (the association), as part of its mission, constructs and maintains the Superior Hiking Trail, a long-distance footpath; and

WHEREAS, the association is building the Superior Hiking Trail through the city of Duluth (the development project); and

WHEREAS, the association is applying for funds administered by the department of natural

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

resources (DNR) for trail development, specifically the national recreation program, the regional trail grant program and the local trail connections grant program; and

WHEREAS, the grant will continue to fund a program approved by the city council in 2004, the details of which are provided for in the grant agreement which is on file in the office of the city clerk as Public Document No. 04-0126-33;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth, through its finance director, agrees to act as fiscal agent for the development project and that matching funds required for this project will be the responsibility of the association pursuant to the grant agreement.

Resolution 05-0084 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized to execute a Minnesota trail assistance program agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-0214-30, with the Minnesota department of natural resources in the sum of \$20,000 for the maintenance of the Duluth snowmobile trails for the 2004-2005 season; said funds to be deposited in the General Fund 100-500-1920-4226.

Resolution 05-0098 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized and directed to enter into an agreement with Mont Du Lac Ski Area, a Wisconsin corporation, providing for the maintenance of the chairlifts at Chester Bowl through June 30, 2005, with an option to renew for three one year periods; said agreement to be substantially in the form of Public Document No. 05-0214-32 on file in the office of the city clerk; payment to be made from Fund 100, Department 400, Organization 1812, Object 5319.

Resolution 05-0107 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-0214-33, with the Over the Hill Night Riders Snowmobile Club for the grooming and maintenance of the western portion of the cross-city snowmobile trail for an amount not to exceed \$15,000; payable from General Fund 100-500-2560-5441.

Resolution 05-0108 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that Northland Foods, Inc., be and hereby is awarded a contract for furnishing and delivering fruits and vegetables as needed for during the year 2005 for the Lake Superior Zoo in accordance with specifications at an estimated amount of \$19,000, terms net 30, FOB destination, payable out of General Fund 100, Department/Agency 400, Organization 1814, Object 5210.

Resolution 05-0116 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-0214-34, with the Drift Toppers Snowmobile Club for the grooming and

maintenance of the eastern portion of the cross-city snowmobile trail for an amount not to exceed \$5,000; payable from Fund 100-500-2560-5441.

Resolution 05-0117 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STEWART:

RESOLVED, that Liscomb-Hood-Mason Company be and hereby is awarded a contract for furnishing property insurance for 43 city owned structures and 37 pieces of equipment in accordance with specifications on its specification bid of \$73,260, terms net 30, FOB destination, payable out of Self Insurance Liability Fund 0610, Department/Agency 036, Organization 1651, Object 5360.

Resolution 05-0115 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0128, by Councilor Stewart, authorizing a contract with Gamblers Intervention Services for the operation of an outreach gambling program during year 2005 at a cost to the city of \$90,000, was introduced for discussion.

Councilor Stauber questioned the fact that the city promotes gambling in their tourist attractions and then gives money to gambling treatment programs.

Councilor Atkins expressed concern that the city does not follow up on making sure that nonprofits who receive money from the city file their required reports.

Councilor Little questioned how the money is actually used in the organization and moved to table the resolution for further information, which motion failed upon the following vote:

Yeas: Councilors Atkins, Little and Stauber -- 3

Nays: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Resolution 05-0128 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that the city is hereby authorized to execute an agreement, filed as Public Document No. 05-0214-35, with Gamblers Intervention Services for the operation of an outreach gambling program during year 2005, at a cost to the city of \$90,000, which shall be payable from Fund 256.

Resolution 05-0128 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0079, by Councilor Gilbert, granting an interim special use permit to Richard and Marcella Harteau to operate a temporary seasonal greenhouse at 1219 North 57th Avenue West, was introduced for discussion.

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

Daniel McKillop and Ernest Simonson opposed this business as it adds congestion to the neighborhood with increased traffic and a torpedo heater that runs all night when it is cold.

Marcella Harteau reviewed the history of the business and why they have not been able to find a commercial property to use. She continued saying that they anticipate moving for the 2006 season and hopefully city staff will help mediate with the neighbors who are against this business.

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

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BY COUNCILOR GILBERT:

WHEREAS, Mark Lambert of Summit Management, LLC, has submitted to the city council, a Section 50-38 special use permit request for a common interest community development on 31 acres of property legally described as follows:

(a) In Clague and Prindle's Addition to Duluth: all of Blocks 2, 3, 4 and those parts of Blocks 5 and 6 lying southwest of Rice Lake Road, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto; and

(b) In Triggs and Kennedy's Addition to Duluth: those parts of Blocks 38, 39, 42, 43, 44 and 45 lying southwest of Rice Lake Road, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto; and

WHEREAS, said permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on Wednesday, January 26, 2005, and the commission has subsequently reported its recommendation of conditional approval to the city council; and

WHEREAS, the city council finds that the conditions contained in this resolution address the shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that with the conditions contained herein, appropriate safeguards will

exist to protect the comprehensive plan and to conserve and protect property values in the neighborhood if said conditions are observed (reference File No. 05002);

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Mark Lambert and Summit Management, LLC, for a common interest community development of 20 residential buildings (in four styles), an office and recreation building, and a maintenance building on 31 acres of property located north of Davis Street, east of Connecticut Avenue and southwest of Rice Lake Road, with the following terms and conditions:

(a) That the project be limited to, developed, and maintained according to plans submitted by RLK Kuusisto Ltd., entitled, Preliminary Plans for Campus Park II, dated December 29, 2004, together with amendments submitted through January 26, 2005, and identified as Public Document No. 05-0214-36;

(b) That the director of the department of planning and development be allowed to approve the replacement of any building type A or B with a building type C if soil or topography conditions make that building type more feasible;

(c) That a street easement meeting the city engineer's specifications be dedicated to the public for the extension of Hickory Street from Blackman Avenue to Rice Lake Road;

(d) That the project secure necessary building, grading, erosion control and stormwater management permits from the city and Minnesota pollution control agency;

(e) That a procedure for the maintenance and monitoring of the stormwater ponds shown on the site plans be approved by the city engineer;

(f) That at all times during the construction of the project there shall be no net increase in storm water runoff from a pre-development condition;

(g) That a sidewalk be added along the main roadway through the project from Hickory Street to Rice Lake Road;

(h) That refuse collection areas be screened on three sides by opaque fences at least six feet in height;

(i) That building mounted lighting on all buildings specified on architectural plans have flat lens and be downcast or angled only slightly outward. The source of lights shall be hooded or controlled in some manner as not to light adjacent properties and to reduce general light pollution;

(j) That in Phase II, the stormwater pipe connecting the catch basin in the cul-de-sac to Pond #5 be relocated to the street or near the rear of the building to avoid impacting the natural vegetation along Rice Lake Road.

Resolution 05-0094 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of streets and alleys legally described as:

That part of Hawkins Street, as dedicated in Triggs and Kennedy's Addition, lying east of the southeasterly right-of-way line of Blackman Avenue, and lying west of the southwesterly right-of-way line of Rice Lake Road, also known as County Highway 4; and

That part of Howtz Street, as dedicated in Triggs and Kennedy's Addition, and as dedicated in Clague and Prindle's Addition, lying east of the northerly extension of the west line of Lot 1, Block 2, of said Clague and Prindle's Addition and lying west of the southwesterly right-of-way line of Rice Lake Road, also known as County Highway 4; and

That part of the north half of Davis Street, as dedicated in Clague and Prindle's Addition, lying east of the southerly extension of the west line of Lot 29, Block 2, of said Clague and Prindle's Addition and lying west of the southwesterly right-of-way line of Rice Lake Road, also known as County Highway 4; and

That part of Connecticut Avenue, as dedicated in Triggs and Kennedy's Addition, lying south of the southeasterly right-of-way line of Blackman Avenue, and also lying south of the southwesterly right-of-way line of Rice Lake Road, also known as County Highway 4 and lying north of the westerly extension of the south line of Lot 15, Block 42, of said Triggs and Kennedy's

Addition; and

That part of Madison Avenue, as dedicated in Triggs and Kennedy's Addition, and as dedicated in Clague and Prindle's Addition, lying south of the southwesterly right-of-way of Rice Lake Road, also known as County Highway 4, and lying north of the center line of Davis Street; and

That part of Grant Avenue, as dedicated in Triggs and Kennedy's Addition, and as dedicated in Clague and Prindle's Addition, lying south of the southwesterly right-of-way of Rice Lake Road, also known as County Highway 4, and lying north of the center line of Davis Street; and

That part of Broadway Avenue, as dedicated in Triggs and Kennedy's Addition, and as dedicated in Clague and Prindle's Addition, lying south of the southwesterly right-of-way line of Rice Lake Road also known as County Highway 4, and lying north of the center line of Davis Street; and

That part of Virginia Avenue, as dedicated in Clague and Prindle's Addition, lying south of the southwesterly right-of-way line of Rice Lake Road, also known as County Highway 4, and lying north of the center line of Davis Street; and

All of the alleys in Blocks 2, 3, 4 and 5, Clague and Prindle's Addition, and that part of the alley in Block 6, Clague and Prindle's Addition, lying south of the southwesterly right-of-way line in Rice Lake Road, also known as County Highway 4; 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 determined that said streets and alleys are useless for the purpose for which they were intended based on the following findings:

(a) These rights-of-way will not be needed in the future because the area will be covered by a common interest community plat with private streets providing access to buildings in the development. Also, the common interest community plat will provide easements for public utilities serving the development;

(b) The land surrounding the streets and alleys proposed for vacation are entirely owned, or controlled, by the petitioner; and

WHEREAS, the city planning commission unanimously approved the vacation of said streets and alleys at the regular meeting held January 26, 2005 (reference File No. 05003);

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of portions of Hawkins Street, Howtz Street, Davis Street, Connecticut Avenue, Madison Avenue, Grant Avenue, Broadway Avenue and Virginia Avenue; all of the alleys in Blocks 2, 3, 4 and 5, Clague and Prindle's Addition; and a portion of the alley in Block 6, Clague and Prindle's Addition, and as more particularly described in Public Document No. 05-0214-37.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of Minnesota, a certified copy of this resolution together with a plat showing the portions streets and alleys to be vacated.

Resolution 05-0095 was unanimously adopted.

Approved February 14, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0126, by Councilor Gilbert, authorizing the transfer of \$300,000 from the community investment trust fund for the capitalization of the Duluth exterior preservation loan fund, was introduced for discussion.

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

John Day and Bob Powless stated their appreciation that the resolution is being withdrawn. Dr. Powless explained that the American Indian commission wants to establish an American Indian center in Duluth along with low income housing for Indian people and will eventually be asking for money from the community investment trust fund for the project.

President Ness ordered that the resolution be removed from the agenda, which action was done without objections.

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Resolution 05-0097, by Councilor Atkins, amending Resolution 04-0809, adding two items to the city's requests for state legislative action, was introduced for discussion.

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

Regarding Resolution 05-0097(a), dealing with library service fees, Councilor Atkins explained that the city would need state approval in order to charge this fee and this idea is a way to increase revenue for the city. He also stated that by getting state approval the city would not have to charge this fee, but there would be a mechanism in place if the city decides to pursue it.

Resolution 05-0097(a) failed upon the following vote (Public Document No. 05-0214-38):

Yeas: Councilor Atkins and Stover -- 2

Nays: Councilors Gilbert, Johnson, Little, Stauber, Reinert, Stewart and President Ness -- 7

- - -

Regarding Resolution 05-0097(b), dealing with private sewer line repairs, Councilor Atkins explained that this is a way to help get private sewer lines up to Code and help get relief for the city having to pay for large storage tanks for sewer overflow problems.

Several councilors voiced concern over how the details would work.

Councilor Stover moved to table the resolution, which motion failed for lack of a second.

Resolution 05-0097(b) was adopted as follows:

BY COUNCILOR ATKINS:

BE IT RESOLVED, that Resolution 04-0809 be amended by adding to it, after the paragraph ending in the words ". . . and trail at Lake Superior Zoo," the following:

Enact a state law to allow the city to complete repairs on any private sewer line connecting a city main to a private sewer service and then assess the property for the cost of the repair.

Resolution 05-0097(b) was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber and President Ness -- 7

Nays: Councilors Stewart and Stover -- 2

Approved February 14, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

05-004 (9717) - AN ORDINANCE REPEALING ORDINANCE 8244, REPEALING DULUTH CITY CODE, CHAPTER 14A.

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

- - -

The meeting was adjourned at 9:35 p.m.

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

- - -

ORDINANCE NO. 9717

BY COUNCILOR STEWART:

AN ORDINANCE REPEALING ORDINANCE 8244, REPEALING
DULUTH CITY CODE, CHAPTER 14A.

The city of Duluth does ordain:

Section 1. That Ordinance 8244, passed May 24, 1976, which established Chapter 14A of Duluth City Code, 1959, as amended, be repealed, and that said Chapter 14A of Duluth City Code, 1959, as amended, be repealed in its entirety.

Section 2. That this ordinance take effect 30 days after its passage and publication.
(Effective date: March 27, 2005)

Councilor Stewart moved passage of the ordinance and the same was adopted upon the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and
President Ness -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 14, 2005

Approved February 14, 2005

HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 28, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Gilbert -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0228-01 Duluth Hill, LLC, et al. (three signatures), submitting petition to reclassify from R-1-b/CUP overlay to C-5 Outlot C and part of Outlot D (except the easternmost 100 feet), Home Depot Duluth Addition. -- Assessor

05-0228-02 JAS Apartments, Inc., by Grant Odegard, owner's agent, submitting petition of vacate one foot of the East Fourth Street right-of-way abutting the north side of Lots 82, 84 and 86, and one foot of the Fifth Avenue East right-of way abutting the west side of Lot 82, Duluth Proper First Division. -- Assessor

- - -

REPORTS OF OFFICERS

05-0228-03 Assessor submitting:

(a) Affidavit of mailing of notices of public hearings by the special assessment board on Tuesday, March 8, 2005, in Room 402, City Hall, at:

(1) 3:30 p.m. regarding the proposed alley construction on Chester Park Drive Alley from 18th Avenue East to Kent Road;

(2) 4:00 p.m. regarding the proposed construction of watermain and sanitary sewer in West Owatonna Street east of Kolstad Avenue. -- Clerk

(b) For confirmation the assessment rolls levied to defray the assessable portions of 2004 street improvement program (05-0135R);

(c) Letters of sufficiency of petitions to:

(1) Construct an eight inch sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue;

(2) Vacate:

(A) One foot of the East Fourth Street right-of-way abutting the north side of Lots 82, 84 and 86, and one foot of the Fifth Avenue East right-of way abutting the west side of Lot 82, Duluth Proper First Division;

(B) The 41st Avenue East and alley easements between Dodge and Peabody streets;

(C) The alley, easements and slopes in Fifth Street Alley in the west 20 feet of Lot 190, Block 41; slopes and fills; easement for slopes and fills; easement for slopes and fills in Fifth Street in Lot 192, Block 41, Duluth Proper Third Division. -- Received

05-0228-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Lincoln Park Business Group on June 25, 2005 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0228-05 Duluth/North Shore Sanitary District board minutes of January 12, 2005, meeting. -- Received

05-0228-06 Duluth transit authority: (a) Minutes of December 29, 2004, meeting; (b) Income statement for December 2004. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price expressed support for an amendment of a prior resolution renaming Minnesota State Highway No. 23 to Veterans Evergreen Memorial Highway in memory of veterans of World Wars I and II, Korea and Viet Nam to include Iraq and all future conflicts.

- - -

Garry Krause commented on the serious traffic conditions in the Duluth Heights area where traffic coming off Arrowhead Road crosses through a residential neighborhood to Central Entrance and Highway 53 at the Mall. He noted that having new development is good but there needs to be more attention paid to traffic and safety issues.

- - -

KL Lewis voiced support for the reestablishment of the comprehensive planning effort and also expressed the need for a citywide review of traffic flow and future needs.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with Krech Ojard and Associates for the sum of \$12,500, from Fund 0450, Agency 030, Object 5530, Project No. OT-0503, for providing certain engineering services to the city of Duluth in connection with the city salt and sand storage 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. 05-0228-07.

Resolution 05-0132 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following 2004 street improvement program projects:

- (a) Duluth Heights - Southeast (Contract #7072 - assessable amount - \$255,629.68);
- (b) East Hillside (Contract #7073 - assessable amount - \$132,761.39);
- (c) Lakeside Lower Southwest 1 (Contract #7074 - assessable amount - \$275,878.66);
- (d) Lakeside Lower Southwest 2 (Contract #7075 - assessable amount - \$160,560.09);
- (e) Woodland South 1 (Contract #7076 - assessable amount - \$355,491.61); and
- (f) UMD/Chester (Contract #7078 - assessable amount - \$61,640.54);

are hereby confirmed.

Resolution 05-0135 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement (Public Document No. 05-0228-08) with DMG-Maximus to produce an appropriate cost allocation plan for city services that are provided to the public, the various departments of the city, the authorities and the various enterprise and other funds of the city, at a cost to the city of not to exceed \$14,000, which shall be payable from the General Fund 100-700-1407-5441.

Resolution 05-0149 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Motorola Communications and Electronics be and hereby is awarded a contract for various communication equipment for the police department in accordance with specifications on its low specification bid of \$34,612.83, terms net 30, FOB destination, \$34,612.83 payable out of Duluth Police Grant Programs Fund 215, Department/Agency 200, Organization 2474, Object 5241.

Resolution 05-0110 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Lens Auto Body be and hereby is awarded a contract for furnishing auto body repairs as needed for year 2005 for all city cars, vans, pickup trucks, etc., for the fleet division in accordance with specifications at an estimated amount of \$45,000, terms 30, FOB destination, \$20,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$25,000 payable out of Fleet Fund 0660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 05-0136 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that MacQueen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for snow blowers as needed for year 2005 for the fleet services division in accordance with specifications at an estimated amount of \$40,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5221.

Resolution 05-0137 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Maney International of Duluth, Inc., be and hereby is awarded a contract for furnishing and delivering O.E.M. parts and repairs for Caterpillar diesel engines as needed during year 2005 for the fleet services division in accordance with specifications at an estimated amount of \$40,000, terms net 30, FOB destination, \$30,000 payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5221 and \$10,000 payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5404.

Resolution 05-0138 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Duluth Lawn and Sport, Inc., be and hereby is awarded a contract for furnishing and delivering John Deere repair parts and supplies as needed during year 2005 for the fleet services division in accordance with specifications at an estimated amount of \$10,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5221.

Resolution 05-0141 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Larson Chevrolet be and hereby is awarded a contract for furnishing and delivering three cargo vans for the utility operation division in accordance with specifications on its low specification bid of \$60,952.47, terms net 30, FOB destination, \$12,190.49 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580 and \$48,761.98 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0142 was unanimously adopted.
Approved February 28, 2005
HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

RESOLVED, that Larson Chevrolet-Olds be and hereby is awarded a contract for furnishing and delivering one Chevrolet pickup truck for the traffic operation division in accordance with specifications on its low specification bid of \$27,304.96, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-V311.

Resolution 05-0146 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

RESOLVED, that Twin Cities Mack and Volvo Truck be and hereby is awarded a contract for furnishing and delivering three Mack Model CV712 truck cab and chassis tandem axle for the utility operation division in accordance with specifications on its low specification bid of \$259,660.05, terms net 30, FOB destination, \$259,660.05 payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-V507.

Resolution 05-0147 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a one year lease with the St. Mark's Community Development Corporation leasing 750 square feet of office space identified as Room 110 located in Washington Center, for a consideration of \$250 per month to be deposited in General Fund 100-015-1515-4622; said lease filed as Public Document No. 05-0228-09.

Resolution 05-0148 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 37.81 percent of the abutting property to construct a permanent alley in Chester Park Drive Alley from 18th Avenue East to Kent Road;

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 05-0130 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Bay View Alley between Piedmont Avenue and Diamond Avenue (City Job No. 0469TR), and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting 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 \$14,000, payable from the Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0469TR; \$35 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15-year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0131 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the state of Minnesota, through the Minnesota department of natural resources, division of waters, administers financial assistance for coastal program management purposes through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth in conjunction with the regional stormwater protection team (RSPT) desires financial assistance from Minnesota's Lake Superior coastal program for the purposes of enhancing the RSPT's watershed festival by the addition of five performances of the environmental entertainer at regional schools prior to the watershed festival on June 4, 2005.

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota's Lake Superior coastal program STAR grant administered through the Minnesota department of natural resources in the amount of \$2,500 for said educational activities.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant, and to obligate up to \$630 in cash match from Fund 535, Organization 1915, Object 5439 and \$1,944 in match provided as in-kind services from city staff and staff of RSPT partner organizations.

Resolution 05-0133 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Vogel Paint and Wax Company, Inc., be and hereby is awarded a contract for furnishing and delivering 5,740 gallons of yellow and white traffic marking paint for the maintenance operation division in accordance with specifications on its low specification bid of \$26,944.82, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 2570, Object 5226.

Resolution 05-0140 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0528 to Short Elliot Hendrickson, Inc., for professional engineering services for year 2004 street improvement program for Lakeside Lower Southwest-2, be amended to increase the amount by \$36,285 for a new total of \$147,319, payable out of the Street Improvement Program Fund 0440, Department/Agency 038, Organization 0405, Object 5530.

Resolution 05-0143 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it is deemed necessary for the public conveyance and safety that Minnesota Bridge Number L8477 on Tenth Street (MSAS 203) over Miller Creek and Lincoln Park Drive (City Job No. 0102TR) be rehabilitated, along with reconstruction of the bridge approaches on Tenth Street (MSAS 203) from a point 100 feet south of the intersection with 25th Avenue West to the intersection with 24th Avenue West; and

WHEREAS, this project will not be eligible for municipal state aid funds unless it is constructed to urban state aid standards for a projected average daily traffic count of less than 10,000 vehicles, or unless a variance is granted; and

WHEREAS, practical limitations require a 240 foot radius horizontal curve at -0.02 super-elevation in lieu of the required 240 foot radius horizontal curve at 0.03 super-elevation which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9936, whereby the urban state aid standards be reduced for this project allowing for a 240 foot radius horizontal curve at -0.02 super-elevation in lieu of the required 240 foot radius horizontal curve at 0.03 super-elevation, and further provides that if the commissioner grants the variance that the city of Duluth hereby agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees of and from any and all claims, demands, actions or cause of action arising out of or by reason of the reconstruction of Tenth Street in the city of Duluth in any manner than in accordance with Minnesota Rule 8820.9936 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 granting of this variance.

Resolution 05-0144 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with MSA Professional Services for professional engineering services relating to design and construction engineering for the Morgan Park wastewater collection system improvements - Phase III project for a total amount of \$336,228; of which \$168,114 payable from Fund 530, Department/Agency 500, Organization 1905, Object 5533, and \$168,114 payable from Fund 535, Department/Agency 500, Organization 1905.

Resolution 05-0145 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct an eight inch sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue (City Project No. 0482SN) and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue (City Project No. 0482WA).

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of the city 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 05-0150 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that Resolution 04-0203 to Levine and Son, Inc., for construction of a sanitary sewer in Decker Road and Anderson Road and a watermain in Anderson Road be amended to increase the amounts as follows:

Increase attributable to sewer construction portion is \$22,698, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530, Project No. 0195SN;

Increase attributable to the watermain portion is \$231,613, payable out of Water Construction Bond Fund 0511, Department/Agency 500, Object 5532.

Resolution 05-0151 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that St. Louis County department of communications be and hereby is awarded a contract for furnishing computer aided dispatch system access during the year 2005 for the police department in accordance with specifications at an estimated amount of \$25,440, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 200, Organization 1610, Object 5441.

Resolution 05-0139 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY PRESIDENT NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, having substantially the terms of that contract on file with the city clerk as Public Document No. 05-0228-11, between the city and Steve Greenfield for the provision of professional services needed to help produce the comprehensive plan in an amount not to exceed \$8,500; payable from Fund 100, Agency 020, Organization 1202, Object 5319.

Resolution 05-0153 was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilor Little -- 1

Abstention: Councilor Stauber -- 1

Absent: Councilor Gilbert -- 1

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement for mutual firefighting assistance with the city of Superior, Wisconsin, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0228-10, for the provision of assistance by one jurisdiction to the other in meeting special needs for fire suppression and other emergency services.

Resolution 05-0129 was unanimously adopted.

Approved February 28, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-005 - AN ORDINANCE AUTHORIZING THE FREE CONVEYANCE OF LOT 226, LAKE AVENUE, UPPER DULUTH, TO THE SALVATION ARMY FOR TRANSITIONAL HOUSING AND SERVICES TO HOMELESS FAMILIES.

- - -

The meeting was adjourned at 7:24 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 14, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

The minutes of the city council meetings held on February 10, 14 and 28, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0314-01 Lee Christofferson, et al. (four signatures), submitting petition to pave the alley between Minneapolis and Allendale avenues from Wadena to Osakis streets. -- Assessor

- - -

REPORTS OF OFFICERS

05-0314-02 Assessor submitting:

(a) Affidavit of mailing of notice of informational meeting at 5:00 p.m. on Tuesday, March 15, 2005, and a Duluth City Council public hearing at 7:00 p.m. on Monday, March 28, 2005, both held in the City Council Chamber, Third Floor, City Hall, regarding the proposed 2006 street improvement program: Cody - Southwest 2, Lakeside - Central West, Morgan Park 3, Norton Park, Duluth Heights and Vernon Street. -- Clerk

(b) Letter of sufficiency of petition to pave the alley between Minneapolis and Allendale avenues running north and south from Wadena to Osakis streets. -- Received

05-0314-03 Purchasing agent submitting emergency order for mobile radio equipment. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

05-0314-04 Board of zoning appeals minutes of January 25, 2005, meeting. -- Received

05-0314-05 Commission on disabilities minutes of February 2, 2005, meeting. -- Received

05-0314-06 Heritage preservation commission minutes of December 14, 2004, meeting. -- Received

05-0314-07 Library board minutes of January 25, 2005, meeting. -- Received

05-0314-08 Planning commission minutes of February 8, 2005, meeting. -- Received

05-0314-09 Special assessment board minutes of February 8, 2005, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

KL Lewis endorsed the idea of a bud car running up and down the North Shore with the Duluth transit authority (DTA) to operate it. She also suggested that an inflatable structure be put up over the hockey rinks in the wintertime to upgrade the athletic facilities.

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Robert Johannessen explained that he had appealed the planning commission had denial of his request for front yard parking on his property and stated that he had not attended the council's appeal committee meeting as he thought it had been cancelled. He continued by saying that there are two other houses on his block that have identical properties and wondered why they were allowed to have front yard parking.

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RESOLUTION TABLED

Councilor Gilbert moved to remove Resolution 05-0079, granting an interim special use permit to Richard and Marcella Harteau to operate a temporary seasonal greenhouse at 1219 North 57th Avenue West, from the table, which motion was seconded and unanimously carried.

Resolution 05-0079 failed upon the following vote (Public Document No. 05-0314-10):

Yeas: Councilor Stover -- 1

Nays: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 7

Absent: Councilor Atkins -- 1

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MOTIONS AND RESOLUTIONS

BY COUNCILOR GILBERT:

WHEREAS, Richard and Marcella Harteau, 1219 North 57th Avenue West, have submitted to the city council an interim special use permit request to operate a temporary seasonal greenhouse on property legally described as Lots 1 and 2, Block 26, West Duluth; and

WHEREAS, said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its recommendation of conditional approval to the city council; and

WHEREAS, the city planning commission unanimously recommended conditional approval of the special use permit on January 11, 2005; the commission considered this matter again on January 26, revised its previous motion based on staff recommendation and unanimously recommended conditional approval of an interim special use permit; and

WHEREAS, the city council finds that the conditions contained in this resolution do not address the shortcomings identified by the city building official (reference Planning Commission File No. 04139).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth denies the request for an interim special use permit based on the findings that the current proposal does not qualify for a building permit. This is based on the requirements listed below:

(a) An accessible unisex bathroom is required;

(b) The greenhouse must be located at least 13 feet from the existing detached accessory building;

(c) At least 16 feet of parking area must be devoted exclusively to accessible parking.

Resolution 05-0175 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, and President Ness -- 7

Nays: Councilor Stover -- 1

Absent: Councilor Atkins -- 1

Approved March 14, 2005

HERB W. BERGSON, Mayor

CONSENT AGENDA

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

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

BY COUNCILOR STEWART:

RESOLVED, that Dodge of Burnsville, Inc., be and hereby is awarded a contract for furnishing and delivering two Dodge Durangos for the police department in accordance with specifications on its low specification bid of \$43,036, terms net 30, FOB destination, payable out of Capital Equipment Fund 250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-V504.

Resolution 05-0154 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

RESOLVED, that Superior Ford, Inc., be and hereby is awarded a contract for furnishing and delivering ten marked patrol vehicles for the police department in accordance with specifications on its low specification bid of \$206,535, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-V504.

Resolution 05-0155 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

RESOLVED, that Waste Management of Northern Minnesota be and hereby is awarded a contract for garbage/refuse removal at various city of Duluth buildings and locations as needed for year 2005 for the various departments and divisions in accordance with specifications at an estimated amount of \$61,600, terms net 30, FOB job site, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0168 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the 2:00 a.m. closing license for the following alcoholic beverage license for the period ending August 31, 2005:

Alpine Bar and Lounge, Inc. (Alpine Bar and Lounge), 1308 Commonwealth Avenue.

Resolution 05-0172 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following bottle club license by the liquor control commissioner for the period beginning April 1, 2005, and ending March 31, 2006, subject to departmental approvals and the payment of sales and property taxes:

Order of Owls, Nest #1200, 118 East Second Street.

Resolution 05-0173 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

WHEREAS, the 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 the 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 05-0174 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of George Hanson to the alcohol, gambling and tobacco commission for a term expiring on March 20, 2006, replacing Ronald McKinnon, who resigned, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Bergson of John A. Serre to the alcohol, gambling and tobacco commission for a term expiring on March 20, 2008, replacing William A. Carlson, is confirmed.

Resolution 05-0159 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Frank Jewell (at large) to the Duluth housing commission for a term expiring on September 30, 2007, is confirmed.

Resolution 05-0160 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Rick Minotte (District 3) to the parks and recreation commission for a term expiring on February 13, 2008, replacing Joseph Perfetti, who resigned, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Bergson of Elizabeth M. Mackay (District 5) to the parks and recreation commission for a term expiring on February 13, 2008, is confirmed.

Resolution 05-0161 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson to the commission on disabilities of Roberta Cich for a term expiring on November 1, 2007; Katherine E. Quistad for a term expiring on November 1, 2005; and Glenn A. Tridgell for a term expiring on November 1, 2006, replacing Valerie LaPorte, Rachel Scott and Billy T. Wirta, who resigned, are confirmed.

Resolution 05-0164 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of Aerial Lift Bridge supervisor, which were approved by the civil service board on March 1, 2005, and which are filed with the city clerk as Public Document No. 05-0314-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1075, \$4,174 to \$5,070.

Resolution 05-0169 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

WHEREAS, the administrative assistant has appointed Genevieve A. Stark as director of finance effective April 30, 2005, and the mayor has approved such appointment; and

WHEREAS, such appointment is subject to city council approval;

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby approves the appointment of Genevieve A. Stark as director of finance.

Resolution 05-0180 was unanimously adopted.

Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

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

(a) That portion of 43rd Avenue West, adjoining Lot 16, Block 71 and Lot 9, Block 72, Oneota Duluth, lying within 110 feet of Second Street;

(b) That portion of 44th Avenue West, adjoining Lots 8 and 16, Block 70 and Lots 1 and 9, Block 71, Oneota Duluth, lying within 161 feet of Second Street, subject to a utility easement as described on Exhibit B; and

(c) That portion of 45th Avenue West, adjoining Lot 16, Block 69, and Lot 9, Block 70, Oneota Duluth, lying within 113 feet of Second Street, retaining a utility easement over the westerly 50 feet of the vacated portion.

All lying southeasterly of a line drawn parallel with and 100 feet normally distant northwesterly from the original main tract centerline of the former Northern Pacific Railway and West Second Street, also known as Traverse 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, by a vote of 6-0-2, approved the vacation of said streets at its February 23, 2005, meeting, based on the finding that the city will have no future need for such rights-of-way, but will retain utility easements on 44th and 45th avenues West (reference Planning Commission File No. 05009).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the streets described above and as more particularly described as Exhibits A, B and C and identified as Public Document No. 05-0314-12(a).

RESOLVED FURTHER, that the following easements be retained:

(a) A utility easements within 44th Avenue West be retained as shown on Exhibit B, Public Document No. 05-0314-12(b);

(b) A utility easements within 45th Avenue West be retained as shown on Exhibit C, Public Document No. 05-0314-12(b).

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

Resolution 05-0156 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 41st Avenue East and alley easement between 40th Avenue East and 42nd Avenue East between Dodge Street and Peabody Street legally described as:

(a) 41st Avenue East adjoining Blocks 105 and 106, London Addition to Duluth;

(b) Alley easement in Blocks 105 and 106, London 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 found that said street and alley easement is useless for roadway purposes but necessary for utility and pedestrian purposes, based on the following findings:

(a) 41st Avenue East - the intersecting streets do provide adequate access and traffic circulation through the immediate neighborhood. There are existing underground gas and future utility needs as well as pedestrian use of the easement;

(b) The alley does not provide access to adjoining properties. There are existing overhead utilities; and

WHEREAS, the commission did approve, unanimously, the street and alley easement vacation petition at its February 23, 2005, meeting (reference Planning Commission File No. 05010).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the easement described above and as more particularly described on Public Document No. 05-0314-13.

RESOLVED FURTHER, that the center 24 feet (12 feet each side of the centerline) of 41st Avenue East be retained as a utility and pedestrian easement and that the full right-of-way of the alley, including the crossing of 41st Avenue, be retained as a utility easement.

RESOLVED FURTHER, 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 05-0157 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of easement for slopes and fills and condemnation for public alley purposes legally described as:

(a) The west 20 feet of Lot 190, Block 41, Duluth Proper Third Division, order for condemnation for public alley purposes recorded in the office of the register of deeds in Book 625 of Deeds, page 289, of the westerly 20 feet of Lot 190;

(b) The west 20 feet of Lot 190, Block 41, Duluth Proper Third Division, easement for slopes and fills on Fifth Alley from Tenth Avenue West to 13th Avenue West, recorded in the office of the register of deeds, in Book 29 of Miscellaneous, page 22; and

(c) Lot 192, Block 41, Duluth Proper Third Division, condemnation plat for easement for slopes on Fifth Street from Lake Avenue to 14th Avenue West recorded in the office of the register of deeds in and for the St. Louis County, Minnesota, in Book C of Plats, page 203; 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 found that said easements are useless for the purpose for which they were intended, based on the following finding:

The city of Duluth will not need these easements in the future as Fifth Street and 12th Avenue West as well as Fifth Street Alley are improved. All utilities are located in the adjacent rights-of-way; and

WHEREAS, the commission did approve, unanimously, the easement and condemnation vacation petition at its February 23, 2005, meeting (reference Planning Commission File No. 05011).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approve the vacation of the easements and condemnation described above, and as more particularly described on Public Document No. 05-0314-14.

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

Resolution 05-0158 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the U.S. department of transportation and the Minnesota department of transportation have made capital and operating funds available to the Duluth transit authority; and

WHEREAS, the Duluth transit authority has requested and the city of Duluth has committed the necessary local funding for the projects via the DTA's levy; and

WHEREAS, the DTA has completed the necessary state and federal requirements to qualify for the following grants in years 2004 and 2005:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Grant #	Year	Federal	State	Purpose
2005 Grants				
MN-90-2005	2005	\$ 941,708		Operating and small capital
MN-90-X999	2005	\$2,569,600		Bus replacement: ten large and three STRIDE
MN-03-9999		\$1,959,426		Medical ramp, west and CBD streetscapes, shelters, support equipment
MN-03-XXXX		?		Downtown revitalization
State operating			\$6,045,866	Operating
2004 Grants				
State operating			\$5,956,518	Operating
MN-90-X202		\$1,004,513		Operating

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the DTA request to accept operating grants and capital grants from the state of Minnesota and the federal government for the years 2004 and 2005 and apply for state and federal funds in 2005, as set out above.

Resolution 05-0134 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Bituminous be and hereby is awarded a contract for furnishing and delivering bituminous materials as needed for year 2005 for the maintenance and utility operations division in accordance with specifications on its low specification bid for a total of \$87,538.53, terms net 30, FOB picked up, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0165 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Blacktop be and hereby is awarded a contract for furnishing and delivering bituminous materials as needed for year 2005 for the maintenance and utility operations division in accordance with specifications on its low specification bid for a total of \$122,890.53, terms net 30, FOB picked up, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0166 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hoffman and McNamara Company be and hereby is awarded a contract for construction of tree planting for year 2004 street improvement project sites for the engineering division in accordance with specifications on its low specification bid of \$87,697, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0300, Object 5441.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Resolution 05-0176 was unanimously adopted.
Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to accept the donation of the ten foot wide street easements on either side of Middle Road west of Howard Gnesen Road in the form of those on file in the office of the city clerk as Public Document Nos. 05-0314-15(a)-(f) from the owners specified below in conjunction with the Cedar Ridge Estates Development at no cost to the city:

Public Document Number	Donating owner(s)
05-0314-15(a)	John J. and Linda J. Antella
05-0314-15(b)	Douglas M. McCorison
05-0314-15(c)	Terrence A. and Brenda A. Monson
05-0314-15(d)	Virginia H. Blais
05-0314-15(e)	Joanne E. Morrison
05-0314-15(f)	Gregory S. and Linda M. Sertich

Resolution 05-0181 was unanimously adopted.
Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

WHEREAS, emergency response to critical incidents, whether natural or manmade, requires integrated professional management; and

WHEREAS, unified command of such incidents is recognized as the management model to maximize the public safety response; and

WHEREAS, the national incident management system, herein referred to as NIMS, has been identified by the federal government as being the requisite emergency management system for all political subdivisions; and

WHEREAS, failure to adopt NIMS as the requisite emergency management system may preclude reimbursement to the political subdivision for costs expended during and after a declared emergency or disaster and for training and preparation for such disasters or emergencies.

NOW, THEREFORE, BE IT RESOLVED, that it shall be the public policy of the city of Duluth to adopt the NIMS concept of emergency planning and unified command. It shall further be the policy of the city of Duluth to train public officials responsible for emergency management.

Resolution 05-0171 was unanimously adopted.
Approved March 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1 to Grant Agreement No. 0RP98-30, A41583, a copy of which is on file in the office of the city clerk as Public Document No. 05-0314-16, with the state of Minnesota, department of natural resources, for improvements to the Hartley Nature Center, extending the term thereof through June 30, 2005.

Resolution 05-0170 was unanimously adopted.
Approved March 14, 2005
HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0189, by Councilor Stewart, authorizing a transfer of \$150,000 from the tourism tax capital improvements Fund No. 258 fund balance in part to the Lake Superior Center authority to pay the cost of permanent tanks and in part to Lake Superior Center for the payment of exhibit transportation costs and marketing costs associated with the exhibit known as *The Abyss*, was introduced for discussion.

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

John Ramos reviewed that the city has never turned the aquarium down when they have asked for money and urged the council not to approve their request for money this time. He continued saying the council needs to stop telling the citizens of Duluth it is their responsibility to go to the aquarium to make it solvent when this losing enterprise was started by a small group of wealthy individuals who have not made good on their pledges.

Councilor Stewart explained that this project proposed by the aquarium is an attempt to make attendance better by bringing a new attraction to the facility and bringing back repeat customers. He continued saying that the new board members at the aquarium are working hard to make significant improvements with the education component of the facility and to produce more revenue. Councilor Stewart reviewed that the state owns the building and should be involved in helping to support the facility. He challenged anyone to come up with a plan on how to close the building down.

Councilor Stover stated that the council needs to take a closer look at what the city's obligations are to the aquarium and what they legally can and can not do.

Councilor Little voiced concern that this new exhibit is the answer to make or break the success of the facility and stated it is still taxpayers' money even if the money is coming from the tourism tax fund.

Councilor Gilbert stated that the aquarium needs to be responsible and should go out and raise the money for themselves instead of relying on the city for the money. He questioned how the facility will be able to afford the additional maintenance costs of this new project and wondered if this is a long or short term display and what will happen if the display goes away and the aquarium is left with empty tanks.

President Ness reviewed that the \$150,000 is coming from the city's capital improvement portion of the tourism tax fund with the other half being matched by donations secured by the aquarium for a total of \$300,000. He continued saying that the aquarium needs to take this initiative to help save the facility and this is a constructive step to self sufficiency.

Resolution 05-0189 was adopted as follows:

BY COUNCILOR STEWART:

WHEREAS, Ripley Entertainment, Inc., has made available to the Lake Superior Center for lease an exhibit called *The Abyss*; and

WHEREAS, the Lake Superior Center will need to install permanent tanks to host this exhibit at a cost of \$118,000 and needs to have immediately at hand an additional \$32,000 toward the transportation and marketing of the exhibit; and

WHEREAS, the Great Lakes Aquarium task force, in its report, indicated that interesting and new exhibits are essential to solidifying and increasing the annual paid attendance at the Lake Superior Center.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to transfer from the Tourism Tax Capital Improvement Fund No. 258, the sum of \$118,000 to a special city of Duluth account and to allow Lake Superior Center authority, the owner of the facility, to draw down funds therefrom on condition that said funds be used by the authority solely and exclusively for the installation of permanent tanks in the changing exhibit room of the facility and to transfer the sum of \$32,000 to Lake Superior Center on the condition that said funds be used

by the center solely and exclusively to pay the cost of transporting and marketing the exhibit known as *The Abyss*.

Resolution 05-0189 was adopted upon the following vote:

Yeas: Councilors Johnson, Reinert, Stauber, Stewart and President Ness -- 5

Nays: Councilors Gilbert, Little and Stover -- 3

Absent: Councilor Atkins -- 1

Approved March 14, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0152, by Councilor Johnson, approving proposed amendments to the specifications for the civil service classification of utility operations leadworker, was introduced for discussion.

Councilor Gilbert moved to send the resolution back to administration, which motion was seconded and carried upon the following vote:

Yeas: Councilors Johnson, Gilbert, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Little and Stauber -- 2

Absent: Councilor Atkins -- 1

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BY COUNCILOR GILBERT:

RESOLVED, that Resolution 05-0069 which authorized a Section 108 loan agreement with the Housing and Redevelopment Authority of Duluth, MN (HRA), DEDA and developer is hereby repealed.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a Section 108 loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0314-17 with DEDA and the developer relating to property acquisition and demolition, public utility relocation and improvements to the adjacent alley thereon for the Fifth Street redevelopment housing project in the amount of \$594,000, payable from Fund 262, said authorization is subject to HUD's approval of said housing project.

FURTHER RESOLVED, that the city of Duluth hereby pledges \$148,500 in future CDBG funding to cover 25 percent of the Section 108 loan value as is required by HUD.

Resolution 05-0167 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

WHEREAS, in 1984, the city council passed Resolution 84-0795, supporting the rededication of Veterans' Evergreen Memorial Drive; and

WHEREAS, that portion of Trunk Highway 23 from Duluth to Brook Park has previously been dedicated as a memorial drive in honor of those from Duluth, St. Louis, Pine and Carlton counties in Minnesota and Douglas County in Wisconsin who served in World War I, World War II, Korean War and Vietnam War; and

WHEREAS, the men and women of our region of the United States have continued to serve with distinction in military combat wherever needed by our nation, and will continue to so serve.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth gives its full support to the rededication of Veterans' Evergreen Memorial Drive to honor those individuals from this region of the United States who gave military service to our country in World War I, World War II, Korean War, Vietnam War, Gulf War, Iraq War and all future military conflicts conducted by the government of the United States of America.

Resolution 05-0163 was unanimously adopted.

Approved March 14, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0162, by Councilor Stover, awarding contract to St. Joseph Equipment, Inc., for one wheel loader for the street maintenance division in the amount of \$117,957.39, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

05-006 - AN ORDINANCE AMENDING SECTION 50-49 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING APPEALS OF DECISIONS OF THE BOARD OF ZONING APPEALS.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-005 (9718) - AN ORDINANCE AUTHORIZING THE FREE CONVEYANCE OF LOT 226, LAKE AVENUE, UPPER DULUTH, TO THE SALVATION ARMY FOR TRANSITIONAL HOUSING AND SERVICES TO HOMELESS FAMILIES.

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

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The meeting was adjourned at 8:00 p.m.

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

- - -

ORDINANCE NO. 9718

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING THE FREE CONVEYANCE OF LOT 226, LAKE AVENUE, UPPER DULUTH, TO THE SALVATION ARMY FOR TRANSITIONAL HOUSING AND SERVICES TO HOMELESS FAMILIES.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed at no cost its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described, to The Salvation Army for transitional housing and services to homeless families:

Lot 226, Lake Avenue, Upper Duluth, Section 2.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: May 1, 2005)

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

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Atkins -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 14, 2005
Approved March 14, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 28, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0328-01 A&L Properties, by John Anunti, submitting petition to vacate the utility easement that was part of the rearrangement of Blocks 7 and 8, Industrial Division. -- Assessor

05-0328-02 Daniel Stocke, et al. (two signatures), submitting petition to reclassify from S to R-3 property described as the northeast quarter of the northwest quarter of Section 29, T50N, R14W (010-2710-06575). -- Assessor

05-0328-03 Sugarloaf Enterprises, LLC, by William Burns, attorney, submitting petition to reclassify from S to R-1 property described as the southwest quarter of the southeast quarter and the northwest quarter of the southeast quarter, excepting the northerly 400 feet of said northwest quarter of southeast quarter, all in Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian. -- Assessor

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REPORTS OF OFFICERS

05-0328-04 Assessor submitting:

(a) Affidavits of mailing of notices of:

(1) Public hearing on April 11, 2005, at 7:00 p.m. in the City Council Chambers, third floor, City Hall, regarding the following street improvements:

(A) Third Street from Carlton Street to 21st Avenue West;

(B) Third Street from 19-1/2 to 21st avenues West;

(2) Special assessment board meeting on March 22, 2005, at 3:00 p.m. in Room 106A, City Hall, regarding the proposed construction of sanitary sewer and watermain for West Palm from Robin to Teak avenues. -- Clerk

(b) For confirmation the assessment roll levied to defray the assessable portion of the 2004 sidewalk repair program, Contract 5403 (assessable - \$11,695.32);

(c) Letters of sufficiency of petitions to:

(1) Construct an eight inch watermain in Surrey Avenue (90th Avenue East) from 100± feet northwesterly of the northwesterly line of Seafield Street to Old North Shore Road, and in Old North Shore Road from 100± feet southwesterly of the centerline of Cant Road to 1,926± feet northeasterly of the centerline of Surrey Avenue;

(2) Reclassify from R-1-b with CUP overlay to C-5 Outlot C and part of Outlot D (except the easternmost 100 feet), Home Depot Duluth Addition. -- Received

05-0328-05 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from DM&IR Veteran Employees' Association on May 26, 2005 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0328-06 American Indian Commission submitting letter regarding the proposed Minnesota State Legislature bills H.F. No. 59 and S.F. No. 181 regarding the renaming of Bridge No. 6313 on Minnesota State Highway No. 23 to Bi-Aus-Wah Bridge to honor that individual and all Native American veterans of the western hemisphere. -- Received

05-0328-07 Building appeal board minutes of July 14, 2004, meeting. -- Received

05-0328-08 Duluth human rights commission minutes of February 9, 2005, meeting. -- Received

05-0328-09 Environmental advisory council minutes of February 2, 2005, meeting. -- Received

05-0328-10 Heritage preservation commission minutes of January 25, 2005, meeting. -- Received

05-0328-11 Parking commission minutes of February 8, 2005, meeting. -- Received

05-0328-12 Planning commission minutes of: (a) February 16; (b) February 23, 2005, meetings. -- Received

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At this time, 7:02 p.m., President Ness announced that the public hearing regarding the 2006 street improvement program (SIP) would begin.

Mike Metso, city engineer, reviewed the 12 year history of the SIP and the specifics of the proposed 2006 program.

Ron Krumme questioned: why this Lakeside area is being done; why property owners' rights are different with regard to sections 61 and 62 of the Charter as it relates to this project; whether this project is essential for public convenience or safety; whether it has to be done right now; why, under Section 61, is there no hearing before the special assessment board and he requested that if this project cannot be tabled, that it be done under Section 62.

Joan Altieri expressed concern that the wording in Section 61 of the Charter refers to highways and that this area is a residential street, not a highway.

Administrative Assistant Winson explained that this project is being done under Section 61 of the Charter because the council can order the project to be done with only approximately 25 percent of the cost being assessed to the property owners and that if the project were done under Section 62, the cost to the property owners would be much higher, if the total cost of the project, would be assessed. He further noted that the legal interpretation is that the term "streets" and "highways" are interchangeable under Minnesota law.

Mr. Metso explained that the intent is to work up hill to insure stormwater and utility system capacity and that perspectives of street condition, geography and utility system are taken into consideration.

At this time, 7: 20 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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Councilor Stauber moved to suspend the rules to consider Resolution 05-0198, by Councilor Stover, ordering the improvement known as the 2006 street improvement program pursuant to Section 61(b) of the Home Rule Charter of the city of Duluth at an estimated cost of \$4,548,100, at this time, which motion was seconded and unanimously carried.

Councilors discussed at length the aspects of the SIP and a state aid street in the Duluth Heights area.

Resolution 05-0198 was adopted as follows:

BY COUNCILOR STOVER:

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. 05-0328-26 on file with the office of the city clerk; that the costs of said improvement estimated at \$4,548,100 shall be paid from the Street Improvement Fund 0440 and that one-fourth or less of said costs be levied against the property specifically benefitted by said improvements.

FURTHER RESOLVED, that the engineering staff shall meet and confer with interested members of each neighborhood involved in the program to gather public input and address public concerns involving various street design elements including but not limited to street width, boulevard design and width, tree removal and replacement, driveways and traffic patterns.

Resolution 05-0198 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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At this time, 7:40 p.m., President Ness announced that the public hearing regarding the 2006 qualified allocation plan (QAP) would begin.

Keith Hamre, community development division manager, reviewed what the QAP is, how credits are awarded and what the primary changes are.

Rick Ball, executive director of the housing and redevelopment authority, expressed support for funding the HOPE VI project by means of amending the plan to give the project a 50 point preference versus a 35 point preference.

Gita Sweeney, representing TCG Development Services, developers of the HOPE VI project, and Pam Kramer, program director for Local Initiatives Support Corporation, expressed further support for the recommendation presented by Mr. Ball.

At this time, 7:58 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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Councilor Gilbert moved to suspend the rules to consider Resolution 05-0184, approving 2006 low income housing tax-credit qualified application plan, at this time, which motion was seconded and unanimously carried.

Councilor Reinert moved to amend the agreement (Public Document No. 05-0328-25) in Resolution 05-0184, in Subparagraph xi. of Paragraph a. of Section 11.1 thereof by striking the number "35" therefrom and inserting the number "50" therefore, which motion was seconded and unanimously carried.

Resolution 05-0184, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

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 2006 LIHTCs in an amount to be announced by the Minnesota housing finance agency in early 2006; and

WHEREAS, in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, a qualified allocation plan for 2006 (the plan) setting forth criteria governing the award of the city's LIHTCs has been prepared; and

WHEREAS, the plan was available for review and written comments by the general public and a public hearing was held on March 28, 2005.

NOW, THEREFORE, BE IT RESOLVED, that the 2006 city of Duluth low income housing tax credit qualified allocation plan, on file in the office of the city clerk as Public Document No. 05-0328-25 is hereby approved.

Resolution 05-0184, as amended, was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Sara Hendrickson voiced support for the reduction of the deer population by bow hunting, citing that she has been treated for lyme disease and that this is a public safety/health issue. She noted that there should also be a ban on feeding deer because there are herds that come into yards where they are being fed.

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Sean Bell commented that college students should have been considered for participation on the comprehensive planning committee. He noted that one of the major issues is housing, particularly student housing.

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Dave Barschdorf felt that the wishes of the general public have not been listened to with cuts in police, fire and public works and the approval of funding for the Great Lakes Aquarium. He felt that the aquarium should be sold to a private party that would change it over to a restaurant. On another issue, he felt that vehicles should be towed at midnight if they have not been moved.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

(a) Sidewalk repairs in 2004 (Contract #5403 - assessable amount - \$11,695.32); is hereby confirmed.

Resolution 05-0191 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Duncan Parking Technologies be and hereby is awarded a contract for furnishing and delivering parking meter security locks for the city treasurer's division, terms net 30, FOB destination, payable out of Fund 100, Department/Agency 700, Organization 1407, Object 5406, in the amount of \$19,141.25.

Resolution 05-0204 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Environmental Systems Research Institute (ESRI) be and hereby is awarded a contract for furnishing GIS software and license for the MIS division in accordance with specifications on its low specification bid of \$14,590.19, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0206 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson of Glenn D. Peterson and Kelly Ravenfeather and the appointments of Brenda S. Denton and Annette Strom, replacing Maureen DeGrio and Judith Hermans, to the sister city commission for terms expiring on March 30, 2008, are confirmed.

Resolution 05-0182 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

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. 05-0328-13 to the low-income housing tax credit program joint powers agreement with the Minnesota housing finance agency (MHFA) extending the term thereof.

Resolution 05-0183 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the southerly one foot of East Fourth Street and the easterly one foot of Fifth Avenue East legally described as:

(a) The southerly one foot of the East Fourth Street right-of-way adjoining Lots 82, 84 and 86, Duluth Proper First Division, East Fourth Street;

(b) The easterly one foot of the Fifth Avenue East right-of-way adjoining Lot 82, Duluth Proper First Division, East Fourth 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 unanimously approved the easement vacation petition at its regular meeting of March 8, 2005 (reference Planning Commission File No. 05012).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above and as more particularly described on Public Document No. 05-0328-14.

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.

Resolution 05-0188 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth has entered into agreements for the implementation of the HUD-funded community development program; and

WHEREAS, the city of Duluth has certified compliance of the community development program with Federal Regulations 24 CFR 570.611 and 24 CFR 92.356; and

WHEREAS, the city of Duluth desires to continue HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth adopts the conflict of interest policy (Public Document No. 05-0328-15) in conformance with the aforementioned federal regulations.

Resolution 05-0199 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 69 percent of the abutting property to construct a permanent alley in Minneapolis Alley from Wadena Street to Osakis Street;

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 05-0185 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Duluth Steam District No. 2, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0328-16, for the provision of water service to the district.

Resolution 05-0187 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into a agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0328-17 with the South St. Louis County soil and water conservation district for the implementation of a sediment collection demonstration project at a cost of not to exceed \$5,000; payable from Special Revenue Fund 210-3144-5319.

Resolution 05-0190 was unanimously adopted.

Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement in substantially the form of that on file in the office of the city clerk as Public Document No. 05-0328-28 with Terry T. Miller for the lease of approximately 1,800 square feet of warehouse space in a building located at 1617 South Street for a term of six months at a cost of not to exceed \$2,400, payable from General Fund 100-500-2560-5419.

Resolution 05-0200 was unanimously adopted.

Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering one Kent hydraulic hammer for the utility operations division in accordance with specifications on its low specification bid of \$27,877.44, terms net 30, FOB destination, \$11,150.98 payable out of Water Fund 510, Department/Agency 500, Organization 1905, Object 5580, \$5,575.48 payable out of Gas Fund 520, Department/Agency 500, Organization 1905, Object 5580 and \$11,150.98 payable out of Stormwater Fund 535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0203 was unanimously adopted.

Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and St. Louis County for the reconstruction of Woodland Avenue between Anoka Street and Arrowhead Road, said agreement filed as Public Document No. 05-0328-18. The city's cost in this project, which is estimated to be \$147,066.20, \$2,500.00 coming from Fund 0510, Agency 500, Object 1905, Organization 5533, and \$144,566.20 from Fund 0530, Agency 500, Object 1905, Organization 5533.

RESOLVED FURTHER, that the plans and specifications prepared by St. Louis County for the reconstruction of Woodland Avenue, city of Duluth Project Number 0358TR, are hereby approved.

Resolution 05-0207 was unanimously adopted.

Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT Agreement No. 87736R with the state of Minnesota for the construction of utilities and stormwater ponds in conjunction with the reconstruction of Trunk Highway 53 (Trinity Road) from Piedmont Avenue to Mall Drive within the corporate limits of Duluth and constructed as State Project No. S.P. 6915-125 and City Project No. S.A.P. 118-010-12; said agreement filed as Public Document No. 05-0328-19(a). Under the agreement, the city shall contribute \$1,128,090.21 which shall be paid as follows: \$738,364.21 from Water Fund 0510, Object 5533; \$384,578.24 from Sewer Fund 0530, Object 5533; and \$5,147.76 Stormwater Fund 0535, Object 5533.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT agreement No. 87737R with the state of Minnesota and St. Louis County for the replacement of traffic control signals and the installation of street lighting and signage on Trunk Highway 53 (Trinity Road) at Arlington Avenue (C.S.A.H. 90), and on Trunk Highway 53 (Trinity Road) at Anderson Road within the corporate limits of Duluth and constructed as State Project No. S.P. 6915-125, County Project No. S.A.P. 69-690-15, and City Project No. S.A.P. 118-010-24 (#0351TR); said agreement filed with the city clerk as Public Document No. 05-0328-19(b). Under

the agreement, the city shall contribute \$28,350 payable from the permanent improvement fund, to be reimbursed from the municipal state aid fund. Under the agreement the state, county and city shall participate in the construction costs and the state and city will participate in the maintenance and operation costs of said traffic signals.

Resolution 05-0208 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0122 the council did request the administration to prepare plans and specifications for the construction of water and sewer mains in West Palm Street from Robin Avenue to 83 feet west of centerline of Teak Avenue at an estimated cost of \$93,700; 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 benefitting 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 \$93,700, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0483WA and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

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 05-0210 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct an eight inch watermain in Surrey Avenue (90th Avenue East) from 100± feet northwesterly of the northwesterly line of Seafield Street to Old North Shore Road, and in Old North Shore Road from 100± feet southwesterly of the centerline of Cant Road to 1,926± feet northeasterly of the centerline of Surrey Avenue (90th Avenue East) (City Project No. 0484WA).

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of the city 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 05-0211 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

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. 05-0328-20, with Volt Tech, Inc., for the installation, operation and removal of surge suppression/voltage regulation equipment in one of the city's sewer pumping stations on a test trial basis at no cost to the city.

Resolution 05-0215 was unanimously adopted.

Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that Stratus Computer Company be and hereby is awarded a contract for furnishing six months of maintenance covering computer hardware and software during the year 2005 for the police department in accordance with specifications at an estimated amount of \$14,274, terms net 30, FOB destination, payable out of General Fund 100, Department/Agency 200, Organization 1610, Object 5404.

Resolution 05-0201 was unanimously adopted.
Approved March 28, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, containing substantially the terms of that contract on file with the city clerk as Public Document No. 05-0328-21, between the city and the state of Minnesota, sixth judicial district, court administrator, whereby the city will join the Minnesota court information system (MNCIS).

Resolution 05-0205 was unanimously adopted.
Approved March 28, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with Independent School District No. 709, a copy of which is filed as Public Document No. 05-0328-22, for the use of the Wade Municipal Stadium and Wheeler fields by Denfeld High School, for consideration of \$1,650 in 2005, with an option to renew the contract in 2006 and 2007. These funds shall be deposited into Fund 210-030-3190-4625.

Resolution 05-0192 was unanimously adopted.
Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with Lake Superior Girls' Fast Pitch, a copy of which is filed as Public Document No. 05-0328-23, for the use of the Wade Municipal Stadium fields and Wheeler fields, for consideration of \$2,725 for 2005 and \$3,500 per year for 2006 and 2007. These funds shall be deposited into Fund 210-030-3190-4625-03.

Resolution 05-0193 was unanimously adopted.
Approved March 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized and directed to execute a facility use agreement with College of St. Scholastica, a copy of which is filed as Public Document No. 05-0328-24, for the use of the Wade Municipal Stadium, for consideration of \$5,000 per year for 2005, 2006 and 2007. These funds shall be deposited into Fund 210-030-3190-4625-04.

Resolution 05-0194 was unanimously adopted.
Approved March 28, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

BE IT RESOLVED, that the proper city officials are authorized to do the acts necessary and execute the appropriate documents, to receive and accept on behalf of the city from Lexington insurance company in settlement of amounts due for fire damage to the structure of Peterson

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Arena, except contents, under Policy No. 1282296, the amount of \$682,284; to be deposited in Self Insurance Fund 0610.

Resolution 05-0197 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR STEWART:

RESOLVED, that the Duluth City Council hereby memorializes the Duluth delegation to the state legislature to secure passage of special legislation authorizing the Duluth City Council to issue an intoxicating on sale liquor license for use on premises known as the Enger Golf Course.

Resolution 05-0221 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, the Duluth City Council approved on October 28, 2002, Resolution 02-0655(b), adopting a portion of the Bayfront master plan, specifically, that portion providing area at the head of Slip 2 for a living water garden; and

WHEREAS, Sweetwater Alliance has approached the city council about the need for more space for this project and has proposed to extend this project along the east side of Slip 2; and

WHEREAS, it is recognized that this proposed change in scope needs to be considered in context with current and potential future development at Bayfront; and

WHEREAS, Sweetwater Alliance has raised the matching funds for a Minnesota coastal grant for the design of a living water garden and timing is of essence.

NOW, THEREFORE, BE IT RESOLVED, that the city council desires to consider the requested expansion of the living water garden and requests that the administration review the expanded area proposal for the living water garden along the east side of Slip 2 and provide the council with a report of the effects of the proposed expansion on current and potential future development of Bayfront by April 20, 2005.

Resolution 05-0219 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(a) of the Home Rule Charter of the city of Duluth, the city council hereby orders the construction of approximately 120 feet of sanitary sewer in 22nd Avenue West beginning at Sixth Street Alley and extending northerly as part of the Lincoln Park 2005 SIP project; that the costs of said improvement estimated at \$12,000 shall be paid from the Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0347TR, and that said costs be levied against the property specifically benefitted by said improvements.

Resolution 05-0178 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 61(a) of the Home Rule Charter of the city of Duluth, the city council hereby orders the construction of approximately 220 feet of sanitary sewer in 22nd Avenue West beginning 100 feet south of West Fifth Street and extending northerly, as part of the Lincoln Park 2005 SIP project; that the costs of said improvement estimated at \$22,000 shall be paid from the Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0347TR, and that said costs be levied against the property specifically benefitted by said improvements.

Resolution 05-0179 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Chester Park Drive Alley from 18th Avenue East to Kent Road (City Job No. 0477TR) and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting 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 \$85,000, payable from the Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0477TR; \$50 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a ten year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0186 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0209, by Councilor Stover, ordering the construction of an eight inch sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue (City Job No. 0482SN) and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue (City Project No. 0482WA) at an estimated cost of \$83,700, was introduced for discussion.

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

Sheila Olmstead stated that she has been assessed for improvements four times in the last seven years. She stated that the current assessment would be an extreme financial hardship for her and requested that she not be assessed for this sewer, which she does not need.

Mr. Winson reviewed that the special assessment board discussed this and felt that since a valid sufficient petition was submitted, the council should act on it.

Councilor Little moved to table the resolution to see what solution the administration can come up with to make this work and still be fair to Ms. Olmstead, which motion was seconded and unanimously carried.

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BY COUNCILOR LITTLE:

WHEREAS, the bureau of justice assistance, office of justice programs, U.S. department of justice, supports the law enforcement, courts, corrections, treatment, victim services, technology and prevention initiatives that strengthen the nation's criminal justice system; and

WHEREAS, the Edward Byrne memorial justice assistance grant program allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions; and

WHEREAS, the city of Duluth and St. Louis County would be joint applicants and share the proceeds of the grant; and

WHEREAS, the city of Duluth would receive \$54,744 dollars of the total grant amount to be used to purchase equipment, firearms and provide training;

RESOLVED, that the proper city officers are authorized to apply for said grant and to execute any documents required to be executed to accept such grant. Such funds to be deposited in Fund 215, Agency 200, Organization 2277.

FURTHER RESOLVED, that the proper city officials are authorized to enter into a memorandum of understanding, a copy of which is on file in the office of the city clerk as Public

Document No. 05-0328-27, with St. Louis County to establish each party's share of the grant proceeds.

Resolution 05-0220 was unanimously adopted.

Approved March 28, 2005

HERB W. BERGSON, Mayor

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Resolutions 05-0195 and 05-0196, by Councilor Reinert, authorizing a golf professional agreement for operation of Enger Park Golf Course with Anderson Enterprises, and Lester Park Golf Course with Paul Schintz, Inc., respectively, for up to \$90,000 in compensation, plus operating expenses, were introduced for discussion.

Councilor Stauber moved to table the resolutions so a committee meeting could be held regarding the issue, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-008 - AN ORDINANCE AUTHORIZING SALE OF LOTS IN ONEOTA DULUTH AND IN THE WEST DULUTH SEVENTH DIVISION (BOX FACTORY SITE) FOR THE SUM OF \$45,000.

- - -

BY COUNCILOR STOVER

05-007 - AN ORDINANCE AUTHORIZING AGREEMENT TO SELL THE LAKESIDE TOOL HOUSE TO COMMUNITY CONNECTIONS OF MINNESOTA, INC., FOR \$81,000.

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

Scott Marshall, representing the Lakeside-Lester Park Business Association, voiced the support of the group for this sale because it is a great fit for the neighborhood and follows the District 9 comprehensive plan.

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The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

05-006 - AN ORDINANCE AMENDING SECTION 50-49 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING APPEALS OF DECISIONS OF THE BOARD OF ZONING APPEALS.

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

John Morrision, president of the board of zoning appeals, expressed support for the tabling and sending of the ordinance to the planning commission for review.

Councilor Stewart moved to table the ordinance, so that it could be presented and reviewed by the planning commission, which motion was seconded and unanimously carried.

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COUNCILOR QUESTIONS AND COMMENTS

Councilor Atkins requested that the administration respond to the possibility that Duluth could be the site for an air cargo facility, given the space limitations at the Minneapolis-St. Paul International Airport.

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The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 11, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meeting held on March 14, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0411-01 Community Connection of Minnesota, Inc., et al. (20 signatures), petition to reclassify from R-1 to C-1 Block 93, Lots 1, 2 and 3 in London Addition. -- Assessor

05-0411-02 Georgia Johnson, et al. (11 signatures), petition to vacate the alley in Block 3 and the alley adjacent to Lots 1 and 30, Block 3, Norton-Fairmont Park Division. -- Assessor

05-0411-03 AFSCME Council 5 communication regarding the proposed amendments to the civil service classification of utility operations leadworker (05-0152R). -- Received

05-0411-04 University of Minnesota Duluth acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9713 on January 3, 2005. -- Received

05-0411-22 The following submitting communications regarding the proposed reclassification of property located east of Skyline Parkway and south of Earl Street (05-009-O): (a) Brian L. Fredrickson; (b) Patti Jo Hansen (supported by three signatures). -- Received

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REPORTS OF OFFICERS

05-0411-05 Assessor:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, April 12, 2005, at 3:30 p.m. in Room 106A, City Hall, regarding the proposed construction of alley in Minneapolis Alley from Wadena Street to Osakis Street. -- Clerk

(b) Letters of sufficiency of petitions to:

(1) Reclassify from R-1 to C-1 Lots 1-4, Block 93, London Addition;

(2) Reclassify from S to R-3 northeast quarter of northwest quarter of Section 29, Township 50, Range 14;

(3) Reclassify from S to R-1 property described as the southwest quarter of the southeast quarter and the northwest quarter of the southeast quarter, excepting the northerly 400 feet of said northwest quarter of southeast quarter, all in Section 11, Township 49 North, Range 15 West of the Fourth Principal Meridian;

(4) Vacate the alley in Block 3, and the alley adjacent to Lots 1 & 30, Block 3, Norton Fairmont Park Division;

(5) Vacate the utility easement that was part of the rearrangement of Blocks 7 and 8, Industrial Division. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0411-06 Civil service board minutes of: (a) January 4; (b) February 8, 2005, meetings. -- Received

05-0411-07 Duluth airport authority balance sheet of January 31, 2005. -- Received

05-0411-08 Heritage preservation commission minutes of February 22, 2005, meeting. -- Received

05-0411-09 Library board minutes of February 22, 2005, meeting. -- Received

05-0411-10 Special assessment board minutes of: (a) March 8; (b) March 22, 2005, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dr. Robert Powless invited the public to a fund raiser for the Red Lake Reservation on April 13 at Washington Center.

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City Engineer Metso stated that the city has received a merit award for outstanding performance on the reconstruction of the historic granitoid streets on East Seventh Street along with several city employees and citizens. He acknowledged Carolyn Sundquist for all of her work on this project.

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At this time, 7:13 p.m., President Ness announced that the public hearing regarding the West Third Street improvement project would begin.

Mr. Metso reviewed the project and the assessment process for residential and commercial property owners on municipal state aid (MSA) streets.

Jeff Bachke and Matt Wisted, representing Zion Lutheran Church; Bob LaFlamme, representing Bethany Lutheran Church; Father Anthony Wablanski, representing Holy Family Catholic Church and Randy Skadsberg, a commercial owner and representing Holy Trinity Lutheran Church, requested that the city change the assessment of churches from commercial to the residential rate as the churches are struggling financially and they do not want to shut their doors, as many of the churches have outreach programs that are needed in the neighborhood. They also questioned if churches meet the definition of commercial.

President Ness questioned how the council could get the assessment policy changed for churches.

Administrative Assistant Winson replied that the special assessment board (SAB) is meeting soon and that he will have members review this issue so that he can give an historical review to the council.

Garry Krause reviewed that some of the businesses on the street have limited access to the street so the city should make arrangements so that the construction will not hinder those businesses during the year.

Denis Sauve, homeowner and business owner on Third Street, voiced concern that construction delays will be a major concern as he used to have his business in Canal Park and that it was closed down because of the construction of the streets in the Canal Park area. He continued saying that because the project will be a year to a year and a half, signage directing the public on how to get to the local businesses during construction would be very helpful to both the businesses and the public.

Kenneth Newman expressed his appreciation of the upcoming new street and better lighting but voiced concern about access to the front door of his business.

At this time, 7:40 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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Councilor Reinert moved to consider Resolution 05-0246 at this time, which motion was seconded and unanimously carried.

Resolution 05-0246, by Councilor Stover, ordering the improvement of Third Street from 19-1/2 Avenue West to Carlton Street (City Job No. 0123TR) at an estimated cost of \$3,200,000, was introduced for discussion.

Councilor Atkins requested the administration to present a plan for access to businesses and residents during construction to the council.

Mr. Metso stated that provisions will be included in the contracts with the vendor to ensure that the street in front of the businesses will not be out of service for the whole year.

President Ness urged the administration to see that churches are classified as residential for the assessment portion of the project.

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

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The regular order of business was resumed.

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Dave Barschdorf suggested that the city privatize the aquarium and the city golf courses and use the money for the streets and other public services. He also voiced frustration that the parking in the alley by his house has not been taken care of.

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RESOLUTIONS TABLED

Councilor Reinert moved to remove Resolutions 05-0195 and 05-0196, authorizing a golf professional agreements for operation of Enger Park Golf Course with Anderson Enterprises, and Lester Park Golf Course with Paul Schintz, Inc., respectively, for up to \$90,000 each in compensation, plus operating expenses, from the table, which motion was seconded and unanimously carried.

Mr. Winson stated that there may be an additional amendment to these contracts clarifying that they are to be independent contractors and not city employees.

Resolution 05-0195 was adopted as follows:

BY COUNCILOR REINERT:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract between the city of Duluth and Anderson Enterprises, substantially the same as that on file with the clerk as Public Document No. 05-0411-11, for services as a golf professional in operating Enger Park Golf Course, for compensation of \$45,000, possible performance incentive payments of \$45,000, and reimbursement of operating expenses for the year 2005; payment to be made from Fund 503, Department 400, Object 5310.

Resolution 05-0195 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0196 was adopted as follows:

BY COUNCILOR REINERT:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract between the city of Duluth and Paul Schintz, Inc., substantially the same as that on file with the clerk as Public Document No. 05-0411-12, for services as a golf professional in operating Lester Park Golf Course, for compensation of \$45,000, possible performance incentive payments of \$45,000, and reimbursement of operating expenses for the year 2005; payment to be made from Fund 503, Department 400, Object 5310.

Resolution 05-0196 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0411-13 with Northland Constructors of Duluth, LLC, and M&I Marshall & Ilsley Bank for the deposit and payment of funds held in escrow in lieu of retainage on construction contracts as provided for in Minnesota Statutes Section 15.73.

Resolution 05-0228 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor licenses, subject to departmental approvals with any specific restrictions:

Hermantown Volunteer Fire Department, 4015 Airpark Boulevard, for April 23, 2005, with Ronald Minter, manager.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

College of St. Scholastica, 1200 Kenwood Avenue, for April 29, 2005, with Luke Moravec, manager.

Resolution 05-0230 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the 2:00 a.m. closing license for the following alcoholic beverage license for the period ending August 31, 2005:

O'Gilby's, Inc. (O'Gilby's Bar), 511 East Fourth Street.

Resolution 05-0231 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2005, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Fitger's Wine Cellars, LLC (Fitger's Wine Cellars), 600 East Superior Street, #117, transferred from Fitger's Wine Cellars, LLC (Fitger's Wine Cellars), 600 East Superior Street, #213.

Resolution 05-0232 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the Ruffed Grouse Society, American Association of University Women, Duluth Art Institute and Scleroderma Foundation, Minnesota Chapter, have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

WHEREAS, the Duluth city council has received copies of said exemption applications to the Minnesota gambling control board and has 60 days in which to present a resolution to said Minnesota gambling control board objecting to the exemption applications; and

WHEREAS, the city council approves of the exemption applications and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth city council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Ruffed Grouse Society, American Association of University Women, Duluth Art Institute and Scleroderma Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 05-0237 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the issuance of the following on sale intoxicating liquor license and on sale Sunday license for the period beginning September 1, 2005, and ending August 31, 2006, subject to departmental approvals and the payment of sales and property taxes:

Club Blue Moon Restaurant, Inc. (Blue Moon), 220 West Superior Street, with Bryan Flaherty, president and 50 percent stockholder, and Nick Patronas, treasurer and 50 percent stockholder.

Resolution 05-0244 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility operations leadworker, which were approved by the civil service board on November 2, 2004, and which are filed with the city clerk as Public Document No. 05-0411-14, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 32, \$3,620 to \$4,311 per month.

Resolution 05-0152 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson of Kerry Gauthier, William Jackson and Sally Spellerberg to the Duluth human rights commission for terms expiring on April 20, 2008, are confirmed.

Resolution 05-0222 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Wallace Pfister (District 2) for a term expiring on March 1, 2008, to the community development committee, is confirmed.

RESOLVED FURTHER, that the appointments of Lenard Sheets (District 5), replacing Steve Sydow, for a term expiring on March 1, 2008, and Judy Harper (at large), replacing Anthony Yung who resigned, for a term expiring on March 1, 2007, to the community development committee, are confirmed.

Resolution 05-0247 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers are hereby authorized to purchase the below-described property in St. Louis County, Minnesota, from Mary L. Anderson for the proposed residential facility for chronic alcoholics for the sum of \$90,000, payable from 262-020-5434-CD02CD-Hous-HS05:

Lots 44, 46 and 48, West Third Street, Duluth Proper First Division.

Resolution 05-0242 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of the contract on file in the office of the city clerk as Public Document No. 05-0411-15 with, and accept funds from, the Minnesota department of employment and economic development to provide services under Title I of the Workforce Investment Act, the Minnesota youth program services, Minnesota state dislocated worker program services and the older American program as defined in the local workforce investment plan, for the term beginning April 1, 2005, and ending March 31, 2008. Program funds will be accepted upon receipt of notices of funds available. For Title I Workforce Investment Act, Minnesota youth program services and Minnesota state dislocated worker program services funds will be deposited into and paid from Fund 268. For older American program, funds will be deposited into and paid from Fund 270.

Resolution 05-0213 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 05-0411-16, with, and accept funds from, St. Louis County to provide Minnesota family investment programs and diversionary work program employment and training services, in the amount of \$1,084,387 for the period January 1, 2005, to December 31, 2005. Monies received under this agreement shall be deposited in Fund 268.

Resolution 05-0216 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that Mayor Herb Bergson is hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 05-0411-17, with, and accept fund from, the Minnesota jobs skills partnership for a low income worker training grant in an amount not to exceed \$99,062, for the period July 1, 2005, to June 30, 2007.

FURTHER RESOLVED, that monies received under this agreement shall be deposited into and payable from Fund 0268.

Resolution 05-0217 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 05-0411-18, with, and accept funds from, the Duluth housing and redevelopment authority to provide administrative services in connection with a low income worker training grant in an amount not to exceed \$7,700 for the period July 1, 2005, to June 30, 2007.

FURTHER RESOLVED, that monies received under this agreement shall be deposited into and payable from Fund 0268.

Resolution 05-0218 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for wastewater collection system and street improvements in Morgan Park - Phase II for the engineering division in accordance with specifications on its low specification bid of \$594,289.05 terms net 30, FOB job site, \$520,002.92 payable out of Street Improvement Fund 440, Department/Agency 038, Object 5530, and \$74,286.13 payable out of Sewer Utility Fund 530, Department/Agency 500, Organization 1905, Object 5533.

Resolution 05-0212 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Aspen Equipment, Inc., be and hereby is awarded a contract for furnishing and delivering one 125 h.p. diesel brush cutter for the forestry division in accordance with specifications on its low specification bid of \$33,436.30, terms net 30, FOB destination,

payable out of Capital Equipment Fund 250, Department/Agency 015, Organization 2005, Object 5580, Project #CE250-V510.

Resolution 05-0227 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Ready Mix, Inc., be and hereby is awarded a contract for furnishing and delivering Class 5 gravel, crushed rock and washed sand as needed during year 2005 for the various utility operation and street maintenance operation divisions in accordance with specifications at an estimated amount of \$57,468.56, terms net 30, FOB job sites, payable out of various funds, departments/agencies, organizations and objects.

Resolution 05-0249 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

WHEREAS, the state of Minnesota, office of justice programs, administers the Edward Byrne memorial grant program, a federal formula grant program funded by the United States department of justice, bureau of justice assistance, and created by the Anti-Drug Abuse Act of 1988 to provide funds to assist states and local units of government in carrying out specific programs that offer a high probability of improving the functioning of the criminal justice system and enhancing drug control efforts; and

WHEREAS, the city of Duluth applied for and has been awarded program funds; and

WHEREAS, the program requires the city to contribute \$49,215 in matching funds;

RESOLVED, that the proper city officers are authorized to accept said grant funds and to execute the grant agreement to be substantially in the form of Public Document No. 05-0411-19 on file in the office of the city clerk. Such funds to be deposited in Fund 215, Agency 200, Organization 2256.

FURTHER RESOLVED, that the proper city officers are authorized to obligate up to \$49,215 in matching funds, payable from Fund 100, Agency 200, Organization 1620.

Resolution 05-0223 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

WHEREAS, the Minnesota division of homeland security and emergency management is the agency responsible for management of federal homeland security grant funding in the state of Minnesota; and

WHEREAS, this grant funding supports the law enforcement terrorism prevention program which seeks to provide law enforcement communities with enhanced capability for detecting, deterring, disrupting and preventing acts of terrorism; and

WHEREAS, grant funds available in 2005 will provide funds for information sharing, target hardening of selected high value targets, threat recognition, intervention activities, interoperable communications, and management and administration; and

WHEREAS, the city of Duluth applied for and has been awarded grant funds to be used for the purchase of a secure digital microwave system, interoperable base stations, radio dispatch consoles and related equipment.

RESOLVED, that the proper city officers are authorized to accept said grant and to execute any documents required to be executed to accept such grant. Such funds to be deposited in Fund 215, Agency 200, Organization 2276.

Resolution 05-0225 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that Resolution 04-0027 to St. Louis County social services for furnishing approximately 51,657 catered meals at eight senior dining locations for a 12 month period during year 2005, be amended to increase the amount by \$169,637 for a new total of \$827,016.50, payable out of Senior Nutrition Fund 0272, Department/Agency 031, Organization 6305, objects 0071, 0070, 0072, 0073.

Resolution 05-0065 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that Central Nebraska Packing, Inc., be and hereby is awarded a contract for furnishing and delivering frozen meat and bones to be used as animal food as needed for year 2005 for the Lake Superior Zoo in accordance with specifications at an estimated amount of \$25,000, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 400, Organization 1814, Object 5245.

Resolution 05-0072 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, the Superior Hiking Trail Association has been awarded grant funds for the development of the Lake Superior Hiking Trail to be located in the city of Duluth; and

WHEREAS, the city has agreed to be the fiscal agent for grant funds;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-0411-20, with the Superior Hiking Trail Association outlining the services and obligations of the city and the association relating to the city's status as fiscal agent.

Resolution 05-0241 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, the Superior Hiking Trail Association (association), as part of its mission, constructs and maintains the Superior Hiking Trail, a long-distance footpath; and

WHEREAS, the association is building the Superior Hiking Trail through the city of Duluth; and

WHEREAS, the association is applying for funds administered by the St. Louis County land department, specifically the outdoor recreation project fund; and

WHEREAS, the grant will continue to fund a program approved by the city council in 2004, the details of which are provided for in the grant agreement which is on file in the office of the city clerk as Public Document No. 04-0126-33.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth, through its finance director, agrees to act as fiscal agent for the trail development and that matching funds required for this project will be the responsibility of the association pursuant to the grant agreement.

Resolution 05-0245 was unanimously adopted.

Approved April 11, 2005

HERB W. BERGSON, Mayor

- - -

The following resolution was also considered:

Resolution 05-0250, by Councilor Reinert, establishing repayment schedule for debt owed by Spirit Mountain recreation area authority in principal amount of \$231,512.01, was introduced for discussion.

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

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILORS STAUBER AND STEWART

05-012 - AN ORDINANCE REGULATING THE FEEDING OF DEER WITHIN THE CITY; AMENDING SECTION 6-78 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Garry Krause expressed his concern about the deer hunting site near Lowell School and asked that a person from the task force come to the next PTA meeting at Lowell to explain the hunting process.

Allan Beaulier questioned why there is a proposed ordinance which would allow the feeding of deer when there is a proposed ordinance allowing for a deer hunt in the city because the deer herd is too large. He also stated that the public has not had the opportunity to comment on the ordinance through their neighborhood planning district meetings.

Phillip Lockett, member of the deer task force, urged people to call him so the public is informed on the issue.

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BY COUNCILORS STAUBER, STEWART AND STOVER

05-013 - AN ORDINANCE RELATING TO WILD ANIMALS; ESTABLISHING A DEER HUNTING SEASON; AMENDING SECTION 49-4 AND CHAPTER 6 OF THE DULUTH CITY CODE 1959, AS AMENDED.

- - -

BY COUNCILOR GILBERT

05-009 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO S-2, SUBURBAN RESIDENTIAL, PROPERTY LOCATED EAST OF SKYLINE PARKWAY AND SOUTH OF EARL STREET (CHARLES BELL).

- - -

BY COUNCILOR GILBERT

05-010 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 23 AND 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF OUTLOTS C AND D, HOME DEPOT ADDITION, FROM R-1-B, ONE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, LOCATED ALONG THE EAST AND SOUTH SIDE OF MALL DRIVE, SOUTH OF CENTRAL ENTRANCE (TH 94) AND EAST OF TRINITY ROAD (TH 53) IN DULUTH HEIGHTS (JOHN JOHANNSON, DULUTH HILLS, LLC).

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

Garry Krause stated that the neighbors and planning district are concerned that this would allow for more commercial development and increased traffic and that this is laying the footwork for more development by using the ruse of a sign issue to lay the foundation.

John Johansson, reviewed that this is a rezoning of Outlots C and D because of an oversight of the developer. He continued saying that these are storm ponds and are not intended to be developed but rezoned for signage. Mr. Johansson said they are suggesting that instead of putting up multiple signs for each tenant, they would like to put up one uniform sign that is a duplicate image of the existing Home Depot sign that is on the west side of Mall Drive.

- - -

BY PRESIDENT NESS

05-014 - AN ORDINANCE AMENDING CHAPTER 29C OF THE DULUTH CITY CODE, 1959, AS AMENDED; FAIR HOUSING SUPPLEMENT.

- - -

BY COUNCILOR LITTLE

05-015 - AN ORDINANCE PERTAINING TO THE FIRE CODE, ALLOWING PRIVATE INSPECTIONS; AMENDING SECTIONS 21-1 AND 21-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-008 (9719) - AN ORDINANCE AUTHORIZING SALE OF LOTS IN ONEOTA DULUTH AND IN THE WEST DULUTH SEVENTH DIVISION (BOX FACTORY SITE) FOR THE SUM OF \$45,000.

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

- - -

BY COUNCILOR STOVER

05-007 (9720) - AN ORDINANCE AUTHORIZING AGREEMENT TO SELL THE LAKESIDE TOOL HOUSE TO COMMUNITY CONNECTIONS OF MINNESOTA, INC., FOR \$81,000.

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

- - -

The meeting was adjourned at 8:20 p.m.

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

- - -

ORDINANCE NO. 9719

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING SALE OF LOTS IN ONEOTA DULUTH AND IN THE WEST DULUTH SEVENTH DIVISION (BOX FACTORY SITE) FOR THE SUM OF \$45,000.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys by quit claim deed the following-described real property in St. Louis County, Minnesota, to A.W. Building, LLC, for the sum of \$45,000, payable to Fund 262, Agency 020:

Lots 5 through 8, Block 16, Oneota Duluth and Lots 1 through 5, Block C, West Duluth Seventh Division.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 22, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed April 11, 2005
Approved April 11, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9720

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING AGREEMENT TO SELL THE LAKESIDE TOOL HOUSE TO COMMUNITY CONNECTIONS OF MINNESOTA, INC., FOR \$81,000.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-0411-21 authorizing the sale of the following described property in St. Louis County, Minnesota, to Community Connections of Minnesota, Inc., for the sum of \$81,000, payable to the General Fund 100, Agency 700, Organization 1407, Object 4640:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Lots 1, 2 and 3, Block 93, LONDON ADDITION TO DULUTH, according to the recorded plat thereof.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: May 22, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 11, 2005
Approved April 11, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 25, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0425-01 Allied Properties, Inc., et al. (ten signatures), submitting petition to reclassify from R to C-5 Lots 14, 15 and 16, Block 31, Duluth Heights, Sixth Division. -- Assessor

05-0425-02 Ginger M. Friebe, et al. (four signatures), submitting further petition to improve the water and sewer mains in West Palm Street from Robin Avenue to 83 feet west of center line of Teak Avenue. -- Assessor

05-0425-03 J & S Partnership, et al. (two signatures), submitting:

(a) Petition to improve 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Assessor

(b) Waiver agreement regarding assessments for the improvement of 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Engineer

05-0425-04 Peace Church submitting petition to vacate the utility easement in the alley lying between the westerly line of 11th Avenue East and the easterly line of Tenth Avenue East, in Block 32, Lake View Division. -- Assessor

05-0425-05 Daniel Stocke, et al. (three and two signatures, respectively), submitting petitions to reclassify from:

(a) S to R-1-b that portion of the southeast quarter of the southwest quarter of Section 20, T50N, R14W;

(b) R-1-b to R-3 the northerly 25 feet of Lots 4-8 of Auditors Plat No. 24 located in Section 29, T50N, R14W. -- Assessor

05-0425-08 Congress Bar and Grill submitting acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9687 on September 13, 2004. -- Received

05-0425-06 Gerald and Janice Hall submitting communication regarding the proposed reclassification from S to S-2 the property located east of Skyline Parkway and south of Earl Street (04-009-O). -- Received

05-0425-07 Home Depot, by William Burns, attorney, submitting communication regarding the proposed reclassification of Outlots C and D, Home Depot Addition, from R-1-b to C-5 (05-010-O). -- Received

05-0425-18 League of Women Voters-Duluth submitting communication regarding the recommending of improved voting equipment (05-0264R). -- Received

05-0425-19 Diane Martinek submitting communication regarding transferring of funds from the community investment trust fund (05-0269R). -- Received

05-0425-20 The following submitting communications regarding assessments for the proposed improvement of Third Street from 19-1/2 Avenue West to Carlton Street (05-0246R): (a) Bethany Lutheran Church; (b) The Lutheran Church of the Holy Trinity; (c) Zion Lutheran Church. -- Received

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REPORTS OF OFFICERS

05-0425-09 Assessor submitting:

(a) Assessment roll for confirmation levied to defray the assessable portion of Contract No. 5381, Lake Avenue from Second Alley to Seventh Street (assessable amount - \$59,806.80);

(b) Letter of sufficiency of petition to reclassify from S to R-1-b that portion of the southeast quarter of the southwest quarter of Section 20, T50N, R14W; and from R-1-b to R-3 the

northerly 25 feet of Lots 4-8 of Auditors Plat No. 24 located in Section 29, T50N, R14W. -- Received

05-0425-10 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from: (a) Chapter 272, Experimental Aircraft Association, on December 31, 2005 (raffle); (b) St. Luke's Foundation, on July 18, 2005 (raffle). -- Received

05-0425-11 Community development manager submitting for public notification a copy of Women's Transitional Housing Coalition's (WTHC) request for waivers to HUD conflict of interest rules. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0425-12 Commission on disabilities minutes of March 2, 2005, meeting. -- Received

05-0425-13 Duluth housing commission recommendation regarding the transferring of funds from the community investment trust fund to a housing investment fund (05-0269R). -- Received

05-0425-14 Duluth human rights commission minutes of March 9, 2005, meeting. -- Received

05-0425-15 Environmental advisory council: (a) Minutes of March 2, 2005, meeting; (b) Request to delay action on the proposed deer hunting season ordinance (04-013-O). -- Received

05-0425-16 Parking commission minutes of March 15, 2005, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Mary Stroufert invited the council and public to the annual Take Back the Night event which shows that the public wants the streets safe for all.

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RESOLUTIONS TABLED

Councilor Stover moved to remove Resolution 05-0209, ordering the construction of an eight inch sanitary sewer in West Owatonna Street from 294 feet east of Kolstad Avenue to 490 feet east of Kolstad Avenue (City Job No. 0482SN) and an eight inch watermain in West Owatonna Street from Elysian Avenue to 222 feet west of Elysian Avenue (City Project No. 0482WA) at an estimated cost of \$83,700, from the table, which motion was seconded and unanimously carried.

Administrative Assistant Winson stated that the applicant has decided to construct this improvement privately and thus requested that the resolution be returned to the administration.

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

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Councilor Stover moved to remove Resolution 05-0246, ordering the improvement of Third Street from 19-1/2 Avenue West to Carlton Street (City Job No. 0123TR) at an estimated cost of \$3,200,000, from the table, which motion was seconded and unanimously carried.

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

Suzanne Lind Reijo, Greg Travis and Jeff Bakke expressed support for a proposed amendment to the resolution to allow churches to be assessed the residential rate instead of the commercial rate on this type of assessment because: there is precedence from other cities in Minnesota that do this; families in this area are of a low to moderate income base; by charging the full rate, it puts the churches at risk of having to cancel programs that affect the neighborhood and community; the churches assist the city by hosting city meetings and programs; the churches cannot recoup these costs by charging higher prices and churches are not "for profit" operations.

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

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

Lake Avenue from Second Alley to Seventh Street (Contract No. 5381 - assessable amount - \$59,806.80);
is hereby confirmed.

Resolution 05-0261 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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) \$1,255,000 general obligation capital improvement bonds, Series 2005A, are hereby authorized and shall be issued pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing funds for capital improvements projects pursuant to an approved capital improvement plan;

(2) \$1,250,000 general obligation steam utility revenue bonds, Series 2005B, are hereby authorized and shall be issued pursuant to Ordinance No. 9683, adopted August 23, 2004, Minnesota Statutes, Chapter 475, Minnesota Laws 1979, Chapter 113 and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal steam utility plant located in the Downtown area of Duluth; and

(3) \$2,275,000 general obligation improvement bonds, Series 2005C, are hereby authorized and shall be issued pursuant to Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of financing local public improvements.

The \$1,255,000 general obligation capital improvement bonds, Series 2005A, the \$1,250,000 general obligation steam utility revenue bonds, Series 2005B, and the \$2,275,000 general obligation improvement bonds, Series 2005C, are hereinafter referred to as the bonds;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sales thereof are set forth in the official terms of offerings on file with the city clerk as Public Document No. 05-0425-22. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the bonds and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in subsequent resolutions of this city council.

Resolution 05-0262 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 and any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Marshall School, 1215 Rice Lake Road, for May 6, 2005, with Marlene David, manager.

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 17-19, 2005, with Linda Hanson, manager.

Resolution 05-0233 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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, dancing license and 2:00 a.m. alcohol beverage license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes:

CW Chips Grill and Bar, Inc. (Twins Bar), 501 East Fourth Street, with Charlie Lemon, 50 percent stockholder and Mary Lemon, 50 percent stockholder, transferred from CW Chips Grill and Bar, Inc. (CW Chips Grill and Bar), 601 East Fourth Street.

Resolution 05-0234 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2005, and ending April 30, 2006, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 05-0425-23.

Resolution 05-0235 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2005, and ending April 30, 2006, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 05-0425-24.

Resolution 05-0236 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 2:00 a.m. alcohol beverage license and approves the application of an on sale dancing license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes:

Legacy Restaurants, Inc. (21 North), 402 West First Street, with Peter Emerson, president and 95 percent stockholder, and Michael Emerson, treasurer and five percent stockholder, transferred from Legacy Restaurants, Inc. (Duluth Athletic Club Bar and Grill), 21 North Fourth Avenue West.

Resolution 05-0238 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 and approves the application of a 2:00 a.m. alcohol beverage license for the period ending August 31, 2005, subject

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

to departmental approvals and the payment of sales and property taxes:

Legacy Restaurants, Inc. (Duluth Athletic Club Bar and Grill), 21 North Fourth Avenue West, with Peter Emerson, president and 95 percent stockholder and Michael Emerson, treasurer and five percent stockholder, transferred from Legacy Restaurants, Inc. (Duluth Athletic Club Bar and Grill), 351 Canal Park Drive.

Resolution 05-0239 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the 2:00 am closing license renewals for the following 3.2 percent malt liquor licenses for the period beginning May 1, 2005, and ending April 31, 2006, 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. 05-0425-25.

Resolution 05-0240 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the issuance of the following on sale intoxicating liquor license, on sale Sunday license and a 2:00 a.m. alcohol beverage license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes:

Legacy Restaurants, Inc. (DAC Deli), 11 East Superior Street, with Peter Emerson, 95 percent stockholder and Michael Emerson, treasurer and five percent stockholder.

Resolution 05-0243 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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:

Lake Avenue Café, Inc. (Lake Avenue Café), 394 Lake Avenue South, for May 13 and 14, 2005, from 3:00 to 10:00 p.m.

Resolution 05-0248 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 alcohol, gambling, and tobacco 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

Gambling Site

Minnesota Licensed Beverage Association Children's Fund

VFW Post #6320
5130 Ramsey Street
Duluth, Minnesota

Resolution 05-0254 was unanimously adopted.
Approved April 25, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the Marshall School 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 Marshall School 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 05-0255 was unanimously adopted.
Approved April 25, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment of Mario Hinojosa, Sr. (at large) to the community development committee for a term expiring on March 1, 2008, replacing Joseph Perfetti, is confirmed.

Resolution 05-0251 was unanimously adopted.
Approved April 25, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement within vacated alley adjoining and between 349 Canal Park Drive and 351 Canal Park Drive, legally described as the vacated alley adjoining Lots 18 and 19, Rearrangement of Block 7 and 8 of the Industrial Division (FN 05023); 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 found that said easement is useless for the purpose for which it was intended, based on the following findings;

(a) On September 30, 1930, the city council vacated the subject alley retaining the full right-of-way for all public utility needs;

(b) In 1930-31 a structure connecting 349 and 351 Canal Park Drive was erected that occupied the entire area vacated above;

(c) No current or future utility needs have been identified and the commission did approve unanimously the easement vacation petition at its April 12, 2005, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above and as more particularly described on Public Document No. 05-0425-26.

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 easement to be vacated.

Resolution 05-0260 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to amend an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 05-0425-27, with, and accept funds from, Hennepin County for the provision of dislocated worker services to laid off airline industry workers pursuant to the Workforce Investment Act for the period of April 7, 2003, through March 31, 2006, in the amount of \$54,490. Funds will be accepted upon execution of the agreement and shall be deposited into Fund 268.

Resolution 05-0252 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Traffic Control Corporation be and hereby is awarded a contract for furnishing and delivering approximately 1,000 traffic signal parts for the engineering division in accordance with specifications on its low specification bid of \$65,223.52, terms net 30, FOB destination, payable out of General Fund 411, Department/Agency 035, Object 5403.

Resolution 05-0265 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0574 to LHB Engineers and Architects for furnishing chiller plant and distribution piping, be amended to increase the amount by \$69,000 for a new total of \$269,000, payable out of Steam District #1 Fund 540, Department/Agency 920, Org. 1499, Object 5530.

Resolution 05-0266 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0211 the council did request the administration to prepare plans and specifications for the construction of an eight inch water main in Surrey Avenue at an estimated cost of \$270,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; and,

WHEREAS, all persons affected by the proposed improvement or assessment have executed waiver agreements (Public Document No. 05-0425-28) waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the council recommending the improvement and their right to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and Sections 45-79 and 45-80 of the Duluth City Code, 1959, as amended, and have requested that the council immediately determine to make the subject improvements.

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 \$270,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0484WA and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 05-0267 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a permanent 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main in 44th Avenue West from Grand Avenue to approximately 360 feet southerly (City Project No. 0493TR).

NOW, THEREFORE, BE IT RESOLVED, that it is the intention of the city 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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 05-0268 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 on one side of Woodland Avenue: east side of Woodland Avenue from 220 feet north of Oxford Street (end of parking bay) to St. Paul Avenue.

Resolution 05-0257 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 on one side of Hartley Drive: south side of Hartley Drive from Woodland Avenue to the parking lot of the Hartley Nature Center.

Resolution 05-0258 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 319 Michigan Avenue;

Front of 4108 West Fifth Street;

Front of 303 North 22nd Avenue West;

Front of 18 North 41st Avenue West.

Resolution 05-0259 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

BE IT RESOLVED, that the city of Duluth approves the use as a natural gas pipeline site, the work done up to April 1, 2005, to install and maintain pipelines in, the cleanup of the area and Northern Natural Gas Company's exercise of its rights under contract recorded in Book 1079 at Page 698, dated June 20, 1961, all relating to the following premises, a tract of land at Duluth International Airport:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

the SE¼ of NW¼ of Section 35, Township 51 North, Range 15 West, in St. Louis County, Minnesota.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute and implement agreements containing substantially the terms of those on file with the clerk as Public Document No. 05-0425-17 and in a form approved by the city attorney, which documents release Northern Natural Gas company from any liability for damage to the premises to date, approve the cleanup of the construction site and accept payment for the use of the land, as set out in the contract between the parties.

BE IT FURTHER RESOLVED, that any money due to the city (amount expected to be less than \$1,000) under the said contract shall be, and is, assigned to Duluth airport authority for its use.

Resolution 05-0263 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0271, by Councilor Stewart, issuing an on sale seasonal dance license, an after hours entertainment license and approving issuance of a 2:00 a.m. alcohol beverage license to Theatre in the State, Inc. (Norshor Theatre), 211 East Superior Street, was introduced for discussion.

At the request of the city clerk, Councilor Stewart moved to remove the resolution from the agenda, which motion was seconded and unanimously carried.

- - -

Resolution 05-0272, by Councilor Gilbert, amending Resolution 04-0594 adding an additional \$1.2 million to the allocation of city funds for the Duluth-Kroc community center, was introduced for discussion.

At the request of Mayor Bergson, Councilor Gilbert moved to remove the resolution from the agenda, which motion was seconded and unanimously carried.

- - -

Resolution 05-0264, by President Ness, recommending improved voting equipment suitable for different voting methods, was introduced for discussion.

Councilor Stauber expressed concern about possible political reasons as to why states have made this change; that mathematically, it becomes a violation of the monotonicity criteria and that the secretary of state has stated that there is a large cost with this process and that her office does not support it.

Resolution 05-0264 was adopted as follows:

BY PRESIDENT NESS:

WHEREAS, the federal government will send \$40 million in Help America Vote Act (HAVA) funds to Minnesota, largely for new voting equipment; and

WHEREAS, this represents an historic opportunity to ensure that the state acquires voting equipment with the flexibility to process all ballot types used in the United States, including those not now used in Duluth, such as ranked and cumulative ballots; and

WHEREAS, Minnesota's two main equipment vendors have already developed ranked ballot capacity for precinct-based optical scanners in other jurisdictions; and

WHEREAS, much of the development work has already been done; and

WHEREAS, this will reduce the cost of acquiring this technology; and

WHEREAS, the cost will be even less if acquired with the original purchase as opposed to acquiring it as an after-market add-on; and

WHEREAS, this heightens the urgency for this change to happen now, before the large HAVA appropriation is spent; and

WHEREAS, the technical change that would allow processing of alternative voting methods could also be used to enhance election security; and

WHEREAS, the ranked ballot firmware creates a data file that keeps track of the contents of each ballot. It essentially makes an electronic backup copy of each ballot that could be used to reconstruct an election in the event that paper ballots were lost or destroyed; and

WHEREAS, the benefits of this certification change could be realized immediately.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council recommends and requests the state of Minnesota to add ranked and cumulative processing capability as a certification requirement for new voting equipment.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to each member of the Northeastern Minnesota state legislative delegation, the Minnesota secretary of state and the governor.

Resolution 05-0264 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved April 25, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0269, by President Ness, transferring funds from community investment trust fund to housing investment fund and restrictions thereon, was introduced for discussion.

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

Mayor Bergson expressed support for the resolution, noting: that he has established a committee to insure that there is enough funding available to continue to repair the streets; the community investment trust fund (CIT) will continue to grow by three to four million dollars a year with this \$600,000 allocation for housing; with the housing funding, the balance in the CIT will be at the same point one year later; with the housing initiative, the city will get the additional sales tax from the furnishings that will be needed in the new houses and also the increased property taxes and the construction of the housing helps the job market.

Kristine Schmidt; Laura Sever; Athena Hartley; Rachael Carpernter; Dr. Bob Powles; Tracy Carlson; Sean Bell; Abbot Apter; Peter Mullen, representing the Duluth Area Chamber of Commerce; Sharla Gardner; Kim Nordin; Marie Danz; Katie Piasecki; Anna Defoe; Zoe LeBeau; Melissa Taylor, representing the NAACP; Mary Camron; Lois Eckes; Joyce Blodgett; Claire Jasper; Rodger Cragun; Vicki Sanville; Stan Kaitfor, executive director of Community Action Duluth; Peter Martin; Durbin Keeney; Bill Hardesty; George Garnett, executive director of Neighborhood Housing Services; Jeff Corey, executive director for Northern Communities Land Trust; Deyona Kirk; Beth Tamminen; Mike Saxton; Steve O'Neil; Rick Ball, executive director of the housing and redevelopment authority; Doug Happy; Lori Neighbors; Mike Sayers; Rick Klun, executive director of Center City Housing Corporation; Larry McKavete; Pam Kramer, executive director of Local Initiatives Support Corporation (LISC); and Eric Torch spoke in support of the resolution. They cited reasons of: there are more shelters for stray animals than there are for families; the gap between the "haves" and "have nots" is getting bigger; 46 percent of Duluth renters spend more than half of their income on rent; what little housing that is affordable is not safe and/or healthy; it is a rare opportunity to be able to assist the homeless, veterans and American Indians; create jobs and attracting more people to the city at the same time; there are many who have struggled to afford to stay here who cannot be overlooked; high rent and low wages make it difficult to afford housing; the mission of a city should be to care for its citizenry by providing decent housing; affordable housing will not happen without a lot of support from a lot of different sources; the taking of these few dollars, in proportion to the total amount in the CIT, will not materially affect the improvement of the streets but it will make a huge forward progress in the housing stock; the Duluth Area Chamber of Commerce fully supports this proposal; when an employer looks at coming into the city, affordable housing is looked at; the CIT fund would not be there if it was not for the cooperation of the Native Americans; the housing agencies need this assistance to be able to provide affordable housing; housing construction will also help the economy by creating jobs; there are many who want very much to live in the Hillside; the buildings in the Central Hillside area need work; home ownership projects will not get done without this funding; the NAACP supports this initiative; more and more children are homeless each year; increased crime is associated with being homeless; safe affordable housing is a basic human right; on August 27, 2001, the city council adopted the vision that all citizens would have access to safe, affordable housing; there are many who live with others in very crowded situations; there are many with disabilities who do not have a housing safety net; gambling dollars should be used

first for the poor; cuts are being made in city, state and national funding for housing; to get out of poverty it takes affordable housing; prefabricated housing construction should be used for townhouses where there would be more savings with more units; in order to get state and federal funding, there needs to be local matching funds; there is now an 18 month wait for public housing; being able to leverage private sector dollars in home improvements also improves neighborhoods; investment in housing strengthens the property tax base; the private financing market will not cover housing in certain areas; there is a strong connection between the quality of housing and education; all other tools to accomplish affordable housing have been used; street improvements can and should be incorporated with new housing construction; the CIT is not strictly a "street improvement fund"; Duluth is committed to eliminate homelessness in the next ten years; with this commitment; 1000 housing units will be completed by 2010; this is a legacy that all should be proud to be part of; when the casino agreement is negotiated with the tribe, the fact that this is helping Native Americans will be an asset; the decision on this will make or break some Duluthians; this will make a statement to other agencies and lenders that we, as a community, are committed; the apartments that are available are too expensive for low income individuals and housing is not a nicety, but a necessity.

Bob Hanson, Ronald Miller, Todd Fedora and George Hanson expressed concerns relative to the resolution, citing reasons of: based on the 2005 mil rate, it would take \$247 million of property value to replace the \$3 million that is being requested; the property taxes paid by these new developed properties do not go into the general fund, but to the bond debt of the street improvement fund, and therefore, no assistance to the health benefits financial problem; without sound fiscal management of the CIT fund, residents may have to pay the full cost of street improvements; in the past two years street improvements have declined by over 20 percent and this needs to be increased, because the streets do not last very long; the agreement with the tribe ends in 2010; housing should be part of the total comprehensive development plan, in that more economical and energy efficient housing, such as Tri-Towers, should be used; there has already been a great amount of housing construction, both public and private, over the last two years; there are already many apartments for rent and houses for sale; individuals do not move here because there is housing, but because there are jobs; public safety, public works, solvency of the city and ways to expand the tax base need to be addressed first.

Councilors Stauber and Little felt that: Duluth streets deteriorate three times faster than they can be repaired; there are other sources of funds that could be used for this housing initiative; councils in the past felt so strongly regarding the street improvement fund that they set the requirement that seven councilors would have to support any changes in the CIT; the county is not contributing to the CIT; the CIT is not the appropriate source to obtain funding for housing and the tribe at the casino is not donating to this cause.

Resolution 05-0269 was adopted as follows:

BY PRESIDENT NESS:

BE IT RESOLVED, that, beginning in year 2006, there shall be established a fund known as the housing investment fund (designated by number determined by the director of finance), which fund shall be administered by the administration in compliance with applicable regulations and accounting standards in order to carry out a program of housing improvement in the city, which program shall be managed by the city's community development division, or its successor.

BE IT FURTHER RESOLVED, that, beginning in year 2006, there shall be transferred from the accumulated earnings of the community investment trust fund, established in Section 54(E) of the Charter, to the housing investment fund, at a time determined by the finance director of the city, the amount of \$600,000 each calendar year for five consecutive years.

BE IT YET FURTHER RESOLVED, that the establishment of the housing investment fund, and the transfer into it of money, as provided for in this resolution, is conditional upon the council, before January 1, 2006, and through the procedures set out in the Charter, including veto and referendum, finally enacting and establishing a program of city-wide housing improvement, which may include provision for grants and loans, which program will be financed in whole or part by the housing investment fund. This program shall be for a public purpose and exist in compliance with

all applicable laws and regulations, and be managed by the city's community development division, or its successor.

Resolution 05-0269 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved April 25, 2005

HERB W. BERGSON, Mayor

BY PRESIDENT NESS:

BE IT RESOLVED, that the city attorney is authorized to make a settlement offer, on behalf of all defendants, to settle all claims, to the plaintiff in the case of Tammy Olson v. city of Duluth, Case Number C1-02-603265, pending in district court, sixth judicial district, consisting of the following:

All damages, including back pay, attorney fees	\$79,224
Fees, costs and disbursements, not to exceed	\$ 3,000
Unpaid medical bills, or \$5,000, whichever is less	\$ 5,000
Total	\$87,224.

The offer shall be made as set out in Rule 68 of the Rules of Civil Procedure, and, if accepted within the allowed time, shall operate as a confession of judgment. In that event, the proper city officials are authorized to pay the judgment from the Self Insurance Fund 610.

Resolution 05-0275 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Atkins -- 1

Approved April 25, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR REINERT:

BE IT RESOLVED, that the proper city officials are authorized to do any acts and execute any documents necessary to collect a debt owed to the city by Spirit Mountain recreation area authority for SMRAA's participation in the city's worker's compensation and liability self insurance pool in the principal amount of \$231,512, in accordance with the repayment schedule on file with the city clerk as Public Document No. 05-0425-29.

BE IT FURTHER RESOLVED, that any penalties and interest for late payment are waived, and SMRAA is allowed to continue participation in the city's self insurance pool.

Resolution 05-0250 was unanimously adopted.

Approved April 25, 2005

HERB W. BERGSON, Mayor

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-016 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY IN WEST DULUTH TO GRANITE WORKS, INC., FOR \$54,450.

BY PRESIDENT NESS

05-017 - AN ORDINANCE PERTAINING TO CABLE TELEVISION FRANCHISE.

The following entitled ordinances were read for the second time:

BY COUNCILORS STAUBER, STEWART AND STOVER

05-012 - AN ORDINANCE REGULATING THE FEEDING OF DEER WITHIN THE CITY; AMENDING SECTION 6-78 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stauber moved to table the ordinance for a recommendation by the environmental advisory council, which motion was seconded and unanimously carried.

BY COUNCILORS STAUBER, STEWART AND STOVER

05-013 - AN ORDINANCE RELATING TO WILD ANIMALS; ESTABLISHING A DEER HUNTING SEASON; AMENDING SECTION 49-4 AND CHAPTER 6 OF THE DULUTH CITY CODE 1959, AS AMENDED.

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

Garry Krause expressed his concern that the area proposed for hunting around Lowell school should have certain distances incorporated for safety.

Councilor Stauber moved to table the ordinance for a recommendation by the environmental advisory council, which motion was seconded and unanimously carried.

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BY COUNCILOR GILBERT

05-009 (9721) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO S-2, SUBURBAN RESIDENTIAL, PROPERTY LOCATED EAST OF SKYLINE PARKWAY AND SOUTH OF EARL STREET (CHARLES BELL).

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

Tom Ryther; Jan Karon, representing the Duluth Public Policy Alliance; Nancy Nelson, representing the Skyline Planning and Preservation Alliance; and Brian Frederickson expressed concerns that: a comprehensive plan needs to be adopted before this rezoning is considered; this landscape is one of the unique assets of this city; this landscape is far more important than individual economic reasons; the density of structures will impact the character of the landscape; the character of Skyline Parkway design is what makes this area so special and that the land is the bulk of unforested lands which holds the soil in place on the hillside.

Sandi Ralph Hendrickson expressed the need for accessible homes, such as homes, which are one level with no steps to the entry way, that are being proposed for this development.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

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BY COUNCILOR GILBERT

05-010 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NOS. 23 AND 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION OF OUTLOTS C AND D, HOME DEPOT ADDITION, FROM R-1-B, ONE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, LOCATED ALONG THE EAST AND SOUTH SIDE OF MALL DRIVE, SOUTH OF CENTRAL ENTRANCE (TH 94) AND EAST OF TRINITY ROAD (TH 53) IN DULUTH HEIGHTS (JOHN JOHANNSON, DULUTH HILLS, LLC).

Councilor Gilbert felt that the placement of a sign at the proposed location would adversely affect the aesthetics.

The ordinance failed upon the following vote (Public Document No. 04-0425-21):

Yeas: Councilors Atkins, Little, Reinert and Stauber -- 4

Nays: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

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BY PRESIDENT NESS

05-014 (9722) - AN ORDINANCE AMENDING CHAPTER 29C OF THE DULUTH CITY CODE, 1959, AS AMENDED; FAIR HOUSING SUPPLEMENT.

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

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BY COUNCILOR LITTLE

05-015 - AN ORDINANCE PERTAINING TO THE FIRE CODE, ALLOWING PRIVATE INSPECTIONS; AMENDING SECTIONS 21-1 AND 21-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9721

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 14 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO S-2, SUBURBAN RESIDENTIAL, PROPERTY LOCATED EAST OF SKYLINE PARKWAY AND SOUTH OF EARL STREET (CHARLES BELL).

The city of Duluth does ordain:

Section 1. That Plate No. 14 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 Map No. 14 at end of meeting)

(reference File No. 05008)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: June 5, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

Passed April 25, 2005

Approved April 25, 2005

ATTEST:
JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

ORDINANCE NO. 9722

BY PRESIDENT NESS:

AN ORDINANCE AMENDING CHAPTER 29C OF THE DULUTH CITY CODE, 1959, AS AMENDED; FAIR HOUSING SUPPLEMENT.

The city of Duluth does ordain:

Section 1. That Section 29C-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29C-11. Fair housing supplement adopted.

The law on file with the clerk as Public Document No. 05-0425-30, the fair housing supplement, which document is a copy of the Fair Housing Act of 1968 (42 USC §3601 et seq), in force on January 1, 2003, with certain modifications, is hereby adopted by reference in this Section and made a part of the Duluth City Code, as authorized by Laws of Minnesota 2000, Chapter 402, accepted by the city by Resolution 00-0605. The aforementioned shall serve as the substantive rights, procedures, remedies and judicial review provisions available for implementation of the Fair Housing Act in the city of Duluth.

Section 2. That Public Document No. 04-0426-22 be amended to be Public Document No. 05-0425-30 and to be amended to read as follows:

a) That Section 2(a) of the fair housing supplement, adopted by Section 29C-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 2

(a) Nothing in Section 3 of this supplement other than subsection (c) shall apply to—

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, attachment to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this supplement only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3(c) of this supplement; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, attachment companies, and other such professional assistance as necessary to perfect or transfer the attachment, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

b) That Section 10(c) of the fair housing supplement, adopted by Section 29C-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

(c) Attorney's Fees. In any civil action under section 10, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee and costs.

c) That Section 11(b)(2) of the fair housing supplement, adopted by Section 29C-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, a reasonable attorney's fee and costs.

Section 3. That Section 29C-12 of Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29C-12. Choice of rights and remedies.

A person claiming discriminatory housing practices shall, at the time of filing the complaint, elect to proceed under either the terms of sections 29C-1 through 29C-10, or under the terms of sections 29C-11 through 29C-12, but may not proceed under both.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 29, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

Passed April 25, 2005
Approved April 25, 2005

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 9, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0509-01 Harold C. Smith, et al. (29 signatures), submitting remonstrance petition opposing the Chester Park Alley improvement between 18th Avenue East and Kent Road. -- Assessor

05-0509-02 Minnesota state auditor submitting Duluth Entertainment Convention Center authority (Duluth state convention center administrative board) audit report for the years ended December 31, 2004, and 2003. -- Received

05-0509-03 The PFM Group submitting presale analysis regarding \$1,255,000 G.O. capital improvement bonds, Series 2005A; and \$1,250,000 G.O. steam utility revenue bonds, Series 2005B and \$2,275,000 G.O. public improvement bonds, Series 2005C. -- Received

05-0509-13 The following submitting communications regarding proposed deer feeding and hunting regulations (05-0305R, 05-0306R, 05-012-O and 05-013-O): (a) Bowhunting World/Archery Business; (b) Craft and Ellie Dryer, by Jeff Murray; (c) Dennis and Ann Empey; (d) David Jensen; (e) Minnesota Deer Hunters Association. -- Received

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REPORTS OF OFFICERS

05-0509-04 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, May 10, 2005, at 3:30 p.m. in Room 106A, City Hall, regarding the proposed reassessment of cancelled assessments. -- Clerk

(b) For confirmation the assessment rolls levied to defray the assessable portions of street water and sewer development at Basswood Avenue from Walnut Avenue to 676 feet north, Contract 5376 (assessable - \$125,179.36), Matterhorn Circle from Matterhorn Drive southerly 650, Contract 5383 (assessable - \$287,011.68);

(c) Letters of sufficiency of petitions to:

(1) Improve 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include a permanent 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main;

(2) Oppose construction of a permanent improvement alley in Block 10, Park Drive Division, Chester Park Drive Alley from 18th Avenue East to Kenwood Avenue (remonstrance petition);

(3) Vacate a utility easement located in Lakeview Division, Block 32. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0509-05 Animal humane board minutes of April 26, 2005, meeting. -- Received

05-0509-06 Duluth airport authority balance sheet of February 28, 2005. -- Received

05-0509-18 Environmental advisory council recommendations for the proposed deer feeding and hunting ordinances (05-012-O and 05-013-O). -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Bob Hanson requested clarification from the council that new growth from the housing initiative will go to the bond debt for the paving of the streets instead of the general fund to pay for essential city services.

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RESOLUTION TABLED

Councilor Stover moved to remove Resolution 05-0246, ordering the improvement of Third Street from 19-1/2 Avenue West to Carlton Street (City Job No. 0123TR) at an estimated cost of \$3,200,000, from the table, which motion was seconded and unanimously carried.

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

Jeff Bachke, president of Zion Lutheran Church, expressed his appreciation that the council is taking the time to examine the assessment issue as churches do not really fall into either the commercial or residential classifications, but they still want to do their fair share.

City Attorney Brown reviewed what other cities in Minnesota have done with this issue and cautioned that no decision could be based because of a religious practice on the property, but it would have to be related to the property value due to the improvement of the street.

Councilor Atkins questioned if other nonprofit organizations who have limited financial income and own property that are affected by street improvements should be included in this group with churches.

Administrative Assistant Winson suggested the council proceed with the resolution to allow the project to move forward with direction that the council and city attorney develop an assessment policy and bring back a resolution to modify this resolution as to where the funding sources will come from.

Resolution 05-0246 was adopted as follows:

BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Third Street from 19-1/2 Avenue West to Carlton Street (City Job No. 0123TR) be improved; and

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$3,200,000; \$2,300,000 from municipal state aid funds; \$200,000 from Water Fund 0510; \$200,000 from Sanitary Sewer Fund 0530; \$176,000 from community development block grant fund; \$9,000 from street improvement program (2006) and \$315,000 is assessable to abutting property.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0246 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Johnson moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STAUBER:

RESOLVED, that the budget for the fiscal year May 1, 2005, to April 30, 2006, in the amount of \$4,063,477, including the 2006 repair and replacement budget in the amount of \$276,100, as set out in the budget on file with the city clerk as Public Document No. 05-0509-07 for the Spirit Mountain recreation area authority is hereby approved.

Resolution 05-0282 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following:

(a) Street water and sewer development at Basswood Avenue from Walnut Avenue to 676 feet north (Contract #5376; assessable amount: \$125,179.36); and

(b) Street water and sewer development at Matterhorn Circle from Matterhorn Drive southerly 650 feet (Contract #5383; assessable amount: \$287,011.68); are hereby confirmed.

Resolution 05-0290 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) On April 25, 2005, the city council adopted resolution 05-0262 entitled "Resolution authorizing the issuance and providing for the sale of \$1,255,000 general obligation capital improvement bonds, Series 2005A, \$1,250,000 general obligation steam utility revenue bonds, Series 2005B, and \$2,275,000 general obligation improvement bonds, Series 2005C" (the official terms resolution);

(b) The official terms resolution provided that the terms and conditions of the bonds and the sales thereof were set forth in official terms of offerings on file with the city clerk;

(c) Based upon recommendations of the city administration and the city's financial advisor, the sale of the bonds will be postponed from May 19, 2005, and will be rescheduled for June 9, 2005;

(d) Further, the city shall reserve the right to reduce the amount of the general obligation improvement bonds, Series 2005C;

(e) Except for the amendments described in paragraphs (c) and (d) above, the official terms resolution shall remain in full force and effect.

Resolution 05-0312 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 18, 2005, and confined to the fenced in parking lot at night on June 17-19, 2005, 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 05-0256 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of an on sale seasonal dance license, after hours entertainment license and approves the issuance of a 2:00 a.m. alcohol beverage license for the period ending August 31, 2005, subject to departmental approvals:

Theatre in the State, Inc. (Norshor Theatre), 211 East Superior Street.

Resolution 05-0271 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the Lake Superior Marine Museum 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 Lake Superior Marine Museum 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 05-0293 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 alcohol, gambling and tobacco 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

Gambling Site

Lake Superior Steelhead Association
Hillside Business Association

Mr. D's Bar and Grill
Twins Bar

Resolution 05-0294 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2006, subject to departmental approvals:

Anderson Golf, Inc. (Enger Park Golf Course), 1801 West Skyline Parkway, with Steve Anderson, president.

Resolution 05-0295 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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, 2005, subject to departmental approvals:

Just Take Action, Inc. (Fitger's Brewhouse/Red House), 600 East Superior Street.

Resolution 05-0296 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale intoxicating liquor license, on sale Sunday license and 2:00 a.m. alcohol beverage license for the period ending August 31, 2005, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Baja Lifestyle Enterprises, Inc. (Baja Billy's Cantina & Grill), 600 East Superior Street, with Brian Roy, president and 75 percent stockholder and Jamie Wilson, vice president and 25 percent stockholder.

Resolution 05-0298 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 June 18, 2005, with the serving and music ceasing at 1:00 a.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 18, 2005, with the serving and music ceasing at 6:00 p.m.

Resolution 05-0299 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Inter City Oil, Inc., be and hereby is awarded a contract for furnishing delivered fuel as needed during the 12 month period for the fleet services division, based upon .10 bid constant, in accordance with specifications at an estimated amount of \$50,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5212.

Resolution 05-0303 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0509-08, with Midnight Sun Adventure Company for the leasing of substantially all of the Endion Station building for the operation of a retail and adventure guiding business, rents payable therefore being paid to the city's General Fund under Revenue Source 0100-015-1515-4622.

Resolution 05-0307 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a Section 108 loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0509-09 with Hillside Business Association (HBA) related to the construction of the Fifth Street redevelopment housing project in the amount of \$7,282,000 payable from Fund 264, said authorization is subject to HUD's approval of said redevelopment housing project.

FURTHER RESOLVED, that the city of Duluth hereby pledges \$1,820,500 in future CDBG funding to cover 25 percent of the Section 108 loan value as is required by HUD.

Resolution 05-0177 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of an unconstructed alley between 81st Avenue West and 82nd Avenue West, between Coleman Street and the alley south of the Duluth, Winnipeg and Pacific Railroad right-of-way and the vacation of

an unconstructed alley south of the Duluth, Winnipeg and Pacific Railroad right-of-way, between 81st Avenue West and 82nd Avenue West, in Norton's Fairmount Park Division, Duluth, legally and respectively described as an unconstructed alley adjoining Lots 1-30, Block 3, Norton's Fairmount Park Division, and as a 16 foot wide by 165.63 foot alleyway easement, adjacent to the north side of Lots 1 and 30, Block 3, Norton's Fairmount Park Division in 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 unanimously approved vacation of both unconstructed alleys (retaining utility easement in the alley in Block 3, Norton's Fairmount Park Division), at its April 27, 2005, meeting (reference File No. 05030).

NOW, THEREFORE, BE IT RESOLVED, tht the city council of the city of Duluth approves the vacation of the unconstructed alley in Block 3, Norton's Fairmount Park Division (retaining utility easement within alley) and the unconstructed alley north of and adjacent to Lots 1 and 30, Block 3, Norton's Fairmount Park Division, and as more particularly described on Public Document No. 05-0509-10.

RESOLVED FURTHER, 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 05-0287 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to amend Contract No. 19764, in substantially the form of the amendment on file with the clerk or Public Document No. 05-0509-11, with St. Louis County to provide services under food support employment and training (FSET) services at costs not to exceed \$400 per participant, with total costs not to exceed \$50,007 for the period October 1, 2004, through September 30, 2005.

FURTHER RESOLVED, that said monies received under this agreement shall be deposited in Fund 268.

Resolution 05-0279 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

WHEREAS, the city of Duluth and Western Lake Superior Sanitary District (WLSSD) are co-permittees in a five-year permit issued by the Minnesota pollution control agency (MPCA) and are required by order of the U.S. environmental protection agency to control or eliminate all sanitary sewer overflows by 2007; and

WHEREAS, the city and WLSSD have requested grant support through congress to make infrastructure improvements to control or eliminate overflows; and

WHEREAS, congress appropriated funds for this purpose in the Consolidated Appropriations Act of 2005 (act); and

WHEREAS, Line-Item No. 538 of the act provides a grant of \$300,000 to the city for wastewater infrastructure improvements; and

WHEREAS, Line-Item No. 540 provides a grant of \$250,000 to the city and WLSSD for wastewater infrastructure improvements; and

WHEREAS, the city agrees that the consolidation of these two grants will provide for a more effective use of these resources; and

WHEREAS, the infrastructure which is to be improved with these consolidated grant funds is under the jurisdiction of WLSSD.

NOW, THEREFORE, BE IT RESOLVED, that the city requests that the U.S. environmental protection agency grant the funds appropriated in the act to WLSSD.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

BE IT FURTHER RESOLVED, that the city communicate with the sponsoring legislator (Senator Mark Dayton) regarding the request that the grants be consolidated and directed to WLSSD.

Resolution 05-0302 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

BE IT RESOLVED, that pursuant to Minnesota Statutes 204B.16, the following locations are designated as polling places for the September 13, 2005, municipal and school board primary election and November 8, 2005, for the municipal and school board general election:

POLLING PLACE LIST

POLLING PLACE	ADDRESS
1. St. Michael's Catholic Church (lower level)	4901 East Superior Street
2. Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3. Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East
4. Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5. Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6. Woodland Community Club	3211 Allendale Avenue
7. Glen Avon Presbyterian Church	2105 Woodland Avenue
8. Duluth Congregational Church	3833 East Superior Street
9. Pilgrim Congregational Church	2310 East Fourth Street
10. U.M.D. Kirby Student Center	1120 Kirby Drive
11. Kenwood Lutheran Church	324 West Cleveland Street
12. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
14. First Lutheran Church (London Road entrance)	1100 East Superior Street
15. Trinity Lutheran Church	1108 East Eighth Street
16. Peace Church (Tenth Avenue entrance)	1015 East 11th Street
17. First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
18. Central Hillside Community Center	12 East Fourth Street
*19. First Presbyterian Church (avenue entrance)	300 East Second Street
20. Lafayette Square (upper level)	3026 Minnesota Avenue
21. Duluth Public Library (Green Room)	520 West Superior Street

POLLING PLACE LIST

POLLING PLACE	ADDRESS
22. St. Peter's Catholic Church (lower level)	818 West Third Street
23. Lincoln Park Senior Center (lower level)	2014 West Third Street
24. Holy Cross Lutheran Church (lower level)	410 North Arlington Avenue
25. Duluth Heights Community Club	33 West Mulberry Street
26. Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
27. St. Lawrence Church	2410 Morris Thomas Road
28. Holy Family Catholic Church	2430 West Third Street
29. Harrison Community Club	3002 West Third Street
30. City Center West	5830 Grand Avenue
31. Faith Haven (recreation room)	4901 Grand Avenue
32. Elim Lutheran Church (social hall)	6101 Cody Street
33. Bayview Heights School (gym)	8702 Vinland Street
34. Bethany Baptist Church (social hall)	6700 Grand Avenue
35. Goodfellowship Community Center (warming area)	1242-88th Avenue West
36. Stowe School (Room 27)	715-101st Avenue West

*Designates new polling place

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 13, 2005, and November 8, 2005, elections.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to establish and post temporary handicapped parking zones for the September 13, 2005, and November 8, 2005, 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 05-0229 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 05-0249 to Duluth Ready Mix, Inc., for furnishing and delivering Class 5 gravel, crushed rock and washed sand as needed during year 2005 for the various utility operation and street maintenance operation divisions in accordance with specifications at an estimated amount of \$57,468.56, be amended to increase the amount by \$35,102.30 for a new total of \$92,570.86, payable out of various funds.

Resolution 05-0270 was unanimously adopted.
Approved May 9, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hydro Metering Technology be and hereby is awarded a contract for furnishing and delivering water meter repair parts as needed during year 2005 for the utility operations division in accordance with specifications on its low specification bid at an estimated amount of \$39,724.50, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1995, Object 5220.

Resolution 05-0274 was unanimously adopted.
Approved May 9, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

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. 05-0509-12, with Lake Superior College pursuant to which the college will reimburse the city for one-half of the cost of replacing an existing six inch watermain in a portion of Trinity Road with a 12 inch watermain.

Resolution 05-0276 was unanimously adopted.
Approved May 9, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, plans and specifications have been prepared for the construction of a permanent alley in Minneapolis Avenue Alley from Wadena Street to Osakis Street (City Job No. 0488TR) 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 \$10,110, payable from the Special Assessment Fund 0410, Agency 038, Organization 5360, Object 5530, \$20.50 per front foot by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0277 was unanimously adopted.
Approved May 9, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Ace Property Maintenance, Inc., be and hereby is awarded contracts for furnishing grass cutting services for the park maintenance division in accordance with specifications on their low specification bids for a total of \$27,065.91, terms net 30, FOB job sites, payable out of General Fund 100, Department 500, Organization 2560, Objects 5310.

Resolution 05-0284 was unanimously adopted.
Approved May 9, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that Ulland Brothers, Inc., be and hereby is awarded a contract for furnishing and delivering 17,250 tons of washed sand for the maintenance operation division in accordance with specifications on its low specification bid of \$176,180.21, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 1920, Object 5223.

Resolution 05-0288 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors, Inc., be and hereby is awarded a contract for construction of Duluth Heights SE3 2005 street improvement project sites for the engineering division in accordance with specifications on its low specification bid of \$699,227.35, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 5530.

Resolution 05-0289 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby rescinded: east side of 17th Avenue East between London Road and South Street.

Resolution 05-0278 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0509-14 which allows DEDA to participate during 2005 in the city's self insurance fund program; DEDA funds in the amount of \$6,500 to be deposited in 0610-036-1656-4904.

Resolution 05-0273 was unanimously adopted.

Approved May 9, 2005

HERB W. BERGSON, Mayor

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At this time, 7:33 p.m., President Ness recessed the council meeting for the public hearing regarding the proposed feeding of deer and the proposed deer hunting season.

James Dahline, Sara Hendrickson, Chuck Haslerud, Julie Bates, Jullianne Raimo, Bruce Fehringer, John Crom, Gayle Tofte, Mark Wasbotten, Brad Salo, Gary Walton, Ron Lillo, Jay Boberg, Jeff Murray, Jared Murray, Dave Reinertsen, Ed Evans, Bob James, Phillip Lockett, Bob Hansen, Mark Braaten, and Carolyn Lockett, spoke in favor of the deer hunt for the following reasons: it is a public safety issue for families; the deer also bring in other animals such as bears and racoons; the value of homeowners' property will be protected; money is lost on plants that the deer eat; the expense of fencing and repellent to keep deer away; this will help prevent lyme disease; the deer are banding into large herds within the city limits; the deer hunt area needs to be expanded so hunters can have more access to the deer; the deer are bold and brazen and not afraid of people; the hunt will help prevent disease spreading amongst the herd; the Superior controlled hunt is well organized and is working well; the city needs to balance wildlife with the residents and the deer can no longer be considered wild.

Rich Staffon, representing the Minnesota department of natural resources (DNR), stated that there is a over population of deer and agrees with the task force that the problem is growing with the increase of the herd size, the DNR supports the plan for a bow hunt in Duluth that is managed wisely, and an evaluation of the hunt after the season is over.

The following speakers spoke against a deer hunt or had concerns: Robert Hakala, Kate Garry, Sally Bujold, Bunter Knowles, Carol Sescmidt, Ronald Miller, Jennifer Hoffman, Sue Berggren and Angela Hoffman: the deer have lost their environment due to the developments; voiced concern on insurance; where are the deer going to go; homeowners do not want people hunting deer on their private property; accidents happen and the worry about being sued and homeowners insurance going up; loss of revenue from tourists; confrontations of deer stands taken down that are on private property; people who are opposed to deer hunting and will stay away; afraid of humans or domestic pets being shot; what lesson are we teaching our children is we kill to solve a problem; witnessing the kill if the animal does not die right away and people will not be able to walk in the woods during the fall.

At this time, 9:05 p.m. the public hearing was adjourned and the regular order of business was resumed.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCES TABLED**

BY COUNCILORS STAUBER, STEWART AND STOVER

05-012 (9723) - AN ORDINANCE REGULATING THE FEEDING OF DEER WITHIN THE CITY; AMENDING SECTION 6-78 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stewart moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

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BY COUNCILORS STAUBER, STEWART AND STOVER

05-013 (9724) - AN ORDINANCE RELATING TO WILD ANIMALS; ESTABLISHING A DEER HUNTING SEASON; AMENDING SECTION 49-4 AND CHAPTER 6 OF THE DULUTH CITY CODE 1959, AS AMENDED.

Councilor Stewart moved to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Stewart also moved to consider Resolution 05-0305, amending Resolution 04-0682 adopting license, permit and fee charges for 2005; setting fees for deer feeding permit and deer hunting qualification certificate, and Resolution 05-0306, governing the seasonal deer hunt in Duluth; setting rules and standards; providing for a managing agent, at this time, which motion was seconded and unanimously carried.

Councilor Stover urged support of the resolution as this hunt is within the standards of a normal deer hunt and will be highly regulated. He continued by saying that there is also concern for public safety because of the number of car accidents with deer and also the destruction to vegetation.

Councilor Stewart stated that bowhunting is a very safe means of hunting and urban archery hunts have been done with great success and safely in other cities. He voiced concern that the deer are eating the plants in the forests and the ecology is being endangered because of the deer. Councilor Stewart reviewed that this is a two step process with the ordinance which would allow a hunt and the resolution that would set the details of the hunt making it easier to change the details of the hunt to suit the needs of the city. He also stated that this years hunt is a pilot project to see how it goes, and the areas that were chosen were based on objective criteria which can be easily be amended, but urged the council to wait a year before changing any of the hunting zones to see if there were problems.

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

Jeff Murray, member of the deer hunting task force, reviewed the criteria that was used to establish the hunting zones: an orientation will be held by the hunting coordinator for each hunting area and the hunters in each zone will know where the public and private land boundaries are; public hearings will be in the neighborhoods so they know what areas are in the hunt; a bowhunter needs to be a very close range to shoot a deer with a bow and arrow and the bowhunters will be professionally trained.

Councilor Gilbert expressed concern that the areas are too close to neighborhoods and questioned how the public will be protected in the areas that allow cross country skiing and hiking. He stated that while there was a task force of experts on deer hunting and there is merit in the

proposal, there was no public input and questioned how this could be amended without imposing this hunt on the public.

Councilor Johnson stated that many people who live in her district are concerned about the hunt in the area of the ski and walking trails and suggested that hunting only be allowed on private land for the first year and then expand in the area after that. She voiced concern that the length of the hunt will dissuade people from using the walking trails during the fall and skiing in the winter.

Councilor Atkins moved to amend Ordinance 05-012 to remove the language allowing for deer feeding permits, as follows:

(a) In subparagraph (a), delete the language after the phrase "prohibited within the city";

(b) In subparagraph (b), delete the existing subparagraph starting with the phrase "appeal," and insert the following: "Enforcement. Any employee or grant of the city who is authorized to cite another for violation of Duluth City Code and any peace officer is authorized to enforce this ordinance";

(c) Add a new subparagraph (c) to read as follows: "(c) Penalty. The minimum fine for a violation of Section 6-78, or its successor, shall be \$50," which motion was seconded and unanimously carried.

Councilor Stauber moved passage of Ordinance 05-012, as amended, and the same was adopted upon a unanimous vote.

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Councilor Stauber moved passage of Ordinance 05-013 and the same was adopted upon the following vote:

Yeas: Councilors Little, Reinert, Stauber, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Gilbert and Johnson -- 3

- - -

Councilor Little moved to amend Resolution 05-0305, by deleting in the title the phrase "DEER FEEDINGS PERMIT AND" and by deleting subparagraph (a) in body of the resolution relating to the deer feeding permit fee, which motion was seconded and unanimously carried.

Resolution 05-0305, as amended, was adopted as follows:

BY COUNCILORS STAUBER, STEWART AND STOVER:

RESOLVED, that Resolution 04-0682 adopting license, permit and fee charges for 2005 be amended to add the following fee:

Deer hunting qualification certificate - \$20.

Resolution 05-0305, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 7

Nays: Councilors Gilbert and Johnson -- 2

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0306 was adopted as follows:

BY COUNCILORS STAUBER, STEWART AND STOVER:

WHEREAS, the ordinances of the city allow a limited and controlled archery deer harvest in the city; and

WHEREAS, the standards and rules for each hunt are determined by resolutions of the council.

NOW, THEREFORE, BE IT RESOLVED, that the following rules and standards shall govern the deer harvest authorized by Chapter 6 of the Duluth City Code, 1959, as amended:

(a) Deer hunting by archery will be conducted in strict conformance with each and every applicable law, rule and regulation of the United States government, and the state of Minnesota and the city of Duluth;

(b) Each participating hunter shall be licensed by the state and certified by the designated agent of the city of Duluth and shall have paid all required fees and met the standards for certification. The fee for each city certificate for each year's hunt shall be set in accordance with Section 6-77(e)(2) of the Duluth City Code, payable before any hunting is undertaken by the certificate holder. Payment shall be made to the administrative assistant or his/her designee, or to the collecting agent designated by the council in a hunt management contract;

(c) Each hunter shall execute and legally bind himself or herself to an agreement, on a form approved by the city attorney, to repair or pay for any injury to person, or damage to property of another that arises out of the hunter's activities in hunting for deer, and to defend and indemnify the city and its agent for any claims against them which arise out of the hunter's activities in hunting for deer;

(d) Within 48 hours of taking a deer, each hunter shall report, on a form acceptable to the hunt manager or, if none, the administrative assistant or his/her designee, the time and place taken, gender of deer and any other relevant information requested;

(e) The hunt shall run concurrent with the state of Minnesota's bow hunting season;

(f) The areas within which, subject to the laws and ordinances that apply, hunting can take place are those indicated on the map or maps on file with the clerk as Public Document No. 05-0509-15;

(g) The hunt shall be managed by a person or organization chosen by the city council and awarded, by council resolution, a contract to manage the hunt. This contractor shall be the designated agent for the administrative assistant or his/her designee in managing the hunt. If there is no such hunt management contractor, then the hunt shall be managed by the administrative assistant or his/her designee. Under any circumstances, the law enforcement officers of the city, state and federal government retain their jurisdiction;

(h) During a season, no person shall be allowed to harvest a buck deer unless that person has previously harvested at least one antlerless deer within Duluth city limits and in complete accordance with the hunt's regulations. Antlerless is defined by the state as those deer without an antler greater than three inches long;

(i) Only hunting from treestands is allowed. Each stand platform must be a minimum of 12 feet above ground;

(j) This resolution continues in force until superceded by another resolution governing the seasonal deer hunt in the city.

BE IT FURTHER RESOLVED, that the city council hereby directs the city attorney to negotiate a deer management contract with the Arrowhead Bowhunter's Alliance or report to the council if that task cannot be completed.

Resolution 05-0306 was adopted upon the following vote:

Yeas: Councilors Atkins, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 7

Nays: Councilors Gilbert and Johnson -- 2

Approved May 9, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 05-0226, by Councilor Stewart, awarding contract to Holiday Station Stores, Inc., for fuel as needed for 12 months at an estimated amount of \$360,000, was introduced for discussion.

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

Yeas: Councilors Little, Stauber and President Ness -- 3

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart and Stover -- 6

- - -

Resolution 05-0272, by Councilor Gilbert, amending Resolution 04-0594 adding an additional \$1.2 million to the allocation of city funds for the Duluth-Kroc Community Center, was introduced for discussion.

Councilor Stover moved to table the resolution, which motion was seconded and unanimously carried.

- - -

Resolutions 05-0291 and 05-0292, by Councilor Gilbert, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a request by Menard, Inc., for a variance to allow a ground sign to exceed the height limitation for the installation of a 75 foot high, 250 square foot ground sign on property located at 503 North 50th Avenue West, were introduced for discussion.

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

Shawn Struck, representing Menard's, reviewed that this issue was before the council last fall when Menard's was asking for a sign height of 100 feet. He continued by saying that they are now asking for a sign height of 75 feet and requested the council to consider the location of the store and the interstate when making the decision. Mr. Struck stated that they still have customer complaints about not knowing where the store is located and have not had letters from the neighborhood or businesses in the area objecting to the height of the sign.

Councilor Stover reviewed that there is one billboard already in the area that is 67 feet high and stated the council needs to stay consistent with the signs in that area.

Councilor Stewart stated that this is not a question of supporting a business, but it is about following the Code, and added that the way to approve this sign is to change the Code that restricts sign height and not give a variance when there is no hardship.

Resolutions 05-0291 was adopted upon the following vote:

BY COUNCILOR GILBERT:

WHEREAS, Shaun Struck, of Menard, Inc., has appealed to the city council the decision of the board of zoning appeals denying a request for a variance to allow a ground sign to exceed the 25 feet height limitation for the installation of a 75 feet high, 250 square feet ground sign on property located at 503 North 50th Avenue West; and

WHEREAS, Chapter 44-27(c) states that ground signs may be a maximum height of 25 feet; and

WHEREAS, Chapter 44-35(a) limits the power to grant a variance and requires a showing of those conditions specified in Chapter 50-47(a) and (b); and

WHEREAS, the board of zoning appeals denied the requested variance because the applicant failed to produce evidence of the existence of the conditions required to obtain a variance and upon the following grounds and reasons:

(a) There does not exist exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property at issue for which the strict application of the terms of the chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property; and

(b) The applicant failed to demonstrate the existence of the following two additional mandated requirements of Chapter 50-47(b):

(1) Special circumstances or conditions applying to the building or land in question which are peculiar to such property and do not apply generally to other land or buildings in the vicinity; and

(2) The necessity of the variance in order to preserve the enjoyment of a substantial property right and not merely the convenience of the applicant; and

(c) The sole basis for the request was the applicant's desire to increase revenues from a commercial activity and such mere convenience of the applicant is a prohibited basis upon which a variance may be granted; and

WHEREAS, the city council has considered this appeal and the documents and statements presented to it and made a part of the record, hereby finds as follows:

(a) There does not exist exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property at issue for which the strict application of the terms of the chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property; and

(b) No hardship exists; and

(c) No special circumstances apply to the property which are peculiar to that property or do not apply generally to other land in the vicinity; and

(d) A variance is not necessary for the preservation and enjoyment of a substantial property right.

NOW, THEREFORE, BE IT RESOLVED, by the city of Duluth that the board of zoning appeals' decision of April 26, 2005, is hereby affirmed by the city council and the appeal is denied.

Resolution 05-0291 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart and Stover -- 5

Nays: Councilors Atkins, Little, Stauber and President Ness -- 4

Approved May 9, 2005
HERB W. BERGSON, Mayor

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Resolution 05-0292 failed upon the following vote (Public Document No. 05-0509-16):
Yeas: Councilors Atkins, Little, Stauber and President Ness -- 4
Nays: Councilors Gilbert, Johnson, Reinert, Stewart and Stover -- 5

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BY COUNCILOR GILBERT:

WHEREAS, the city desires to develop a comprehensive plan for Duluth and has put forth a request for proposals for professional services to assist in this process; and

WHEREAS, C.R. Planning, Inc., has represented that it is qualified and willing to perform the services set forth in its proposal to assist the city in the development of its comprehensive plan.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are hereby authorized to execute an agreement, substantially in the form of the agreement filed as Public Document No. 05-0509-17, with C.R. Planning, Inc., for professional services in the development and implementation of a comprehensive plan for the city of Duluth, in an amount not to exceed \$190,000; payable from Fund 100, Organization 020, Agency 1202, Object 5310.

Resolution 05-0301 was unanimously adopted.

Approved May 9, 2005
HERB W. BERGSON, Mayor

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Resolution 05-0300, by councilors Gilbert, Stover and Reinert, in support of clean lakes and rivers, was introduced for discussion.

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

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED

BY COUNCILOR STEWART

05-006 - AN ORDINANCE AMENDING SECTION 50-49 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING APPEALS OF DECISIONS OF THE BOARD OF ZONING APPEALS.#06

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

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

Woody Skafte stated that the council should have final authority over the citizens which is more of a direct path instead of citizens have to go to district court.

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

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BY COUNCILOR LITTLE

05-015 - AN ORDINANCE PERTAINING TO THE FIRE CODE, ALLOWING PRIVATE INSPECTIONS; AMENDING SECTIONS 21-1 AND 21-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

Woody Skafte stated that this ordinance does not address those who have already paid for an inspection that has not been made.

Bob Hanson reviewed that he owns a commercial building and already pays a fire inspection fee plus the special tax district fee and stated that this fee for yearly fire inspection is unfair to the small business community. He continued by saying that either the consumers ultimately pay or the business pays by going out of business.

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

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The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-018 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, ONE-FAMILY RESIDENTIAL DISTRICT, TO C-1, COMMERCIAL DISTRICT, PROPERTY ON THE SOUTHEAST CORNER OF DODGE STREET AND 51ST AVENUE EAST (RICHARD KAY, COMMUNITY CONNECTION OF MINNESOTA, INC.).

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The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-016 (9725) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY IN WEST DULUTH TO GRANITE WORKS, INC., FOR \$54,450.

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

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BY PRESIDENT NESS

05-017 (9726) - AN ORDINANCE PERTAINING TO CABLE TELEVISION FRANCHISE.

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

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

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

- - -

ORDINANCE NO. 9723

BY COUNCILORS STAUBER, STEWART AND STOVER:

AN ORDINANCE REGULATING THE FEEDING OF DEER WITHIN THE CITY; AMENDING SECTION 6-78 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Article VII of Chapter 6 of the Duluth City Code, 1959, as amended, be amended by adding a new Section 6-78 to read as follows:

Sec. 6-78. Feeding of deer prohibited.

(a) Feeding of deer. Except for operation of the Duluth zoo and its programs, feeding wild deer on publicly-owned or occupied, or publicly-controlled, land is prohibited. Feeding of wild deer or allowing them to be fed on one's privately-owned or occupied property is prohibited within the city

(b) Enforcement. Any employee or agent of the city who is authorized to cite another for violation of Duluth City Code and any peace officer is authorized to enforce this ordinance;

(c) Penalty. The minimum fine for a violation of Section 6-78, or its successor, shall be \$50.

Section 2. That this ordinance will take effect 30 days after its passage and publication.

(Effective date: June 19, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed May 9, 2005

ATTEST:
JEFFREY J. COX, City Clerk

Approved May 9, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9724

BY COUNCILORS STAUBER, STEWART AND STOVER:
AN ORDINANCE RELATING TO WILD ANIMALS; ESTABLISHING
A DEER HUNTING SEASON; AMENDING SECTION 49-4 AND
CHAPTER 6 OF THE DULUTH CITY CODE 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 49-4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 49-4. Possession of rifles and shotguns out of doors; hunting prohibited.

(a) No person shall have in possession out of doors, unless unloaded and contained in a gun case or unloaded and broken down, any rifle or shotgun; provided, that the removal of the bolt from any firearm, without further breaking down firearm, shall not be deemed to be in compliance with the requirements of this Section;

(b) Except for harvesting of deer by use of bow and arrow, in areas designated by the city council, as authorized by Chapter 6 of Duluth City Code, within the city of Duluth, no person shall hunt any animal with a firearm, air gun, bow and arrow, crossbow, slingshot or any other weapon.

Section 2. That Article VII of Chapter 6 of the Duluth City Code, 1959, as amended, be amended by adding a new Section 6-77 to read as follows:

Sec. 6-77. Hunting deer by bow and arrow.

(a) Findings and policy. The city council finds that the peace and safety of the community, and the health of the forest, are threatened by the overabundance of wild deer within the city. Therefore, the population of wild deer must be regulated and managed. The method for the regulation shall be an annual harvesting of wild deer by use of bow and arrow;

(b) State laws. The conduct of any authorized deer hunting within the city must be in compliance with all applicable laws and regulations of the state of Minnesota. This section is supplemental to the laws of Minnesota, as they may be amended or changed from time to time;

(c) Enforcement officers. The conduct of any authorized deer hunting within the city shall be regulated by the administrative assistant or his or her designee or his or her agents, and any state or federal agents with jurisdiction. The council has authority to, by contract approved by resolution, designate the administrative assistant or his or her designee's agent for the purpose of managing the hunt;

(d) Allowed hunting areas. Deer harvesting will be prohibited in all areas of the city except the following:

(1) Any area designated by the council, by resolution, as a designated hunting area (DHA);

(2) Any privately-owned property within a DHA that is not owned by the hunter, but that is owned or controlled by a party from whom the hunter has obtained written permission, dated and signed within 12 months of the time of the hunting, to hunt deer on the property;

(A) In a duly designated hunting area, hunting will not be allowed:

1. Within 400 feet of any occupied dwelling or active commercial structure, or structure accessory thereto, or within 200 feet of said buildings with written permission of the landowner;

2. Any place posted "no hunting" in compliance with the laws of Minnesota;

(e) Authorized hunters. Any person hunting deer by bow and arrow within the city must meet all of the following criteria:

(1) Be qualified to hunt deer by bow and arrow under all the laws and regulations of the state of Minnesota and be licensed to do so by the state;

(2) Be certified to be qualified to harvest deer within the city by the administrative assistant or his or her designee or the designated agent approved by council resolution. The council has authority to, by contract approved by resolution, designate the administrative assistant or his or her designee's agent for the purpose of managing the hunt, regulating the hunters, and collecting fees due to the city and giving such fees to the city. Application for a deer hunting qualification certificate shall be made to the administrative assistant or his or her designee. The agent designated by the council may act for the administrative assistant or his or her designee to collect the fee. The fee shall be set in accordance with Section 31-6(a) of this Code. The standards and requirements of the program shall be set by resolution of the council. The program shall include each hunter's agreement to behavior and ethical standards, proficiency standards, and a waiver of rights for any liability of the city, its contract agent or landowners;

(f) Conduct of the hunt.

(1) Harvesting of deer shall only be done in compliance with this ordinance, state law, any resolution passed by the council setting standards for conduct of the hunt or contracting for the services of the city's agent for that purpose, and any deer management plan for Duluth adopted by the city council;

(2) Carcasses and entrails must be removed from the site of the kill immediately and completely;

(3) Only hunting by bow and arrow is allowed, except for hunting by the disabled with crossbow, as it is allowed under state rules of the department of natural resources;

(4) No permanent stand is allowed on public property;

(5) No hunter may harvest more than one antlered deer. Party hunting, as defined by state law, is limited to antlerless deer only;

(6) No hunter may attempt to shoot or harvest a deer that is beyond the effective range of the hunter;

(7) Each hunter must repair or pay for any damage to the property of another that arises out of the hunting activities;

(g) Violations. A violation of this Section is punishable as set out in Section 1-7, as it may be amended or changed from time to time. In addition, any person convicted of any violation of this Section, or any other law, as a result of actions related to deer harvesting authorized by this Section, shall be disqualified, for a period of two years from the date of conviction, from being certified as qualified to harvest deer within the city;

(h) Reports. Each person who harvests a deer pursuant to this section shall report that fact to the administrative assistant or his or her designee or his or her agent within 48 hours of the taking. Each year, the administrative assistant or his or her designee shall report to the city council about the conduct of the previous year's harvest, including the number of participants, the number of deer taken, any problems encountered and any recommendations.

Section 3. That this ordinance shall be in force and take effect 30 days from and after its passage and publication. (Effective date: June 19, 2005)

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

Yeas: Councilors Little, Reinert, Stauber, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Gilbert and Johnson -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 9, 2005
Approved May 9, 2005
HERB W. BERGSON, Mayor

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ORDINANCE NO. 9725

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY IN
WEST DULUTH TO GRANITE WORKS, INC., FOR \$54,450.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement with Granite Works, Inc., which authorizes a conveyance of the below-described property in St. Louis County, Minnesota, by quit claim deed to Granite Works, Inc., for the sum of \$54,350; payable to Special Revenue Fund 255-020:

Lots 7 and 8, Block 2 and Lots 1 to 19, inclusive, and Lots 39 to 46, inclusive, Block 3, except that part of such lots taken for Highway No. 23, Morgan Park, First Addition, according to the recorded plat thereof.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: June 19, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed May 9, 2005

Approved May 9, 2005

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9726

BY PRESIDENT NESS:

AN ORDINANCE PERTAINING TO CABLE TELEVISION
FRANCHISE.

The city of Duluth does ordain:

Section 1. The franchise granting Charter the right and privilege to operate a cable television system is hereby extended to October 31, 2005, or until a new franchise agreement is executed, whichever shall first occur.

Section 2. In granting this extension neither the city nor Charter waives any rights under the franchise or applicable law and both the city and Charter agree to comply with all terms and obligations of the franchise.

Section 3. This ordinance shall become effective upon the occurrence of both of the following conditions:

(a) Pursuant to Section 82 of the City Charter, this ordinance shall be published verbatim in the official paper of the city of Duluth once a week for four successive weeks after its passage and shall take effect 30 days from and after its last publication;

(b) Charter's acceptance of this ordinance and the franchise for the term specified in paragraph (1) above, provided Charter accepts and agrees to each and every term of this ordinance and the franchise within 14 days from the date this ordinance is adopted by the city council. (Effective date: July 10, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed May 9, 2005

Approved May 9, 2005

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 23, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meeting held on March 28 and April 11, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0523-01 Bart and Susie Haugen submitting petition to vacate 22nd Avenue West adjacent to Lots 1, 2, 3 and 4, Block 6, Coffin-Warner and Jones Addition to Duluth. -- Assessor

05-0523-02 Thomas Selinski, et al. (two signatures), submitting petition to vacate 18th Street between Minnesota and Lake avenues. -- Assessor

05-0523-03 Duluth Tire and Oil submitting communication regarding board of zoning appeals approval to grant a variance to WB Ibiza, LLC (05-0317R and 05-0318R). -- Received

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REPORTS OF OFFICERS

05-0523-04 Assessor submitting:

(a) For confirmation assessment roll levied to defray the assessable portion of Contract No. 5374 (sanitary sewer in Decker Road II) and Contract No. 5352 (sanitary sewer in Decker Road I);

(b) Letters of sufficiency of petitions to vacate:

(1) 18th Street between Minnesota and Lake avenues;

(2) Half of 22nd Avenue West adjacent to Lots 1, 2, 3 and 4, Block 6, Coffin-Warner and Jones Addition to Duluth. -- Received

05-0523-05 Building official submitting appeals of the board of zoning appeals decisions as follows:

(a) Daniel Good, Christine Good, Samuel Good, Peggy Himebaugh, General Drivers Union Local No. 346, by Colin P. Hayes and Steven W. Veit, appealing the approval to grant a variance to WB Ibiza, LLC, to reduce the total number of required parking spaces from 79 to 41 for the remodeling of the vacant second and third floors into 24 dwelling units with a restaurant and dance center on the first floor of property located at 2803 West Superior Street;

(b) Northern Communities Land Trust appealing denials to reduce the:

(1) Minimum frontage requirement from 50 feet to 40 feet and the minimum width of one dwelling from 20 feet to 18 feet for the construction of three single family dwellings on property located at 2606, 2610 and 2614 West Second Street;

(2) Required frontage from 50 feet to 37.5 feet, the minimum lot area from 5,000 square feet to 4,875 square feet, the minimum side yard on a corner lot from 15 feet to six feet six inches for a dwelling and from 20 feet to 12 feet six inches for a detached garage for the construction of two single-family dwellings for property located at 2601 and 2605 West Second Street;

(c) Skafte Enterprises, Inc., appealing approval to grant a variance to the city of Duluth, community development division, to relax the 380 square feet of lot area per unit to 300 square feet, the front and rear yard setbacks from 36 feet to five feet front and 15 feet six inches rear, the side yard setbacks from 36 feet to 3 feet ten inches and one foot, the minimum parking requirement from 47 spaces to 13 spaces for the demolition of existing structures and construction of a new 70 unit building consisting of 40 efficiency units and 30 single room occupancy units on property located at 230 West Third Street. -- Committee 2 (Planning and economic development)

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REPORTS OF BOARDS AND COMMISSIONS

05-0523-06 Board of zoning appeals minutes of March 22, 2005, meeting. -- Received

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RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 05-0226, awarding contract to Holiday Station Stores, Inc., for fuel as needed for 12 months at an estimated amount of \$360,000, from the table, which motion was seconded and unanimously carried.

Upon request from the administration, Councilor Stewart moved to refer the resolution to the administration, which motion was seconded and unanimously carried.

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Councilor Gilbert moved to remove Resolution 05-0272, amending Resolution 04-0594 adding an additional \$1.2 million to the allocation of city funds for the Duluth-Kroc Community Center, from the table, which motion was seconded and unanimously carried.

Resolution 05-0272 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, pursuant to Resolution No. 04-0594 the city council determined that there was a profound public need, one that the city has not had the resources to fully meet, for programs and facilities to build the community and help disadvantaged youth and stated the city's intent to contribute, to the extent reasonably and legally possible, \$1.2 million per year over five years from city revenues from Fond du Luth Casino operations, known as the community investment trust, to endow the operations of the proposed Duluth-Kroc community center; and

WHEREAS, it is necessary to increase the city's funding of that endowment by increasing from five to six the number of years that city will contribute \$1.2 million to that fund.

RESOLVED, that Paragraph D of Resolution No. 04-0594 is hereby amended by increasing the number of years in which \$1.2 million is to be provided to the Duluth-Kroc community center endowment fund from five years to six years.

Resolution 05-0272 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Little -- 1

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Gilbert moved to remove Resolution 05-0300, by Councilors Gilbert, Stover and Reinert, in support of clean lakes and rivers, from the table, which motion was seconded and unanimously carried.

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

Rosie Loeffler-Kemp, representing Clean Water Action, and Julie O'Leary stated that: 16 organizations representing a broad level support this, the issue is water quality and having a plan to solve problems and that this is a source of funding to address those problems.

Resolution 05-0300 was adopted as follows:

BY COUNCILORS GILBERT, STOVER, REINERT AND JOHNSON:

WHEREAS, the citizens of Duluth place a high value on our area lakes and rivers; and

WHEREAS, clean water is what makes Minnesota a great place to live and economic development thrives where water is clean, safe and healthy; and

WHEREAS, our lakes and rivers are a tremendous local asset for swimming, fishing, drinking, tourism and property values; and

WHEREAS, just eight percent of Minnesota's rivers and streams and 14 percent of our lakes have been tested to determine if they meet water quality standards; and

WHEREAS, thus far 40 percent of all waters tested, including our own St. Louis River watershed violate water quality standards and therefore are impaired; and

WHEREAS, Minnesota's lakes, rivers and streams are contaminated with mercury, pesticides, phosphorus, human and animal waste and other pollutants; and

WHEREAS, the federal Clean Water Act requires that we test our waters, determine the sources of pollution and enact a clean-up plan; and

WHEREAS, the citizens of Duluth have seen the negative economic and social impacts of water pollution, prior to the existence of the Western Lake Sanitary Sewer District; and

WHEREAS, local residential and business development can be impeded if our polluted lakes and rivers are not cleaned up; and

WHEREAS, the Minnesota pollution control agency has estimated the cost of cleaning up Minnesota's polluted waters to be \$80 to \$270 million per year; and

WHEREAS, polluted lakes and rivers are a statewide problem that calls for statewide attention.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council calls on the legislature to fund a clean-up initiative to test the water quality of Minnesota's lakes and rivers, empower local stakeholders to develop clean-up plans, implement restoration activities to return lakes and rivers to a clean and healthy state and keep clean waters clean.

BE IT FURTHER RESOLVED, that the Duluth City Council urges the legislature to continue to fund important sewer and water infrastructure improvements and upgrades through the state revolving loan fund, the wastewater infrastructure fund and to work towards additional grant funding for important initiatives.

Resolution 05-0300 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portion of the following:

(a) Sanitary sewer in Decker Road II (Contract #5374; assessable amount: \$140,200.14);

(b) Sanitary sewer in Decker Road I (Contract #5352; assessable amount: \$76,021.67); are hereby confirmed.

Resolution 05-0316 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 Angie's, Inc. (Little Angie's Cantina), for June 18, 2005, with the serving ceasing at 4:00 p.m.

Resolution 05-0321 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license and issues a 3.2 percent malt liquor license for the period ending August 31, 2005, and April 30, 2006, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Lai V and Nam H Ly (Nam Lee's Restaurant), 4023 Woodland Avenue.

Resolution 05-0322 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 alcohol, gambling and tobacco 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.

Licensee

Gambling site

East End Hockey Association

Baja Billy's Cantina & Grill

Duluth Curling Club

Buena Vista Lounge
RT Quinlan's Saloon

Resolution 05-0323 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with SJA Architects, for the sum of not to exceed \$7,200, from Capital Bond Fund 450, Agency 030, Object 5520, Project CP 2004-C409, for providing certain Phase I architectural services to the city of Duluth in connection with the West Duluth Police Station, 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. 05-0523-07.

Resolution 05-0331 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with DSGW Architects for the sum of not to exceed \$125,000, from Capital Improvement Fund 0450, Agency 030, Object 5520, Project No. C.P. 2005-OT0511, for providing certain Phase I architectural services to the city of Duluth in connection with Peterson Arena replacement (AKA Duluth Heritage Hockey Center), said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 05-0523-08.

Resolution 05-0334 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Change Orders No. G-1 and 2 to Resolution No. 04-0830 with Lipe Brothers Construction be and hereby are authorized in an amount of \$11,782, payable from Fund 450, Department 030, Organization C404, Object 5535, Project No. CP2004-C404, for additional construction services in connection with overhead door replacement/headquarters fire station, thereby increasing the total contract amount to \$39,132.

Resolution 05-0335 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the Duluth City Council hereby appoints Robert J. Zallar to the civil service board for a term expiring on May 1, 2011, replacing Patrick Spott.

Resolution 05-0313 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of 21st Avenue East lying between the southerly line of Water Street and the Lake Superior shoreline adjoining Blocks A and B, 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, 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 July 23, 2003, meeting on condition that the applicant dedicate an appropriate pedestrian easement for future improvement as an extension of Lakewalk; and

WHEREAS, the applicant has proposed to dedicate as the Lakewalk easement that easement described in Exhibit A (Public Document No. 05-0523-09); and

WHEREAS, the city council finds the proposed easement to be an appropriate easement for future improvement as an extension of Lakewalk through the affected property; and

WHEREAS, the applicant has offered an instrument of dedication on file in the office of the city clerk as Public Document No. 05-0523-09 (reference planning commission File No. 03077).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth accepts the dedication of the pedestrian easements, more particularly described on Public Document No. 05-0523-09, over the below-described property from Beacon Point Condominiums, LLC, and Endion Shores, LLC:

Lots 4-8, Block A, and Lots 1-8, Block B, ENDION SHORES DIVISION OF DULUTH.

RESOLVED FURTHER, 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 Lakewalk easement documents.

Resolution 05-0286 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the state of Minnesota historical society (MNHS) administers United States department of interior funds, for use by certified local governments (CLGs), for qualifying historic preservation purposes; and

WHEREAS, the city of Duluth has applied for financial assistance from the MNHS's CLG grant program, for the purposes of securing professional services of a keynote speaker for the 2005 Annual Statewide Historic Preservation Conference, to be held in Duluth, on September 15-16, 2005.

RESOLVED, that the proper city officials are hereby authorized to accept a CLG grant from the MNHS, in the amount of \$1,000 for said professional services.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant and to obligate up to \$1,000 in cash match to be appropriated by donation from the Duluth Preservation Alliance (DPA) to be deposited along with said grant into Fund 100, Organization 020, Organization 1202, Object 4220-02.

Resolution 05-0332 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement located within the vacated alley between 11th Avenue East and Tenth Avenue East, south of 12th Street, in East Hillside, Duluth, legally described as utility easement in Block 32, Lakeview 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 unanimously approved the utility easement vacation at its May 10, 2005, meeting (reference planning commission File No. 05036).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the utility easement within the vacated alley in Block 32, Lakeview Division, and as more particularly described on Public Document No. 05-0523-10.

RESOLVED FURTHER, 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 05-0333 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional services agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0523-11, with Enventis Telecom, Inc., for completion of Phase 4 of the city's telecommunications upgrade project, specifically the upgrade of the City Hall core equipment and the installation and implementation of services for five additional remote sites for the sum of \$60,000 payable from the 2004 Capital Equipment Bond Fund 0250-015-2004-5580, Project #CE250-E401.

Resolution 05-0341 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to purchase equipment and supplies, substantially in the form and quantity of that listed on the bill of materials on file in the office of the city clerk as Public Document No. 05-0523-12, necessary to proceed with Phase 4 of the city's telecommunications upgrade project, specifically the upgrade of the City Hall core equipment, and the installation and implementation of services for five additional remote sites for a sum of \$145,000 payable as follows:

2003 Capital Equipment Bond Fund 250-015-2003-5580, Project #CE250-E305 - \$7,357;

2004 Capital Equipment Bond Fund 250-015-2004-5580, Project #CE250-E401 - \$53,684;

2005 Capital Equipment Bond Fund 250-015-2005-5580, Project #CE250-E501 - \$83,959.

Resolution 05-0342 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 100 percent of the abutting property to construct a bituminous street in 14th Street from Central Entrance to Third Avenue East.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 05-0304 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Dennis Walkowiak the sum of \$11,577.36 in full and final settlement of the claim which arose out of a break in a city watermain occurring on January 20, 2005; payment to be made from the Self Insurance Fund 610.

Resolution 05-0319 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Phil Randal Sewer and Excavating, Inc., be and hereby is awarded a contract for construction of Hunter's Park 2005 street improvement project sites for the engineering division in accordance with specifications on its low specification bid of \$629,628.48, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0300, Object 5530.

Resolution 05-0339 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Letourneau & Sons, Inc., be and hereby is awarded a contract for construction of Lincoln Park Central East street improvement project sites for the engineering division in accordance with specifications on its low specification bid of \$1,224,875.05, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Organization 0300, Object 5530.

Resolution 05-0340 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for construction of Grand Avenue reconditioning project for the engineering division in accordance with specifications on its low specification bid of \$3,831,448.10, terms net 30, FOB job site, payable out of Street Improvement Program Fund 0411, Department/Agency 035, Object 5530, Project PI0112TR.

Resolution 05-0343 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering three Radius dump spreaders for the street maintenance division in accordance with specifications on its low specification bid of \$163,577.61 terms net 30, FOB

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

destination, \$163,577.61 payable out of Capital Fund 250, Department/Agency 015, Organization 2005, Object 5580, Project CE250-V507.

Resolution 05-0345 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hydro Metering Technology be and hereby is awarded a contract for furnishing and delivering water meter repair parts as needed during year 2005 for the utility operations division in accordance with specifications on its low specification bid at an estimated amount of \$39,724.50, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 2410, Object 5220.

Resolution 05-0346 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to accept the donation of an easement for street and highway purposes substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0523-13 from Summit Management, LLC, at no cost to the city.

Resolution 05-0350 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into an assessment agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0523-14, with Summit Management, LLC, authorizing the assessment of benefitted properties in and adjacent to the Campus Park II development for the cost of street and utility improvements related thereto, all payments made thereunder to be made to the permanent improvement revolving fund.

Resolution 05-0351 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers 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. 05-0523-15, with St. Louis County for the county to reimburse the city for constructing intersection improvements at Rice Lake Road and Blackman Avenue/Hickory Street and Chinook Drive in the estimated amount of \$83,320, payable to the city's General Fund 440, Department 038, Object 5537, Project 0341TR.

Resolution 05-0352 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-97(b) of the Duluth City Code, 1959, as amended, the following no parking between November 1 and May 31 zone is hereby established:

both sides of Minneapolis Avenue between Anoka Street and Isanti Street.

Resolution 05-0280 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

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

both sides of St. Paul Avenue between Anoka Street and Isanti Street.

Resolution 05-0281 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

WHEREAS, the Minnesota department of public safety provides grant funding through an auto theft prevention program to reimburse police departments for the salary, benefits, training and equipment needs of property crime investigators working on auto theft crimes; and

WHEREAS, the city of Duluth has received grant funds through this program for nine years; and

WHEREAS, the city is applying for \$290,495 dollars for the grant period of July 1, 2005, to June 30, 2007, and the city is not required to provide matching funds.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized to apply for said grant and to execute any documents required to be executed to accept such grant. Such funds to be deposited in Fund 215, Agency 200, Organization 2266, Revenue Source 4220-02.

Resolution 05-0314 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to pay to American Family Insurance, as subrogee of Joel Stocke, the amount of \$31,545.06 in full settlement of all claims for building damage to their insured's property at 1911 East Third Street resulting from a police department tactical response team call-out, which occurred on March 18, 2004; payment to be made from the Self Insurance Fund 610.

Resolution 05-0336 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

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 2003 West Eighth Street;

front of 318 North 28th Avenue West.

Resolution 05-0337 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to pay to John A. Brown, Jr., Tessa Buscko and Lisa Charles and their attorney, James W. Balmer, the amount of \$50,000 in full and final settlement of the claim which arose out of a motor vehicle accident occurring on September 23, 2003, near the intersection of Becks Road and Commonwealth Avenue; payment to be made from the Self Insurance Fund 610.

Resolution 05-0338 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR REINERT:

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. 05-0523-16, 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. Reimbursements received shall be deposited into public works and utilities department, street and park maintenance division, General Fund 100, Department 500, Division 1920, Revenue Source 4220-02.

Resolution 05-0311 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

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At this time, 7:35 p.m., President Ness announced that the public hearing regarding the proposed creation of three pedestrian transit zones would begin.

Ken Bluedorn, Natacha Kowalowski, Bob Hansen and Andy Peterson supported creation of the pedestrian transit zones, stating: they will allow customers to enter and leave the stores without being frightened or intimidated by panhandlers; First Street is undergoing physical improvements that will attract more tourists who need to feel safe; the problem people around this area are small in number; Downtown workers and residents also need this protection to feel safe; the high number of police reports in these areas does not reflect on the residents in the areas; this will help to improve the overall neighborhood perception; this will provide safe, easy pedestrian passage and there needs to be social pressure put on those individuals loitering on the streets.

Brian Fuxa, Jeremiah Brown and Garry Krause opposed or had concerns regarding the resolution for reasons of: the planning commission would not make a recommendation on it; the ordinance that allows for this is absurd; most of the councilors in one way or another have implied that they disagree with the pedestrian transit zone concept; this will not stop the undesirable activity, it will just move down the street and the businesses that wanted these zones when the ordinance was passed years ago have not applied for them.

At this time, 7:51 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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The following resolutions were also considered:

Resolution 05-0285, by Councilor Gilbert, creating pedestrian transit zones on the public sidewalks adjoining properties located at 31, 114-116 and 129 East First Street (Bluedorn/Gradishar/King), was introduced for discussion.

Councilors Atkins, Gilbert, Little and Stauber supported the resolution for reasons of: this type of zone is authorized by ordinance; these problems are impacting Downtown businesses; technically, the whole Downtown could be designated a pedestrian transit zone; drug dealing, prostitution and panhandling have been more outwardly happening; many other cities have adopted these regulations and are using them for a variety of situations; while there are other long-term solutions that should be looked at, this is something that needs to be done now; it is a sad state of affairs when customers turn away from doing business in a store because of individuals in front of it and this may not be the best solution, but is a start in the right direction.

Councilors Johnson, Reinert, Stewart, Stover and President Ness opposed the resolution for reasons of: this is not the solution to the problem, it will just move the problem down the street; what is needed is more police officers in the Downtown and the task force that reviewed this should be reinstated to look at the problem again for a better solution.

Resolution 05-0285 failed upon the following vote (Public Document No. 05-0523-17):

Yeas: Councilors Atkins, Gilbert, Little and Stauber -- 4

Nays: Councilors Johnson, Reinert, Stewart, Stover and President Ness -- 5

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Resolutions 05-0317 and 05-0318, by Councilor Gilbert, affirming and reversing, respectively, a decision of the board of zoning appeals to approve the reduction of the total number of parking spaces required from 79 to 41 for the remodeling of the vacant second and third floors into 24 dwelling units on property located at 2803 West Superior Street, were introduced for discussion.

Councilors Gilbert, Stauber and Stewart supported Resolution 05-0317 for reasons of: by approving this the council is saying it wants the building redeveloped; any use of the upper levels of the building would require this parking variance; the building owner has expressed a willingness to work with the neighbors regarding any problems with existing tenants; the building owner stated that he would use the courts, if necessary, to remove the existing tenant if current problems continue and no one will consider renting apartments in this building if parking is not available.

Councilors Atkins, Little, Reinert, Stover and President Ness opposed Resolution 05-0317 for reasons of: the existing business that is leasing space on the ground level requires this parking in the evening, so this would just make the parking situation worse; this parking situation is a nightmare for neighbors and businesses in this area; the problems are not with the activities in the club, just when the youth leave; and the problem needs to be resolved between the landlord and the leasee first and a reduction in the number of parking spaces does absolutely no good.

Resolution 05-0317 failed upon the following vote (Public Document No. 05-0523-18):

Yeas: Councilors Gilbert, Stauber and Stewart -- 3

Nays: Councilors Atkins, Johnson, Little, Reinert, Stover and President Ness -- 6

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Resolution 05-0318 was adopted as follows:

0BY COUNCILOR GILBERT:

WHEREAS, WB Ibiza, LLC, owns property located at 2803 West Superior Street and legally described as Lots 17 through 21, Block 19, Marine Division; and

WHEREAS, WB Ibiza, LLC, is planning to remodel the vacant second and third floors of the building located on said property to accommodate 24 dwelling units and continue the existing commercial use on the ground floor; and

WHEREAS, pursuant to City Code the proposed remodeling would require the provision of a minimum of 79 parking spaces; and

WHEREAS, WB Ibiza, LLC, applied to the board of zoning appeals for a variance to reduce the minimum parking space requirement from 79 to 41; and

WHEREAS, the board of zoning appeals considered this matter and determined that imposing the full regulations of the Code would result in a hardship for any use of the second and third floors of this existing building and granted the variance to reduce the required parking from 79 to 41 spaces; and

WHEREAS, Daniel Good, Christine Good, Samuel D. Good, Peggy Himebaugh, Steven Veit, of North West Plow, and Auto and Colin Hayes, president of the Teamsters Local 346, have appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and hereby makes the following determinations pursuant to Section 50-47(c)(6) of the Code:

(a) That upon appeal the board is empowered to permit the following exception, regardless of the limitations established by 50-47(b):

To vary the parking and loading regulations of Chapter 50 whenever the character or use of a building is such as to make unnecessary the full provision of parking or loading facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience;

(b) The proposed combination of commercial and residential uses of the property would cause the greatest parking demand to occur at the same time and requires the provision of sufficient parking to satisfy the competing demands of the commercial and residential uses to avoid unauthorized overflow into other nearby privately owned parking lots;

(c) It is the conclusion of the city council that the proposed character or use of the building does not justify the reduction of the full provision of the parking requirements and that imposing such regulations would not result in an unreasonable hardship upon the use of the lot and is merely an advantage or convenience to the applicant;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth reverses the board of zoning appeals' decision of April 26, 2005.

Resolution 05-0318 was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Little, Reinert, Stover and President Ness -- 6

Nays: Councilors Gilbert, Stauber and Stewart -- 3
Approved May 23, 2005
HERB W. BERGSON, Mayor

- - -

Resolution 05-0315, by President Ness, setting fees for commercial use permit or operational permit; amending resolutions 04-0637 and 04-0682, was introduced for discussion.

Councilor Little moved to suspend the rules to consider Resolution 05-0349, eliminating fees for commercial use permit or operational permit; amending resolutions 04-0637 and 04-0682, at this time, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES
ORDINANCE TABLED**

BY COUNCILOR LITTLE

05-015 - AN ORDINANCE PERTAINING TO THE FIRE CODE, ALLOWING PRIVATE INSPECTIONS; AMENDING SECTIONS 21-1 AND 21-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Little moved to suspend the rules to remove the ordinance from the table and consider it at this time, which motion was seconded and unanimously carried.

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

Dave Barsdorf; Bob Hansen; Andy Peterson, representing the Duluth Area Chamber of Commerce; Steve Townsend; Steve Laskey and John Mack opposed the fire inspection fees because: it is part of the job description of firefighters to do these inspections; businesses and taxpayers should not be asked to pay these fees when the city is making nonessential expenditures; the fee is nothing more than a tax; the spending habits of the city need to be cleaned up first; the city budget cannot be balanced on the back of small independent businesses; these fees are adversely affecting the economic engine of small businesses; businesses are already taxed at a premium level and many businesses are already inspected by the state fire marshal.

Councilors Stauber, Little and Atkins expressed support for Resolution 05-0349 for reasons of: businesses that are a Class B and have a sprinkler or alarm system need the inspections thus this is a disincentive to have sprinkler or alarm system units; there appears to be a discrimination on the selection of what is termed a "hazardous facility"; according to the state auditor's office the Duluth fire department is the most expensive per capita in the state; national records show that there is a reduced trend in the number of fire incidents; that the administration, if they need to raise more revenue next year, might increase the number of businesses that they feel need to be inspected; recently all fees were increased and if more revenue is needed, this fee will also be increased; there has been no increase in the number of firefighters to support the need for this fee; the selection of what businesses are on the list is arbitrary; many of these businesses were recently hit with the special service district assessment; it was stated that the intent of this fee was to raise revenue; the city needs to do a better job with public relations on issues like this and these businesses are the city's customers, need to succeed here in Duluth.

Councilors Gilbert, Johnson, Stewart, Reinert, Stover and President Ness opposed Resolution 05-0349 for reasons of: this fee was passed last year as part of the balanced budget that was approved; it is not responsible to reduce the fee at this point without some other comparable savings; the time to do this is at the time the next budget is set; this a new, more detailed inspection beyond the basic inspection that has been in the past; this inspection fee covers a three year period; there is a rational that all taxpayers should not have to pay for this cost; the fire department is currently understaffed now and those businesses benefitting from these more detailed inspections should make a contribution, not necessarily the full cost, for the services provided.

Resolution 05-0349 failed upon the following vote (Public Document No. 05-0523-22):

Yeas: Councilors Atkins, Little and Stauber -- 3

Nays: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Councilor Johnson moved to amend Resolution 05-0315, Appendix A, to change all the "\$100" fees to "\$150," which motion was seconded and failed upon the following vote:

Yeas: Councilors Gilbert and Johnson -- 2

Nays: Councilors Atkins, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 7

Councilor Reinert moved to amend the resolution, Appendix A, occupancy base fees (5) from "\$300" to "\$100," which motion was seconded and unanimously carried.

Councilor Little moved to amend the resolution by deleting in Appendix A, occupancy base fee "(1) Assembly occupancy: (A) Add with occupant load exceeding 100," which motion was seconded and unanimously carried.

Resolution 05-0315, as amended, was adopted as follows:

BY PRESIDENT NESS:

BE IT RESOLVED, that under authority of Duluth City Code Section 21-6 and Section 31-6, the proper city officials are authorized to enter into any necessary agreement with the state of Minnesota and do acts necessary to collect the fee that shall not exceed \$100, or, for inspections performed by the city under a contract with the state or any other governmental agency, any amount that does not exceed the fee for the same service charged by the party with which the city has contracted, whichever is greater, for issuance of a three year commercial use permit or operational permit under Section 105 of the Minnesota State Fire Code, as set out in the fee schedule on file with the city clerk as Public Document No. 05-0523-19. This resolution supercedes Resolution 04-0637 and amends Resolution 04-0682.

Resolution 05-0315, as amended, was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Little, as sponsor of Ordinance 05-015, requested that the ordinance be removed from the agenda, which action was unanimously accepted.

- - -

Resolution 05-0320, by President Ness, amending Resolution 05-0269, changing the date when money can be transferred from the community investment trust fund, was introduced for discussion.

Councilor Stauber opposed the resolution because when it was initially proposed, supporters and opponents were told that it would start on January 1, 2006.

Resolution 05-0320 was adopted as follows:

BY PRESIDENT NESS:

BE IT RESOLVED, that Resolution 05-0269 be amended to read as follows:

BE IT RESOLVED, that, beginning in year 2005, there shall be established a fund known as the housing investment fund (designated by number determined by the director of finance), which fund shall be administered by the administration in compliance with applicable regulations and accounting standards in order to carry out a program of housing improvement in the city, which program shall be managed by the city's community development division or its successor.

BE IT FURTHER RESOLVED, that beginning after October 1, 2005, there shall be transferred from the community investment trust fund, established in Section 54(E) of the Charter, to the housing investment fund, at a time or in installments determined by the finance director of the city, the total amount of \$600,000 each year for five consecutive years, for a total of five annual transfers, each of \$600,000, ending September 30, 2010.

BE IT YET FURTHER RESOLVED, that the establishment of the housing investment fund, and the transfer into it of money, as provided for in this resolution, is conditional upon the council, on or before October 1, 2005, and through the procedures set out in the Charter, including veto and referendum, finally enacting and establishing a program of city-wide housing improvement, which may include provision for grants and loans, which program will be financed in whole or part by the housing investment fund. This program shall be for a public purpose and

exist in compliance with all applicable laws and regulations, and be managed by the city's community development division or its successor.

Resolution 05-0320 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

WHEREAS, the city of Duluth has participated in the Lake Superior drug task force and desires to continue such participation;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to enter into a joint powers agreement with the city of Hermantown, Minnesota, and the city of Superior, Wisconsin, providing for the participation by the city of Duluth and other above-named governmental agencies in the Lake Superior drug task force through December 31, 2005; agreement to be substantially in the form of Public Document No. 05-0523-20 on file in the office of the city clerk.

Resolution 05-0224 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0283, by Councilor Little, awarding professional services contract to John Keenan for emergency operation plan upgrade in an amount up to \$20,000, was introduced for discussion.

Councilor Stauber opposed the resolution, noting he believes this work should only take 40 to 60 hours.

Fire Chief Strongitharm stated that the resolution was written this way to comply with receiving the award from the state, that the agreement for the contract is written for payment at an hourly rate of \$25 per hour and that he agrees that it will not take a large amount of time to complete the upgrade.

Resolution 05-0283 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that John Keenan be and hereby is awarded a professional services contract (Public Document No. 05-0523-21) for furnishing an emergency operation plan upgrade 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 Fund 210, Department/Agency 030, Organization 3164, Object 5441. This professional service contract is funded 100 percent by the Minnesota department of homeland security emergency management.

Resolution 05-0283 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0324, by Councilor Reinert, supporting a congressional appropriation to assist Breakwater Healthcare, was introduced for discussion.

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

Andy Peterson, representing the Duluth Area Chamber of Commerce, and James Houle expressed support for the resolution because the legislation will bring insurance coverage to individuals and small businesses that are not insured and will allow for a purchasing alliance for small employers to join a large purchasing pool which will also provide advantages.

Resolution 05-0324 was adopted as follows:

BY COUNCILOR REINERT:

WHEREAS, the citizens of Northeastern Minnesota are threatened by the high cost and limits on availability of group health insurance; and

WHEREAS, many have lost their group health care coverage because of the cost increases and coverage regulations that insurance companies impose; and

WHEREAS, only large volume purchasers have enough potential insureds or market impact to effectively bargain for more realistic purchasing options; and

WHEREAS, Minnesota statutes allow employers that are small businesses to pool resources in order to obtain group health insurance; and

WHEREAS, employers in Northeastern Minnesota are working with the state to create and operate a multiple employer welfare association (MEWA) known as Breakwater Healthcare; and

WHEREAS, in order to operate, Breakwater will need a \$1.3 million guarantee for the solvency reserve required by law and \$200,000 for start-up costs; and

WHEREAS, another MEWA in Minnesota has received congressional funding.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth supports the efforts of Breakwater and requests that Congressman Oberstar, Senator Dayton, Senator Coleman and congress appropriate funds sufficient to provide for Breakwater's solvency reserve requirement and start-up costs.

BE IT FURTHER RESOLVED, that upon passage a copy of this resolution be sent by the clerk to Congressman Oberstar and Minnesota's two senators.

Resolution 05-0324 was unanimously adopted.

Approved May 23, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR REINERT

05-020 - AN ORDINANCE PERTAINING TO THE DULUTH HOUSING COMMISSION; AMENDING SECTION 2-146 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-018 (9727) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, ONE-FAMILY RESIDENTIAL DISTRICT, TO C-1, COMMERCIAL DISTRICT, PROPERTY ON THE SOUTHEAST CORNER OF DODGE STREET AND 51ST AVENUE EAST (RICHARD KAY, COMMUNITY CONNECTION OF MINNESOTA, INC.).

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

- - -

The meeting was adjourned at 9:36 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9727

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, ONE-FAMILY RESIDENTIAL DISTRICT, TO C-1, COMMERCIAL DISTRICT, PROPERTY ON THE SOUTHEAST CORNER OF DODGE STREET AND 51ST AVENUE EAST (RICHARD KAY, COMMUNITY CONNECTION OF MINNESOTA, INC.).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Section 1. That Plate No. 43 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 Map No. 43 at end of meeting)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 10, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 23, 2005
Approved May 23, 2005
HERB W. BERGSON, Mayor

- - -

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council meeting held on Thursday, June 9, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Little, Reinert, Stauber, Stover and President Ness -- 7

Absent: Councilors Johnson and Stewart -- 2

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0609-01 The PFM Group submitting: (a) Official statement; (b) Bid results regarding \$1,255,000 G.O. capital improvement bonds, Series 2005A; and \$1,250,000 G.O. steam utility revenue bonds, Series 2005B and \$2,275,000 G.O. public improvement bonds, Series 2005C. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 05-0360, providing for the issuance, sale and delivery of \$1,255,000 general obligation capital improvement bonds, Series 2005A; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 05-0361, providing for the issuance, sale and delivery of \$1,250,000 general obligation steam utility revenue bonds, Series 2005B; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; and Resolution 05-0362, providing for the issuance, sale and delivery of \$2,275,000 general obligation improvement bonds, Series 2005C, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a debt service account therefor; and awarding the sale thereof, were introduced for discussion.

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

Jessica Cameron, representing the PFM Group, explained the bids and recommended the approval of the low bidders.

Councilor Little stated that since he might have a conflict of interest, he would be abstaining from voting on the resolutions.

Resolutions 05-0360, 05-0361 and 05-0362 were adopted as follows:

BY COUNCILOR STAUBER:

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. Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Section 475.521 (the "Act") and Chapter 475, the City is authorized to issue its general obligation bonds to fund capital improvements pursuant to an approved capital improvement plan.

1.02 A. Pursuant to the Act, the City Council has authorized preparation of a capital improvement plan for the years 2005 through 2009 (the "Plan").

B. The City Council held a public hearing on the proposed Plan and approved the Plan on December 6, 2004.

1.03 A. On January 10, 2005, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,300,000 to provide funds for continuation of the restoration of the granite and brick facades of City Hall; continuation of the installation of ventilation systems in firehalls; construction of a steel framed, fabric covered storage building to store salt/sand deicing material to protect surface water quality; and construction of a police station in West Duluth in accordance with the Plan (collectively, the "Project"). Each element of the Project is a capital improvement within the meaning of the Act.

B. Pursuant to resolution of the City Council adopted on January 10, 2005, the City Council has determined that it is necessary and expedient to issue general obligation capital improvement bonds in an amount not to exceed \$1,300,000 of the City to provide funds to finance the Project and for payment of the costs of issuing such bonds.

C. A notice of intent to issue such bonds was published in accordance with the Act on January 13, 2005.

D. No petition calling for a vote on the proposed issuance of such bonds, as permitted by the Act, has been filed with the city clerk.

E. The City Council has determined that it is necessary and expedient to issue \$1,255,000 General Obligation Capital Improvement Bonds, Series 2005A, of the City (the "Bonds") pursuant to the above-described authority, to provide funds to finance the Project and for payment of the costs of issuing the Bonds.

F. The maximum amount of principal and interest to become due in any year on the Bonds and all the outstanding bonds issued by the City pursuant to Section 475.521, subd. 4 of the Act will not exceed \$2,586,977.03, which is an amount equal to 0.05367 percent of taxable market value of property in the City for taxes payable in 2005.

G. Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Wells Fargo Brokerage Services LLC of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,247,219, plus accrued interest on the total principal amount from June 1, 2005, 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 bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 2005, 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 and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate
2007	\$120,000	2.80%
2008	125,000	2.90%
2009	130,000	3.00%
2010	130,000	3.10%
2011	135,000	3.20%
2012	145,000	3.35%
2013	150,000	3.50%
2014	155,000	3.60%
2015	165,000	3.70%

2.02 The Bonds are not subject to optional redemption and prepayment before maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 CAPITAL IMPROVEMENT BOND, SERIES 2005A

R-_____ \$_____

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, _____	June 1, 2005	

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 June 1, 2005, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$1,255,000, all of like date and tenor, except as to number, amount, maturity date, redemption privilege and interest rate, pursuant to the authority contained in Minnesota Statutes, Section 475.521 and Chapter 475, the City's approved Capital Improvement Plan for the years 2005 through 2009 (the "Plan") and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on June 9, 2005 (the "Resolution"). This Bond is issued

for the purpose of providing funds for capital improvement projects designated by the City Council and pursuant to the Plan and the costs of issuing the Bonds, as more fully set forth in the Plan and the Resolution and for the payment of part of the interest cost of the Bonds. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Term Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; provided, however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket City Letter of Representations executed by the City and DTC.

The Bonds are not subject to optional 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, 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 manual or facsimile 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 the Bond registered in the name of the owner named above in the principal amount and maturing on the date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Minneapolis, Minnesota

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 Wells Fargo Bank, 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 the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
6/___/05	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

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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

(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 Capital Improvement Bonds, Series 2005A, of the City of Duluth which includes the within Bond, dated as of the original date of delivery of and payment for the Bonds.

City Clerk

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate account designated the 2005 Capital Improvement Bonds Construction Account (the "Construction Account") within its Capital Improvement Project Fund 0450, Agency 015, Org. C223, to which there shall be credited the proceeds of the Bonds, less discount, together with any additional funds, which may be available and are appropriated for the Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

3.02 A separate debt service account is hereby created and designated as the "2005 Capital Improvement Bonds Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited unused discount, if any, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds and the ad valorem taxes levied pursuant to Section 3.03 hereof.

3.03 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 follows:

Levy Year	Collection Year	Tax Levy
2004	2005	*\$ 155,700
2005	2006	\$42,099
2006	2007	\$170,801
2007	2008	\$172,245
2008	2009	\$168,150
2009	2010	\$169,169
2010	2011	\$175,133
2011	2012	\$175,282
2012	2013	\$175,020
2013	2014	\$179,661

*anticipatory levy

Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

B. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the Construction Account and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; 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 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 for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the

arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 A. Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

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 as Public Document No. 04-0219-02.

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 05-0360 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stauber, Stover and President Ness -- 6

Nays: None -- 0

Absent: Councilors Johnson and Stewart -- 2

Abstention: Councilor Little -- 1

Approved June 9, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

WHEREAS, 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. 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 Minnesota Statutes, Section 475, as amended, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue its general obligation bonds to provide funds for the payment of costs of improvements to the municipal steam utility (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 the utility and are payable primarily from net revenues to be derived from the operation of such municipal steam utility and pledged for their payment.

1.02 The city council has, by Ordinance No. 9683 adopted on August 23, 2004, authorized the issuance and sale of general obligation bonds of the City to finance improvements to the City's central municipal steam utility located in the downtown area of Duluth (the "Duluth Steam Plant"), including the construction and equipping of facilities to transport heated and chilled water and related improvements to the Duluth Entertainment Convention Center (the "DECC") for use in heating and air conditioning the DECC (the "Project"), in an amount not to exceed \$1,250,000.

1.03 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the General Obligation Steam Utility Revenue Bonds, Series 2005B (the "Bonds") at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Wells Fargo Brokerage Services, LLC of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,240,812.50, plus accrued interest on the total principal amount from June 1, 2005, 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 bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 2005, 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 and shall bear interest at the annual rates stated as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2007	\$70,000	2.80%	2014	\$ 90,000	3.60%
2008	70,000	2.90%	2015	95,000	3.70%
2009	75,000	3.00%	2016	100,000	3.80%
2010	75,000	3.10%	2017	100,000	3.95%
2011	80,000	3.20%	2018	105,000	4.05%
2012	80,000	3.35%	2019	110,000	4.10%
2013	85,000	3.50%	2020	115,000	4.15%

2.02 A. The Bonds maturing in the years 2007 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA

STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION STEAM UTILITY REVENUE BOND, SERIES 2005B

R-____ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	June 1, 2005	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 2005, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$1,250,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Section 55 of the Home Rule Charter of the City, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Section 475, as amended, and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on June 9, 2005 (the "Resolution"), and is issued for the purpose of providing funds to pay for improvements to the City's central municipal steam utility located in the downtown area of Duluth and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable primarily from net revenues to be derived from the operation of the municipal steam utility located in the downtown area of Duluth as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series maturing in the years 2007 through 2014 are not subject to optional redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, 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 Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 manual or facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
6/__/05	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

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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Covenants, Accounts and Representations.

3.01 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 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 Utility Steam District No. 1 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.

B. The City has created a separate construction account within the Public Utility Steam District No. 1 Fund to which there shall be credited the proceeds of the Bonds, less discount, 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 the Project and other improvements to the Duluth Steam Plant, and costs of the issuance of the Bonds.

C. Until the Bonds issued hereunder are fully paid or otherwise discharged, the City will also maintain a separate debt service account (the "Steam Debt Service Fund") in the Public Utility Steam District No. 1 Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the Duluth Steam Plant. The treasurer shall credit to the Steam Debt Service Fund \$-0- as capitalized interest, plus the amount of accrued interest on 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 Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

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.

3.02 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 Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the

revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

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

4.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Bonds and money in the Debt Service 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

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form of the certificate currently on file in the office of the city clerk as Public Document No. 04-0219-02.

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 05-0361 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stauber, Stover and President Ness -- 6

Nays: None -- 0

Absent: Councilors Johnson and Stewart -- 2

Abstention: Councilor Little -- 1

Approved June 9, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STAUBER:

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:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
03-0851	12/15/03	\$34,000	Sanitary sewer in Swenson Avenue from intersection of 90th Avenue West and extending west
04-0270	04/26/04	23,000	Sanitary sewer in 87th Avenue West beginning 740 feet north of King Street
04-0269	04/26/04	51,400	Sanitary sewer in Highland Street Alley
05-0246	05/09/05	315,000	Third Street - 21st Avenue West to Carlton Street

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Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
04-0372	05/24/04	60,000	Lake Avenue from Second Street Alley to Seventh Street
04-0382	06/14/04	202,402	Sanitary sewer of 2,200 feet in Trinity Road
04-0662	09/27/04	1,008,255	Cedar Ridge Estates (Middle Road)
04-0664	10/12/04	101,200	Watermain in Ethel Avenue from Springvale Road - 365 feet north
04-0658	09/27/04	13,000	Sanitary sewer of 150 feet across Trinity at South Arlington Avenue intersection
04-0685	10/12/04	278,934	Butternut Avenue from Hickory Street to cul-de-sac
04-0399	06/04/04	10,581	Assessable 2004 sidewalk patch
05-0210	03/28/05	93,700	West Palm Street - SS/WA Robin to 83 feet west of Teak
05-0179	03/28/05	22,000	22nd Avenue West (Fifth) - SS 100 feet west of Fifth Street and northerly
05-0178	03/28/05	12,000	22nd Avenue West (Sixth) - SS Sixth Street Alley and northerly

C. Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,275,000 General Obligation Improvement Bonds, Series 2005C, to be dated June 1, 2005, as the date of original issue (the "Bonds").

D. Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$2,276,710.30, plus accrued interest on the total principal amount from June 1, 2005, 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 bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated June 1, 2005, 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 and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2007	\$125,000	3.50%	2014	\$160,000	3.75%
2008	130,000	3.50%	2015	170,000	4.00%
2009	130,000	3.50%	2016	175,000	4.00%
2010	135,000	3.50%	2017	185,000	4.00%

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Year	Amount	Interest Rate	Year	Amount	Interest Rate
2011	145,000	3.50%	2018	195,000	4.00%
2012	150,000	3.50%	2019	205,000	4.00%
2013	155,000	3.75%	2020	215,000	4.00%

2.02 A. The Bonds maturing in the years 2007 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01A, in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
 GENERAL OBLIGATION IMPROVEMENT BOND
 SERIES 2005C

R-____ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	June 1, 2005	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from June 1, 2005, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$2,275,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes and a resolution adopted by the governing body of the City on June 9, 2005 (the "Resolution"), for the purpose of financing local public improvements, which obligations and interest thereon will be payable from special assessments levied or to be levied against property specially benefitted by local improvements.

The Bonds of this series maturing in the years 2007 through 2014 are not subject to optional redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, 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 Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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.

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IN WITNESS WHEREOF, the city of Duluth, 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 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
6/___/05	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

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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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 a separate construction account (the "2005 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The proper City officers are authorized and directed to pay out of such construction account from time to time as

required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements described in Section 1.01 and the costs of issuance of the Bonds.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "2005 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 2005 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 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof.

3.04 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. It is estimated that the special assessments levied and appropriated to the 2005 Improvement Bond 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; however, there is hereby levied as additional security for the Bonds, 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 follows:

Levy Year	Collection Year	Tax Levy
2005	2006	\$221,695
2006	2007	\$222,351
2007	2008	\$217,574
2008	2009	\$218,046
2009	2010	\$223,585
2010	2011	\$223,506
2011	2012	\$223,244
2012	2013	\$222,390
2013	2014	\$226,590
2014	2015	\$224,700
2015	2016	\$227,850
2016	2017	\$230,580
2017	2018	\$232,890
2018	2019	\$234,780

Except for the interest payment due on February 1, 2006, for which special assessments are sufficient to make such payment, said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

As such tax levies are additional security for payment of principal and interest on the Bonds, such levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of (i) anticipated special assessments to be collected in the next following calendar year, or (ii) an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year, and shall direct the county auditor to reduce the levy for such calendar year by that amount.

B. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2005 Projects Account and the 2005 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 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 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 as Public Document No. 04-0219-02.

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 05-005-0362 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stauber, Stover and President Ness -- 6

Nays: None -- 0

Absent: Councilor Johnson and Stewart -- 2

Abstention: Councilor Little -- 1

Approved June 9, 2005

HERB W. BERGSON, Mayor

- - -

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

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 13, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meeting held on April 25, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0613-01 Tonya Borgeson, et al. (seven signatures), submitting petition to reclassify from R-3 to C-1 property described as: Lots 5, 6, 7, 8 and 9, except the southerly ten feet for Highway No. 23, and all of Lot 10, Block 13, Hunter and Markells Grassy Addition to Duluth. -- Assessor

05-0613-02 J&S Partnership submitting:

(a) Further petition (two signatures) to improve 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Assessor

(b) Further waiver agreements (two signatures) regarding the improvement of 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Engineering

05-0613-03 Midwest Property Development, LLC, et al., petitions to vacate:

(a) Alley in Block 11, Marine Division (five signatures);

(b) The westerly 45 feet of utility easement formerly identified as 31st Avenue West between Helm Street and West Michigan Street (three signatures). -- Assessor

05-0613-04 Charter Communications submitting acceptance of the franchise term extension to October 31, 2005, pursuant to Ordinance 9726. -- Received

05-0613-05 Minnesota state auditor submitting audit reports for:

(a) Duluth airport authority for the years ended December 31, 2004, and 2003;

(b) Duluth transit authority for the years ended December 31, 2004, and 2003;

(c) Lake Superior Center authority for the years ended December 31, 2003, and 2004. -- Received

05-0613-06 Mary L. Anderson submitting communication regarding the proposed demolition of existing structures and construction of a new 70-unit building consisting of 40 efficiency units and 30 single room occupancy units at 230 West Third Street (05-0325R and 05-0326R). -- Received

05-0613-07 Jake Kapsner and Carla Tamburro submitting appeal of the planning commission decision to deny the splitting of four lots at 2810 and 2814 Minnesota Avenue into two buildable tax parcels. -- Committee 2 (Planning and economic development)

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REPORTS OF OFFICERS

05-0613-08 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, June 14, 2005, at 3:30 p.m. in Room 106A, City Hall, regarding the proposed improvement of 44th Avenue West from Grand Avenue to 360 feet southerly to include a 28 foot wide street, storm sewer and sidewalk. -- Clerk

(b) For confirmation the assessment rolls levied to defray the assessable portions of:

(1) Sanitary sewer in Anderson Road, Contract 5369 (assessable - \$198,024.77);

(2) Revised street, water and sewer development at Basswood Avenue from Walnut Avenue to 676 feet north, Contract 5376 (assessable \$124,035.24); Matterhorn Circle from Matterhorn Drive southerly 650 feet Contract 5383 - (assessable - \$289,940.61);

- (c) Letters of sufficiency regarding petitions to:
- (1) Include a permanent 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main in 44th Avenue West from Grand Avenue to approximately 360 feet southerly;
 - (2) Vacate the alley in Block 11, Marine Division, and vacate the utility easement located in 31st Avenue West;
 - (d) Letter of insufficiency regarding petition to reclassify from R to C-5 Lots 14-16, Block 31, Duluth Heights, Sixth Division. -- Received
- 05-0613-12 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from St. Margaret Mary Church on September 18, 2005 (bingo and raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

- 05-0613-09 Building appeal board minutes of April 13, 2005, meeting. -- Received
- 05-0613-10 Commission on disabilities minutes of May 4, 2005, meeting. -- Received
- 05-0613-11 Duluth airport authority unaudited balance sheet of March 31, 2005. -- Received
- 05-0613-15 Housing and redevelopment authority of Duluth financial and compliance report for the year ended September 30, 2004. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf stated he was standing up for the citizens of Duluth and complained that fire department personnel are using expensive rigs to buy their groceries instead of using their own vehicles.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Atkins moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following:

- (a) Street water and sewer development at Basswood Avenue from Walnut Avenue to 676 feet north (Contract #5376; assessable amount: \$124,035.24);
 - (b) Street water and sewer development at Matterhorn Circle from Matterhorn Drive southerly 650 feet (Contract #5383; assessable amount: \$289,940.61);
- are hereby confirmed.

Resolution 05-0354 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portion of the following:

Sanitary Sewer in Anderson Road (Contract #5369; assessable amount: \$198,024.77);

are hereby confirmed.

Resolution 05-0359 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that the director of department of administrative services or his or her designee is hereby authorized to enter into licence agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0613-13 with public and private for-profit and not-for-profit entities for the use of Aerial Lift Bridge logo, and to charge for the use thereof those fees as set forth therein, provided that any sums received for use of said facility shall be deposited in Duluth legacy fund.

Resolution 05-0353 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with The Northspan Group, Inc., for the sum of not to exceed \$7,500, from Fund 450, Agency 030, Object 5520, Project #CP2005-OT0511, for providing certain consulting services to the city of Duluth in connection with the Duluth Heritage Hockey Center, said services and payment therefore to be substantially as outlined in the agreement on file in the office of the city clerk as Public Document No. 05-0613-14.

Resolution 05-0356 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Resolution 05-0064 awarding a contract to Inter-City Oil for furnishing fuel as required during 2005 for the first eight months, be amended to increase the amount by \$176,666 for a new total of \$353,333, payable out of Fleet Services Fund 0660, Department/Agency 015, Object 5212.

Resolution 05-0365 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor licenses, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Ridgeview Country Club, 700 West Redwing Street, for July 28, 29, 30 and 31, 2005, with Phil Gaudino, manager.

Northland Vietnam Veterans Association, Bayfront Park, for July 1, 2, 3 and 4, 2005, with Kathy Camps, manager.

Resolution 05-0373 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves of the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2005, subject to departmental approvals, with any specific restrictions:

MKR, Limited (Bennett's on the Lake), 600 East Superior Street.

Resolution 05-0374 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that Resolution 05-0303, awarding contract to Inter City Oil, Inc., for fuel as needed during a 12 month period for the fleet services division at an estimated amount of \$50,000 is rescinded.

Resolution 05-0376 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, Carlson Media, Inc., has offered to transfer to the city the domain names "getbridged.com" and "getbridged.org" without cost to the city; and

WHEREAS, the intended use of these domain names is to support the centennial of the aerial bridge and the "Get Bridged" campaign.

NOW, THEREFORE, BE IT RESOLVED, that the city accepts the transfer of ownership of the domain names "getbridged.com" and "getbridged.org."

BE IT FURTHER RESOLVED, that the city of Duluth wishes to thank Carlson Media, Inc., John Carlson and Sandy Hoy for the valuable assistance they have rendered to the Aerial Bridge Centennial both in volunteer time and donated professional services, as well as their fine spirit of service to the citizens of Duluth.

Resolution 05-0393 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Leah Laucamp to the Duluth public arts commission for a term expiring on September 30, 2007, replacing Dorian Beaulieu, is confirmed.

Resolution 05-0382 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson of Tami LaPole (area), Ryan E. Mears (architect) and Scott Miller (at large) to the technical design advisory committee for the Downtown Waterfront Mixed Use-Design Review District (DWMX-D), for terms expiring on May 31, 2008, are confirmed.

Resolution 05-0383 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson of Marsha Edgerton and Donald Mantay to the water and gas service hearing board, for terms expiring on September 1, 2007, are confirmed.

Resolution 05-0384 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointments to the tree commission by Mayor Bergson of Brian Allen (professional) for a term expiring on August 31, 2006, and Margi Preus for a term expiring on August 31, 2008, replacing Bruce Burton and Stephen Khalar, who resigned, are confirmed.

Resolution 05-0385 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson of Judy Ledoux and Cynthia Stratioti to the commission on disabilities for terms expiring on November 1, 2007, replacing David Freed and Susan Isernhagen, are confirmed.

Resolution 05-0389 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson of Joseph Matthes (at large), Cynthia L. Potts (District 5) and Rick Minotte (District 3) to the community development committee for terms expiring on March 1, 2008, replacing Mario Hinojosa, Jr., and Lenard Sheets, who resigned, and Claudia Lundquist, are confirmed.

Resolution 05-0390 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson of James Berg and Mary Anne Korsch to the library board for terms expiring on June 1, 2010, replacing Catherine Andree and Carol Bacig, are confirmed.

Resolution 05-0391 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city council on June 25, 1990, approved Resolution 90-0590, granting a special use permit to St. Luke's Hospital for a helistop atop the parking structure at 1020 East First Street and on October 23, 1995 approved Resolution 95-0937 renewing said special use permit; and

WHEREAS, St. Luke's Hospital has submitted to the city council a request to renew the special use permit for an air ambulance helistop on property described as Lots 5-16, Block 19, Portland Division, and located at 1020 East First Street and said permit renewal application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed (Reference planning commission file No. 05042.)

NOW, THEREFORE, BE IT RESOLVED, that the special use permit is hereby renewed and extended to St. Luke's Hospital to allow for the operation of an air ambulance helistop at 1020 East First Street, for a period of ten years from the date of expiration of Resolution 95-0937 (October 25), on the condition that all terms and conditions of Resolution 90-0590 are maintained.

Resolution 05-0368 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the Duluth City Council did, on May 23, 2005, adopt Resolution 05-0286, vacating 21st Avenue East between the southerly line of Water Street and the Lake Superior shoreline accepting the dedication of a pedestrian Lakewalk easement across Lots 4-8, Block A and Lots 1-8, Block B, Endion Division of Duluth, and said resolution omitted certain language (reference planning commission file No. 03077).

NOW, THEREFORE, BE IT RESOLVED, that Resolution 05-0286, be amended to add the following language:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED FURTHER, that the city council of the city of Duluth approves the vacation of 21st Avenue East lying between the southerly line of Water Street and the Lake Superior shoreline adjoining Blocks A and B, Endion Division of Duluth, and as more particularly described on Public Document No. 05-0523-09.

RESOLVED FURTHER, 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 Lakewalk easement documents.

Resolution 05-0369 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the board of commissioners of St. Louis County is hereby requested to withhold from sale for the public interest and to classify as conservation the following parcels from the county auditor's list of properties which have been declared tax forfeited and title thereto vested in the state:

Parcel ID and Legal Description	Location	Reason
010-1790-06653, 06893, 08533, 08773 Gary Central Division, all of Block 77, undivided 1/5, all of Block 78, undivided 1/5, all of Block 84, undivided 1/5, all of Block 85, undivided 1/5	between unbuilt 108th and 110th avenues West and unbuilt House and Fillmore streets (Gary-New Duluth)	trail extension (proposed in Gary-New Duluth plan)
010-0890-05320, 05330, 5340, 05350 Duluth Heights Sixth Division, Block 14, Lots 31-34 including part of vacated alley	northeast corner of West Linden Street and Basswood Avenue (Duluth Heights)	storm water retention area
010-0540-4520 Clague and Prindle's Addition, Block 15, Lots 26, 28 and 30	northeast corner of unbuilt Baylis Street and unbuilt Madison Avenue (Duluth Heights)	park and trail area
010-2710-05671, 05672 Section 19, Township 50 North, Range 14 West; north 1/2 of west 166 feet of south 261 28/100 feet of east 522 44/100 feet of north 1/2 of northwest 1/4 of southeast 1/4 and south 1/2 of west 166 feet of south 261 28/100 feet of east 522 44/100 feet of north 1/2 of southwest 1/4 of southeast 1/4	west of Chambersburg Avenue near Miller Creek (Piedmont Heights)	Miller Creek protection, storm water retention, future water quality improvements
010-2710-3255 Section 11, Township 50 North, Range 14 West; part of north 1/2 of southwest 1/4 of southwest 1/4 being a strip of land ten feet wide adjacent and lying within the extended north and south lines of Lot 22, University Heights Addition	south side of Arrowhead Road east of Valhalla Drive (Chester Park-UMD)	presence of a storm sewer pipe

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Resolution 05-0394 was unanimously adopted.
 Approved June 13, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, that the city council objects to the reclassification to nonconservation and sale of the following tax forfeited parcels by the board of county commissioners of St. Louis County:

Parcel ID and legal description	Location	Reason
010-1390-01230, 01270, 01310, 01320, 01330, 01340, 01350 Edgebrook Division, Block 7, Lot 9 south 1/2, 11, 12, 16, 17, 18, 19 and 20	southeast of the intersection of 54th Avenue East and Ivanhoe Street (Lakeside-Lester Park)	land-packaging for a proposed development project
010-2900-00020 Lincoln Park Gardens Third Division, Block 1, Lot 2	southeast corner of the intersection of Ethel Avenue and Leonard Street (Piedmont Heights)	Miller Creek protection
010-1350-04010 Duluth Proper Third Division, Block 104, Lots 185 through 191 odd numbered lots	northeast corner of Eighth Street and 12th Avenue West (Central Hillside)	adjacent to Enger Municipal Golf Course and proposed redevelopment

Resolution 05-0395 was unanimously adopted.
 Approved June 13, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city possesses a scenic parkway which traverses the entire length of the city; and

WHEREAS, with the passage of time, natural vegetation has now grown to the point of obstructing the scenic viewing quality for which Skyline Parkway has become renowned; and

WHEREAS, the city acknowledges the need to take those appropriate steps necessary to restore the scenic viewing quality of the Skyline Parkway overlooks; and

WHEREAS, the Minnesota conservation corps possesses the resources necessary to carry out the needed vegetation removal work and will provide up to 360 man hours for a maximum amount of \$5,040; funding budgeted in Capital Improvement Fund 100, Agency 700, Organization 1420, Object 5530, Project CM100-I507.

THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute an agreement filed as Public Document No. 05-0613-16 between the city of Duluth and the Minnesota conservation corps for the brushing and clearing of overlooks along Skyline Parkway for an amount not to exceed \$5,040.

Resolution 05-0363 was unanimously adopted.
 Approved June 13, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for furnishing and delivering 500 gas meters for the utility operations division in accordance with specifications on its low specification bid of \$28,488.75, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 1940, Service 2410, Object 5227.

Resolution 05-0366 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Tennant Company be and hereby is awarded a contract for furnishing and delivering one sweeper/scrubber for the utility operations division in accordance with specifications on its low specification bid of \$40,934.68, terms net 30, FOB destination, \$40,934.68 payable out of four funds: Sanitary Fund 0530; Water Fund 0510; Gas Fund 0520; Storm Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0367 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Odland Protective Coatings, Inc., be and hereby is awarded a contract for cleaning, repairing and painting of the 400,000 gallon single pedestal spheroid orphanage water tower for the city engineering division in accordance with specifications on its low specification bid of \$257,500, terms net 30, FOB job site, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5401.

Resolution 05-0377 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Thermacor Process, LP, be and hereby is awarded a contract for furnishing and delivering one L.S. DECC water heating loop - piping equipment package in accordance with specifications on its low specification bid of \$187,612, terms net 30, FOB destination, payable out of Steam Fund 540, Department/Agency 920, Object 5530.

Resolution 05-0378 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that API Heat Transfer be and hereby is awarded a contract for furnishing and delivering one DECC heating water loop - heat exchanger equipment package in accordance with specifications on its low specification bid of \$113,063, terms net 30, FOB destination, payable out of Steam Fund 540, Department/Agency 920, Object 5530.

Resolution 05-0379 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson & Sons, Inc., be and hereby is awarded a construction contract for construction of the 2005 street improvement program - Woodland South 2 in accordance with engineer's specifications on its low specification bid of \$978,838.23, payable out of SIP Fund 0440, Department/Agency 038, Object 5530.

Resolution 05-0381 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Visu-Sewer Clean & Seal, Inc., be and hereby is awarded a contract for providing cured-in-place-pipe (CIPP) rehabilitation of sanitary sewer at various locations. Ten different locations totaling 6,053 feet will be lined: 99th Avenue West; 62nd Avenue West Alley;

East Second Street; Branch Street Alley; Glenwood Street; Glendale Street; Pitt Street Alley; East Superior Street; Albion Street; Riverside Drive Alley for the city engineering division in accordance with specifications on its low specification bid of \$323,920.70 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5536.

Resolution 05-0386 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Daffinson, Inc., be and hereby is awarded a contract for year 2005 street crack sealing program for the maintenance operation division in accordance with specifications on its low specification bid of \$45,560, terms net 30, FOB job site, payable out of General Fund 0100, Department/Agency 500, Organization 1920-2550, Object 5403.

Resolution 05-0387 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Materials, LLC, dba Northland Bituminous, be and hereby is awarded a contract for the year 2005 fine mix paving program for the engineering division in accordance with specifications on its low specification bid of \$65,200, terms net 30, FOB job site, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5403.

Resolution 05-0388 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Groebner and Associates, Inc., be and hereby is awarded a contract for residential gas regulators for the engineering division in accordance with specifications on its low specification bid of \$46,860, terms net 30, FOB job site, payable out of Fund 0520, Department/Agency 500, Organization 1940, Service 2410, Object 5227.

Resolution 05-0392 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into an escrow agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0613-17 with Cottage Homesteads of Duluth, Inc., and St. Louis County Abstract & Title providing for the escrowing of funds to complete construction of or to correct construction defects related to the Cottage Homesteads project.

Resolution 05-0405 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

WHEREAS, the state of Minnesota, bureau of criminal apprehension, has invited the city of Duluth to participate in the identification based information system and the city of Duluth desires to participate in said system.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to enter into a joint powers agreement with the state of Minnesota providing for the participation by the city of Duluth in the identification based information system through May 1, 2006; agreement to be substantially in the form of Public Document No. 05-0613-18 on file in the office of the city clerk. Payment for any future expense shall be made from Fund 100, Agency 200, Organization 1610, Expense Source 5404.

Resolution 05-0370 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that Bedrock-Flint, Inc., be and hereby is awarded a contract for masonry renovation /restoration, tuck pointing, cleaning and coping replacement and flashing repairs at Fire Station #10 in accordance with architect's specifications on its low specification bid of \$110,868, terms net 30, FOB destination, payable out of Capitol Fund 450, Department/Agency 030, Object 5520.

Resolution 05-0380 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

WHEREAS, the city owns three large tracts of land known as the Arlington Soccer Complex, the Jean Duluth Soccer Complex and the Spirit Mountain Soccer Complex; and

WHEREAS, the city and the Arrowhead Youth Soccer Association of Northeastern Minnesota have established a sound working relationship toward the goal of achieving a quality soccer program and properly maintained soccer playing facilities for the youth of the city; and

WHEREAS, the city acknowledges the financial and management commitment made by the Arrowhead Youth Soccer Association of Northeastern Minnesota in the development of the Arlington, Jean Duluth and Spirit Mountain Soccer Complexes; and

WHEREAS, the Arrowhead Youth Soccer Association agrees to pay to the city the amount of \$17,000 for 2005 and \$19,000 for 2006, in exchange for increased field maintenance services to be provided by the city at the three soccer complex locations. Funds received to be deposited into General Fund 100, Agency 500 Organization 1920, Revenue Source 4654-02; and

WHEREAS, the city recognizes the proven ability of the Arrowhead Youth Soccer Association of Northeastern Minnesota to provide field scheduling responsibilities;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute an agreement, filed as Public Document No. 05-0613-19, between the city of Duluth and the Arrowhead Youth Soccer Association of Northeastern Minnesota for the continued operation and maintenance of the Arlington, Jean Duluth and Spirit Mountain soccer complexes.

Resolution 05-0344 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that city council Resolution No. 04-0818 is hereby rescinded and shall be of no force and effect.

RESOLVED FURTHER, that the proper city officials are directed to return to the donor organization any funds received under the authority of said resolution, said funds to be paid from Fund 100, Agency 700, Organization 1420, Object 5530, Project CM100-1429.

Resolution 05-0357 was unanimously adopted.
Approved June 13, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

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. 05-0613-20 with Clear Channel Radio (Clear Channel), Great Lakes Aquarium (the aquarium), Lake Superior Center Authority (LSCA) and the Duluth economic development authority (DEDA) pursuant to which music concerts will be held on Thursdays in June and July, five such concerts being at the Great Lakes Aquarium and one being at Bayfront Park, said authorization contingent upon the execution of an addendum to the agreement providing that Clear Channel will obtain the

necessary licenses and permissions to perform the music and will indemnify the other parties from any violation of U.S. copyright laws.

Resolution 05-0371 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

WHEREAS, the use and management agreement between the city of Duluth, Minnesota (the city), and Spirit Mountain recreation area authority (the authority), dated as of March 28, 2003, provides that the authority shall not enter into any lease purchase agreement without the written approval of the city council; and

WHEREAS, the authority proposes to enter into a lease purchase agreement for the purchase of a new groomer and to refinance an existing groomer.

RESOLVED, that the city council hereby approves the authority entering into a lease purchase agreement with Western National Bank in the approximate amount of \$380,545 for the purpose of replacing an existing groomer tractor and refinancing an existing groomer tractor.

Resolution 05-0398 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolutions 05-0325 and 05-0326, by Councilor Gilbert, affirming and reversing, respectively, a decision of the board of zoning appeals to relax the 380 square feet of lot area per unit requirement to 300 square feet, the front and rear yard setbacks requirements from 36 feet to five feet front and 15 feet, six inches rear, the side yard setback requirements from 36 feet to three feet, ten inches and one foot, the minimum parking requirement from 47 spaces to 13 spaces for the demolition of existing structures and construction of a new 70-unit building consisting of 40 efficiency units and 30 single room occupancy units (230 West Third Street), were introduced for discussion.

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

Jeanne Dixon expressed concern about this project as there has been very little community input and questioned the ethics of this type of treatment project. She questioned what plans have been made for the Third Street neighborhood so it will not be like First Street and how can cramming mentally ill persons with alcoholics into such a small area can be beneficial to anyone.

Wayne Skafte stated that the spirit and intent of the zoning ordinance is not being adhered to with this project and there are no special circumstances that apply to this building project. He continued by saying that it will diminish the property values of the neighborhood as he is operating his business in blight now and this project will only subject him to more unreasonable negative effects. Mr. Skafte also questioned why the city is listed as a co developer of the project and stated it must not grant itself a variance that it denies to its citizens.

Bob Hanson stated that this is a terrible project for Downtown Duluth and questioned why Duluth is doing this when it has much higher priorities.

Rick Klun reminded the council that they for voting tonight on three zoning issues and not whether this is a good project for Duluth.

Bill Burns stated that there is a certain degree of subjectivity when it comes to hardship and this project has had a series of community meetings with the purpose being to improve the quality of life for citizens and improve Downtown.

Councilor Stewart stated that while he supports the project, he questions the degree of hardship that the board of zoning appeals used to grant a zoning variance. He also questioned why the city is an applicant and whether it could sway the decision for a variance.

Councilor Stewart moved to table the resolutions to find out why the city of Duluth is listed on the application, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Johnson, Little, Reinert, Stauber, Stewart and Stover -- 7

Nays: Councilor Gilbert and President Ness -- 2

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Resolutions 05-0327 and 05-0328, affirming and reversing, respectively, a decision of the board of zoning appeals to deny a request to reduce the required frontage from 50 feet to 37.5 feet, the minimum lot area from 5,000 square feet to 4,875 square feet, the minimum side yard on a corner lot from 15 feet to six feet, six inches for a dwelling and from 20 feet to 12 feet, six inches for a detached garage and reduce the minimum outside width of a dwelling from 20 feet to 18 feet for the construction of two single-family dwellings on property located at 2601 and 2605 West Second Street; and resolutions 05-0329 and 05-0330, affirming and reversing, respectively a decision of the board of zoning appeals to deny a request to reduce the required frontage from 50 feet to 40 feet and reduce the minimum outside width of a dwelling from 20 feet to 18 feet for the construction of three single-family dwellings on property located at 2606, 2610 and 2614 West Second Street, by Councilor Gilbert, were introduced for discussion.

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

Jeff Corey explained that there is a 1925 lot of record that grandfathers in the building of four homes on 30 foot lots on the lower side and one house on a 75 foot lot on the upper side of the street. He continued by explaining that the variance requests the same number of houses to be built, but would allow three houses on 40 foot lots on the lower side and two houses on 37.5 foot lots on the upper side. Mr. Corey stated that this would provide infusion of home ownership to families which is beneficial to the neighborhood.

To questioning from Councilor Stewart, Mr. Corey replied that the hardship is having to build four houses on 30 foot lots when it would be better to build on 3 on 40 foot lots.

Rick Minotte reviewed that new homes which provide home ownership to families is very important for the neighborhood, but having empty lots in the neighborhood is always bad as it reduces the density of the neighborhood since there is more crime when there is more density.

Councilors Atkins and Reinert stated that Northern Communities Land Trust is trying to build homes that people will buy and take pride in and should be built the way the neighborhood wants them to be built.

Councilors Stewart and Little stated that the applicant has not shown hardship as the same number of houses will be built whether or not the variance is granted and the houses will be good for the neighborhood.

Councilor Stewart emphasized the need to update the Zoning Code for current needs and dense living areas.

President Ness stated that the option presented is better than what could be if a variance is not applied. He continued by saying the city is working to improve the housing in Duluth and needs to work within the code to make housing better.

President Ness moved to amend resolutions 05-0328 and 05-0330 to replace the four blanks as follows:

(a) Replace the first blank with the language "the October 24, 1925, lot of record code and historic and existing uses";

(b) Replace the second blank with the language "lack of uniformity, of density, of development with negative neighborhood impact";

(c) Delete the third blank;

(d) Replace the fourth blank with the language "prudent allowable construction of single family dwellings,"

which motion was seconded and unanimously carried.

Resolution 05-0328, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Duane Caywood and the Northern Communities Land Trust own property located at 2601 and 2605 West Second Street, legally described as Lot 417 and the southerly 105 feet of the east 1/2 of Lot 419, Block 85, Duluth Proper Second Division; and

WHEREAS, Northern Communities Land Trust, by Jeff Corey, executive director, has appealed the board of zoning appeals denial of a variance request to reduce the required frontage from 50 feet to 37.5 feet, the minimum lot area from 5,000 square feet to 4,875 square feet, the minimum side yard on a corner lot from 15 feet to six feet, six inches for a dwelling and from 20 feet to 12 feet, six inches for a detached garage and reduce the minimum outside width of a dwelling from 20 feet to 18 feet for the construction of two single-family dwellings on property

located at 2601 and 2605 West Second Street; and

WHEREAS, Chapter 50-20.2 requires 5,000 square feet of lot area and 50 feet minimum frontage for a single family dwelling in an R-3 zoning district; Section 50-23(a) requires a 15 feet minimum corner side yard setback for dwellings and 20 feet minimum for detached accessory buildings in an R-3 zoning district; and Section 50-1.20 defines a one-family dwelling as having a minimum outside width of 20 feet measured at its narrowest point; and

WHEREAS, the board of zoning appeals denied the variance request because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals determined that a two-family dwelling could legally be constructed on the property without the need for a variance and that there was no basis in the Zoning Code for reducing the minimum lot frontage requirement except under an approved Traditional Neighborhood District; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the Zoning Code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of the October 24, 1925, lot of record code and historic and existing uses, strict application of the Zoning Code to this property would result in lack of uniformity, of density, of development with negative neighborhood impact to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity and that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of prudent allowable construction of single family dwellings and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

FURTHER RESOLVED, that the board of zoning appeals' decision of April 26, 2005, is hereby reversed by the city council and the appeal is granted.

Resolution 05-0328, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved June 13, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0327 failed upon the following vote (Public Document No. 05-0613-21):

Yeas: Councilors Little and Stewart -- 2

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stover and President Ness -- 7

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Resolution 05-0330, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Duane Caywood and the Northern Communities Land Trust own property located at 2606, 2610 and 2614 West Second Street, legally described as westerly 40 feet of Lot 420, all of Lot 422 and the east 30 feet of Lot 424, Block 79, Duluth Proper Second Division; and

WHEREAS, Northern Communities Land Trust, by Jeff Corey, executive director, has appealed the board of zoning appeals denial of a variance request to reduce the required frontage from 50 feet to 40 feet and reduce the minimum outside width of a dwelling from 20 feet to 18 feet for the construction of three single-family dwellings on property located at 2606, 2610 and 2614 West Second Street; and

WHEREAS, Chapter 50-20.2 requires 50 feet minimum frontage for a single family dwelling in an R-3 zoning district and Section 50-1.20 defines a one-family dwelling as having a minimum outside width of 20 feet measured at its narrowest point; and

WHEREAS, the board of zoning appeals denied the variance request because it found that no hardship to the property existed which constituted special circumstances or conditions applying to the land in question which was peculiar to such property and did not apply generally to other land or buildings in the vicinity, and because it was not necessary for the preservation and enjoyment of a substantial property right and not merely a convenience of the applicant; and

WHEREAS, the board of zoning appeals determined that an 11-unit apartment building could legally be constructed on the property without the need for a variance and that there was no basis in the Zoning Code for reducing the minimum lot frontage requirement except under an approved Traditional Neighborhood District; and

WHEREAS, the granting of this variance was not justified under the existing verbiage of the Zoning Code; and

WHEREAS, pursuant to Section 50-47 of the Duluth City Code, 1959, as amended, in order to grant this appeal and issue the requested variance, the city council would be required to find that by reason of exceptional narrowness, shallowness or shape of the property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the property, the strict application of the terms of Chapter 50 would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code; in addition the council must find that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity, that the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant, and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

NOW, THEREFORE, BE IT RESOLVED, that the city council finds that, by reason of the

October 24, 1925, lot of record code and historic and existing uses, strict application of the Zoning Code to this property would result in lack of uniformity, of density, of development with negative neighborhood impact to the owner, that relief therefrom may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and the Zoning Code, that special circumstances or conditions applying to the building or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity and that granting of the application is necessary for the preservation and enjoyment of a substantial property right, the right of prudent allowable construction of single family dwellings and not merely to serve as a convenience to the applicant and that authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city.

FURTHER RESOLVED, that the board of zoning appeals' decision of April 26, 2005, is hereby reversed by the city council and the appeal is granted.

Resolution 05-0330, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved June 13, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0329 failed upon the following vote (Public Document No. 05-0613-22):

Yeas: Councilors Little and Stewart -- 2

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stover and President Ness -- 7

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Resolution 05-0400, by Councilor Atkins, requesting inclusion of Sundby Road in street improvement program, was introduced for discussion.

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

Garry Krause stated that there is neighborhood concern with this road being improved as there will be too many speeding cars cutting through the neighborhood and more potential housing developments.

Councilors Gilbert and Johnson stated that the council should not get involved in engineering decisions as it could get political when deciding what streets should be improved next.

Councilor Atkins reviewed that this road is going to be get busier because of the new businesses going up and potential housing developments and stated that he is only requesting the administration to have the engineering division look at the feasibility of including this street in the street improvement program.

To questioning, Administrative Assistant Winson reviewed how the engineering division decides which streets are done each year and voiced concern that it will become a political hot potato if the council starts suggesting streets to be included.

Resolution 05-0400 was adopted as follows:

BY COUNCILOR ATKINS:

WHEREAS, the area of Sundby Road between Maple Grove Road and Haines Road is in delapidated condition; and

WHEREAS, the pavement is deteriorated and in poor condition; and

WHEREAS, the expected completion of the Cottage Homestead projects will increase the amount of traffic on the road; and

WHEREAS, there is a potential for lowering the cost of needed repair of the road if it is done at the same time as the reconstruction of nearby State Highway 53.

BE IT RESOLVED, that the council requests that said area of Sundby Road be included in the city's street improvement for the same year that the intersection of Maple Grove Road and

Miller Trunk Highway is reconfigured and reconstructed.

Resolution 05-0400 was adopted upon the following vote:

Yeas: Councilors Atkins, Little, Reinert, Stauber and President Ness -- 5

Nays: Councilors Gilbert, Johnson, Stewart and Stover -- 4

Approved June 13, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0399, by President Ness, referring a matter to the parking commission, was introduced for discussion.

Councilor Atkins suggested that the city work with the parking committee of the Greater Downtown Council on this issue.

Councilor Stewart moved to amend the resolution by adding the following paragraph to the end:

“BE IT FURTHER RESOLVED, that the parking commission and staff investigate the possibility of chalk marking tires in an effort to prevent all day parking Downtown,” which motion was seconded and unanimously carried.

Resolution 05-0399, as amended, was adopted as follows:

BY PRESIDENT NESS:

BE IT RESOLVED, that the city council refers the following matter to the city parking commission for its review and recommendation, to be reported back to the council by the council's first meeting in September:

Should the time limit for parking meters in the Downtown area be extended from one hour to two hours?

The report should study and address the potential effect on parking of those that plug meters on the street all day and study if it is possible to increase meter time limits and, at the same time, encourage parking in parking ramps.

BE IT FURTHER RESOLVED, that the parking commission and staff investigate the possibility of chalk marking tires in an effort to prevent all day parking Downtown.

Resolution 05-0399, as amended, was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Erling R. Hansen Contractor be and hereby is awarded a contract for expansion of the women's locker room at Fire Station #1 for the city architects division in accordance with specifications on its low specification bid of \$30,500, terms net 30, FOB job site, payable out of Capital Fund 0450, Department/Agency 030, Object 5535.

Resolution 05-0375 was unanimously adopted.

Approved June 13, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0355, by Councilor Little, to establish no parking on Superior Street, was introduced for discussion.

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

Lynn Dunbar reviewed that since 26th Avenue East has become an alternate entrance to the freeway, they have seen more traffic and more accidents at the corner including damage to their property from cars. She continued by saying that if this resolution passes there will be no place for her to park and the city should be looking for a way to decrease the traffic instead of having to change the residents' parking.

Scott Witkop stated that the city needs to put some traffic control at that intersection as the city is the one that has caused the problem by improving 26th Avenue East.

Councilor Gilbert stated that the city should not put a city problem on a few citizens who have improved their house for the safety of the block. He continued by saying that there needs to be more options for the resolution of this problem.

Mr. Winson reviewed that the traffic studies do not warrant signal lights so state aid money

is not available.

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

Yeas: Councilors Atkins, Gilbert, Johnson and Stewart -- 4

Nays: Councilors Little, Reinert, Stauber, Stover and President Ness -- 5

Resolution 05-0355 was adopted as follows:

BY COUNCILOR LITTLE:

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:

South side of Superior Street from 250 feet west of 26th Avenue East to 200 feet east of 26th Avenue East;

North side of Superior Street from 200 feet west of 26th Avenue East to 250 feet east of 26th Avenue East.

Resolution 05-0355 was adopted upon the following vote:

Yeas: Councilors Johnson, Little, Stauber, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Gilbert and Reinert -- 3

Approved June 13, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0358, by Councilor Little, amending resolution to remove no parking designation from the north side of portions of East Second Street, making alternate side parking inapplicable to portions of Second Street from 7:00 a.m. to 1:00 a.m. and making a portion thereof a metered zone, was introduced for discussion.

Councilor Little moved to table the resolution so that it can be considered at the same time as the accompanying ordinance, which motion was seconded and unanimously carried.

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Resolution 05-0364, by Councilor Little, authorizing acceptance of 2005 state homeland security equipment/exercise grant for the amount of \$50,000 for the Duluth fire department, was introduced for discussion.

Councilor Stauber questioned if there is a better use for this money that is more appropriate for the community.

Resolution 05-0364 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that the city is hereby authorized to accept from the division of homeland security and emergency management, Minnesota department of public safety, a 2005 state homeland security equipment/exercise grant in the amount of \$50,000.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any agreements necessary to implement the project on behalf of the fire department. All monies from this grant will be deposited into Special Projects Fund 210, Agency 030, Organization 3171, Revenue Source 4210-02.

Resolution 05-0364 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved June 13, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR STEWART

05-006 - AN ORDINANCE AMENDING SECTION 50-49 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING APPEALS OF DECISIONS OF THE BOARD OF ZONING APPEALS.

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

Councilor Stewart reviewed that this change would make the decisions of the board of

zoning appeals (BZA) and the council less political as the council's job is to set policy, not adjudicate disputes. He continued by saying that the council often oversteps the council bounds by deciding these issues.

Councilor Gilbert stated if the city corrects the code, the appeal process will correct itself. He continued by saying that this change would bypass the elected officials who are elected to make these decisions and zoning would then be for the rich as a lawyer is needed to go to the court of appeals.

Councilor Reinert agreed that changing the Zoning Code is necessary, but that it will be a long process before it is done and this proposed ordinance change is an equitable route that the city can take while the code is being updated. He also suggested a change in the number of votes that are needed to overturn the BZA as an alternative if this ordinance does not pass.

President Ness stated that BZA appeals are often frustrating with tedious issues and there is a high percentage of decisions that the council overturns, but usually there is a good deal of public development that helps Duluth move forward.

Councilor Stewart moved passage of the ordinance and the same failed upon the following vote (Public Document No. 05-0613-23):

Yeas: Councilors Reinert, Stewart and Stover -- 3

Nays: Councilors Atkins, Gilbert, Johnson, Little, Stauber and President Ness -- 6

The following entitled ordinances were read for the first time:

BY COUNCILOR STOVER

05-023 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH IN THE VICINITY OF GRAND AVENUE AND ELINOR STREET TO LSPT, LLC.

BY COUNCILOR STOVER

05-024 - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH IN THE VICINITY OF CENTRAL AVENUE AND ROOSEVELT STREET TO LANCE PARTHÉ AND PATRICIA STOLL.

BY COUNCILOR LITTLE

05-021 - AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF ALTERNATE SIDE PARKING; AMENDING SECTION 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SUBPARAGRAPH (d).

BY COUNCILOR LITTLE

05-022 - AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF FREE PARKING FOR HANDICAPPED AT METERS; AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SECTION 33-88.3.

The following entitled ordinance was read for the second time:

BY COUNCILOR REINERT

05-020 (9728) - AN ORDINANCE PERTAINING TO THE DULUTH HOUSING COMMISSION; AMENDING SECTION 2-146 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

The meeting was adjourned at 9:25 p.m.

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

ORDINANCE NO. 9728

BY COUNCILOR REINERT:

AN ORDINANCE PERTAINING TO THE DULUTH HOUSING COMMISSION; AMENDING SECTION 2-146 OF THE DULUTH CITY

CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-146 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Section 2-146. Commissioners.

(a) The membership of the commission shall consist of 12 commissioners who shall be appointed to the membership of said commission and who shall perform the duties set forth in this Article. Five commissioners shall be appointed from each of the five 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 affordable housing coalition;
- (4) One representative of the American Indian commission;
- (5) One representative of the Duluth Area Chamber of Commerce.

Seven 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 housing industry; CDBG - eligible neighborhoods, homeless issues and four at-large representatives;

(b) Commissioners shall serve without compensation. The term of the commissioners shall be for three years. Commissioners shall serve no more than two full terms without a full one-year break in service. Terms shall expire on September 30 following completion of a full three year term and until their respective successors are appointed and qualified. 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 five commissioners appointed from the constituencies may be removed only by the appointing constituency. The remaining seven 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 mostly likely to advance, enhance, foster and promote the purposes of this ordinance. At such meeting and at all subsequent meetings of the commission, 50 percent or more of all the commissioners then holding office shall constitute an 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.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: July 31, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 13, 2005
Approved June 13, 2005
HERB W. BERGSON, Mayor

- - -

OFFICIAL PROCEEDINGS

Special Meeting of the Duluth City Council held on Monday, June 20, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Absent: Councilors Little and Stauber -- 2

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR STOVER:

RESOLVED, that Levine & Son, Inc., be and hereby is awarded a contract for construction of gas mains and services at various locations throughout the city for the utility operations division in accordance with specifications on its low specification bid of \$327,925, terms net 30, FOB job site, payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5533.

Resolution 05-0436 was unanimously adopted.

Approved June 20, 2005

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 7:05 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 27, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of the city council meetings held on May 9 and 23, 2005, were unanimously approved.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0627-01 Bruce Bergh, et al. (eight signatures), submitting petition to vacate Lots 8 - 20 that abut 3009 - 3035 Hutchinson Road. -- Assessor

05-0627-02 J&S Partnership, LLP and A&L West, LLC, et al. (two signatures), by Bill Burns, attorney, submitting petition to vacate the property adjacent to the alley within Blocks 69, 70, 71 and 72, Oneota. -- Assessor

05-0627-03 J&S Partnership submitting:

(a) Further petition (one signature) to improve 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Assessor

(b) Further waiver agreement (one signature) regarding assessments for the improvement of 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main. -- Engineering

05-0627-04 Susan B. Stephenson submitting petition to construct 100 lineal feet of eight inch PVC sanitary sewer main in Blackman Avenue. -- Assessor

05-0627-05 Tom Selinski submitting appeal of the planning commission decision to deny the vacation of 18th Street between Minnesota and Lake avenues. -- Committee 2 (Planning and economic development)

05-0627-33 Linwood Skafte submitting communication regarding his appeal to reverse the board of zoning appeals decision to relax the requirements for front, rear and side yard setbacks and parking requirements for the demolition of existing and construction of a new structure at 230 West Third Street (05-0326R and 05-0326R). -- Received

- - -

REPORTS OF OFFICERS

05-0627-06 Assessor submitting letters of sufficiency of petitions:

(a) To improve 44th Avenue West from Grand Avenue to approximately 360 feet southerly to include 28 foot wide street with turnaround, storm sewer, watermain, gas main and sanitary sewer main;

(b) To reclassify from R-3 to C-1 property described as Lots 5, 6, 7, 8 and 9, except the southerly ten feet for Highway No. 23, and all of Lot 10, Block 13, Hunter and Markells Grassy Addition to Duluth. -- Assessor

05-0627-07 Clerk submitting applications to the Minnesota gambling control board for exemptions from lawful gambling licenses from St. Michael's Church on: (a) November 13, 2005 (bingo and raffle); (b) January 4, 2006 (raffle). -- Received

05-0627-13 Community development manager submitting for public notification a copy of Grant Community School Collaborative's request for waivers to HUD conflict of interest rules. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

05-0627-14 Alcohol, gambling and tobacco commission minutes of: (a) March 8; (b) April 6; (c) April 18; (d) May 4; (e) May 18, 2005, meetings. -- Received

05-0627-08 Board of zoning appeals minutes of April 26, 2005, meeting. -- Received

05-0627-09 Duluth human rights commission minutes of May 11, 2005, meeting. -- Received

05-0627-10 Parks and recreation commission minutes of: (a) May 11; (b) June 8, 2005, meetings. -- Received

05-0627-11 Special assessment board minutes of May 10, 2005, meeting. -- Received

05-0627-12 Special board of review minutes of May 24, 2005, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Greg Price commented on Duluth wetlands and requested that there be an ordinance requiring developers to replace manmade wetlands with ones on the waterfront and not miles away from the city.

- - -

Myrtle Casavan expressed concern regarding a new proposed 14 story development on Superior Street that will adversely affect the view for hillside residents and those on the tour boats. She felt that buildings should be no higher than two stories.

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove Resolutions 05-0325 and 05-0326, affirming and reversing, respectively, the decision of the board of zoning appeals to relax the 380 square feet of lot area per unit requirement to 300 square feet, the front and rear yard setbacks requirements from 36 feet to five feet front and 15 feet, six inches rear, the side yard setback requirements from 36 feet to three feet, ten inches and one foot, the minimum parking requirement from 47 spaces to 13 spaces for the demolition of existing structures and construction of a new 70-unit building consisting of 40 efficiency units and 30 single room occupancy units (230 West Third Street), from the table, which motion was seconded and unanimously carried.

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

Rick Heimbach, Linwood Skafta, Kurt Peters, Charles Crew and Bob Hanson expressed concerns about the project and support for Resolution 05-0326, noting: a hardship does not exist for this project, thus there is no need for the variance; the proposed building is too large for the area without enough space for parking or outside area for its residents to relax; the comprehensive plan needs to be considered before proceeding; it is important to have the most appealing and welcoming scene to invite tourists into our city; mixing social services into the tourist scene is not the best fit; economic feasibility is not a reason for a variance; all properties should be given the same consideration for variances; this is not a typical efficiency apartment complex; there is a commercial nature to this operation; no special conditions or performance standards have been considered for possible unreasonable negative effects [*concerns are more fully outlined in Public Document No. 05-0627-33*]; there is not enough parking right now at this location during the day and to reduce the off street parking requirements will not provide adequate parking for this project; there was not adequate notice to residents who live beyond 100 feet; this project will impair the property values in this area; it took years to clear drunkenness out of this neighborhood; the city should not be in the business of running this type of facility; consumption of alcohol should not be allowed in a city sponsored facility; this proposed facility threatens the piece of mind of the neighborhood residents and the safety of youth at the YMCA.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILORS STAUBER, STEWART AND STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement, containing substantially the same terms as that on file with the city clerk as Public Document No. 05-0627-15, between the city and Arrowhead Bowhunters Alliance, for an amount not to exceed actual, approved costs or the revenues generated by the annual deer hunt, whichever is less.

BE IT FURTHER RESOLVED, that Resolution 05-0306 is amended by adding a paragraph (k) to read as follows:

(k) The total number of certified hunters participating and the number allowed to hunt in any area shall be limited to that needed to attain the objective and that can do so safely, as determined by the manager of the hunt. If there are more qualified hunters than are needed, a lottery or similar fair process shall be used to select which individuals will participate.

The manager of the hunt shall assign certified hunters to hunting areas which shall be done by a lottery or similar fair process.

Resolution 05-0434 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2005, subject to departmental approvals, the payment of sales and property taxes and further subject to approval of the liquor control commissioner:

Roto of Duluth, Inc. (University Liquor), 1603 Woodland Avenue, with Tony Walker, 50 percent stockholder and Ronald Kucza, 50 percent stockholder, transferred from J&H of Duluth, Inc. (University Liquor), same address.

Resolution 05-0372 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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:

D&D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 3 and 4, with the music and serving from 6:00 p.m. to 11:00 p.m., and August 5, 2005, with the music and serving ceasing at 1:00 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, for August 5, 2005, with the music and serving ceasing at 1:00 a.m.

Dwayne and Kimberly, Inc. (Kom on Inn), 332 North 57th Avenue West, for August 5, 2005, with the music and serving ceasing at 1:00 a.m.

Resolution 05-0396 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of senior engineering technician, which were approved by the civil service board on May 3, 2005, and which are filed with the city clerk as Public Document No. 05-0627-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31, \$3,470 to \$4,127 per month.

Resolution 05-0308 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of personnel technician II, which were approved by the civil service board on May 3, 2005, and which are filed with the city clerk as Public Document No. 05-0627-17, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 137, \$4,142 to \$4,937 per month.

Resolution 05-0309 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of special events coordinator, which were approved by the civil service board on May 3, 2005, and which are filed with the city clerk as Public Document No. 05-0627-18, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 129, \$2,940 to \$3,485 per month.

Resolution 05-0310 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of assistant fire chief, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-0627-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 233, \$5,559 per month.

Resolution 05-0401 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Dave Boe to the Duluth airport authority for a term expiring on July 1, 2008, replacing Julie Larson Williams, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Bergson of Nancy Norr to the Duluth airport authority for a term expiring on July 1, 2008, is confirmed.

Resolution 05-0406 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Yvonne Prettnner Solon to the Duluth state convention center administrative board for a term expiring on June 30, 2008, is confirmed.

Resolution 05-0407 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Dennis E. Birchland (District 4) to the Duluth transit authority for a term expiring on June 30, 2008, replacing Darryl L. Scott, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Bergson of Tari Rayala (District 5) to the Duluth transit authority for a term expiring on June 30, 2008, is confirmed.

Resolution 05-0408 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Michael Polzin (at large) to the parking commission for a term expiring on July 1, 2008, is confirmed.

Resolution 05-0409 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Carol J. (CJ) Bird to the Spirit Mountain recreation area authority for a term expiring on June 30, 2008, is confirmed.

Resolution 05-0410 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Edye Howes to the American Indian commission for a term expiring on May 12, 2008, replacing Alberta Van Wert, is confirmed.

FURTHER RESOLVED, that the reappointments by Mayor Bergson of CJ Bird, John Day and Joycelyn Dorscher to the American Indian commission for terms expiring on May 12, 2008, are confirmed.

Resolution 05-0412 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Jeremy M. Downs (at large) to the parks and recreation commission for a term expiring on February 13, 2008, replacing Karen Erickson, is confirmed.

Resolution 05-0413 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of city architect, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-0627-20, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1135, \$5,524 to \$6,736 per month.

Resolution 05-0414 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fleet manager, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-0627-21, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1115, \$5,024 to \$6,128 per month.

Resolution 05-0415 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that the proposed amendments to the specifications for the civil service classification of vehicle center supervisor, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-0627-22, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1085, \$4,385 to \$5,347 per month.

Resolution 05-0416 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Patricia D. Thorson (District 1) to the community development committee for a term expiring on March 1, 2006, replacing Clyde Annala who resigned, is confirmed.

Resolution 05-0445 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, the proper city officials are hereby authorized to enter into an amendment substantially in the form on file in the office of the city clerk as Public Document No. 05-0627-23 to the HOME Program Housing Development Projects - Phoenix House agreement (City Contract No. 19494) with Life House, extending the term of the agreement to December 31, 2005.

Resolution 05-0418 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the west 1/2 of 22nd Avenue West adjacent to 2208 West 24th Street, legally described as that portion of 22nd Avenue West adjoining Lot 1, Block 6, Coffin-Warner and Jones 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 found that said street easement is useless for the purpose for which it was intended, based on the following findings:

(a) The right-of-way is not needed for access or utility needs to any properties;

(b) Contiguous rights-of-way have been vacated previously in the creation of the Piedmont Heights Recreation Center; and

the commission did approve, unanimously, the street easement vacation petition at its June 14, 2005, meeting (reference Planning Commission File No. 05045).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the street easement described above and as more particularly described on Public Document No. 05-0627-24.

RESOLVED FURTHER, 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 05-0420 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth is an entitlement community and is eligible to receive CDBG funding; and

WHEREAS, the city is an entitlement entity and has the ability to make application for Section 108 loan guarantee funds; and

WHEREAS, the city under the Section 108 program has the authority to pledge future entitlement grants to guarantee the repayment of any loan funds not repaid by participation projects; and

WHEREAS, the city applied to HUD for funds available through HUD's Section 108 loan guarantee program to provide financial assistance to certain rental housing development projects; and

WHEREAS, HUD has accepted said application and desires to provide said Section 108 loan guarantee program funding to the city.

NOW, THEREFORE, BE IT RESOLVED, that the mayor and the city clerk are hereby authorized to enter into a contract with HUD for loan guarantee assistance under Section 108 and to execute the variable/fixed rate note substantially in the form of those on file in the office of the city clerk as Public Document No. 05-0627-25 relating to the Section 108 loan guarantee program.

FURTHER RESOLVED, that the city treasurer, city auditor or finance director are hereby authorized to draw payment vouchers under the Section 108 loan guarantee program.

FURTHER RESOLVED, that the mayor and the city clerk are hereby authorized to execute any additional documents necessary to effectuate the Section 108 loan guarantee program transaction with HUD.

Resolution 05-0429 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

BE IT RESOLVED, that pursuant to Minnesota Statute Sec. 161.36, the commissioner of transportation be appointed as agent of the city of Duluth to accept, as its agent, federal aid funds which may be made available for eligible transportation related projects.

BE IT FURTHER RESOLVED, that the proper city officers are hereby authorized to execute an agreement with the commissioner of transportation, filed as Public Document No. 05-0627-26, prescribing the terms and conditions of said federal aid participation as set forth and contained in Minnesota department of transportation agency Agreement No. 88052.

Resolution 05-0404 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0304 the council did request the administration to prepare plans and specifications for the construction of a bituminous street in 14th Street from Central Entrance to Third Avenue East at an estimated cost of \$50,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; and

WHEREAS, all affected by the proposed improvement or assessment have executed waiver agreements waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the council recommending the improvement and their right to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and sections 45-79 and 45-80 of the Duluth City Code of 1959 as amended and have requested that the council immediately determine to make the subject improvements.

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 \$50,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0421TR and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 05-0411 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that St. Joseph Equipment be and hereby is awarded a contract for furnishing and delivering one Case wheel loader for the street maintenance division in accordance with specifications on its low specification bid of \$103,710.66, terms net 30, FOB destination, \$103,710.66 payable out of Capital Fund 250, Department/Agency 015, Organization 2005, Object 5580.

Resolution 05-0417 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2006 street improvement program for Duluth Heights 1; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; 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.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$149,000, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Object 5530.

Resolution 05-0423 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2006 street improvement program for Norton Park West; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, MSA 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 MSA to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$54,972, will be payable from the Street Improvement Program Fund 0440, Department/Agency 038, Object 5530.

Resolution 05-0424 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for rental of 16 Caterpillar Model 143H motor graders for six months each for a total of 84 months during the year 2005/2006 winter season for the street maintenance division in accordance with specifications on its low specification bid of \$365,220.80, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 500, Organization 1920, Object 5415.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Resolution 05-0425 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2006 Minnesota turnback project for Carlton Street, from Grand Avenue to Michigan Street; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, Salo 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 Salo Engineering to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$31,165, will be payable from the Public Improvement Fund 0411, Department/Agency 035, Object 5530.

Resolution 05-0426 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0464 to RLK Kuusisto, LTD, for furnishing professional engineering services, be amended to increase the amount by \$140,000 for a new total of \$529,870, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5530.

Resolution 05-0430 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0462 to Como Oil & Propane Company for furnishing and distributing liquid propane, be amended to increase the amount by \$22,000 for a new total of \$82,000, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5390.

Resolution 05-0431 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of Morgan Park wastewater collection system for the engineering division in accordance with specifications on its low specification bid of \$1,924,936.80, terms net 30, FOB job site, \$1,059,922.40 payable out of Sewer Utility Fund 531 and \$865,014.40 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Object 5532.

Resolution 05-0432 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Performance Pipelining, Inc., be and hereby is awarded a contract for cured-in-place-pipe (CIPP) rehabilitation for sanitary sewer laterals in Basin #1 for the engineering division in accordance with specifications on its low specification bid of \$676,380, terms net 30, FOB job site, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1970, Object 5535.

Resolution 05-0433 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Hovland, Inc., be and hereby is awarded a contract for the sanitary and storm manhole adjustment program for the engineering division in accordance with specifications on its low specification bid of \$74,500, terms net 30, FOB job site, \$37,250 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5535 and \$37,250 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5535.

Resolution 05-0435 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson & Sons, Inc., be and hereby is awarded a contract for construction of West Third Street, 19-1/2 Avenue to Carlton Street and Vernon Street; West Third Street to Grand Forks Avenue for the engineering division in accordance with specifications on its low specification bid of \$2,998,503.56, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530.

Resolution 05-0438 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Arrowhead Painting be and hereby is awarded a contract for painting of 2,750 gas meter piping throughout the city of Duluth for the utility operations division in accordance with specifications on its low specification bid of \$32,907, terms net 30, FOB job site, payable out of gas Fund 0520, Department/Agency 500, Organization 1905, Object 5535.

Resolution 05-0439 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into lease agreements with Clearwire L.L.C., copies of which are on file in the office of the city clerk as Public Document No. 05-0627-27, for the location and operation by Clearwire of wireless communications equipment on the Highland Water Tower and the Proctor Water Tower, payments to be paid to the Water Fund 510, Agency 500, Revenue Source 4809.

Resolution 05-0440 was unanimously adopted.
Approved June 27, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0268 the council did request the administration to prepare plans and specifications for the construction of a permanent 28 foot wide street with turnaround, storm sewer and sidewalk in 44th Avenue West from Grand Avenue to approximately 360 feet southerly at an estimated cost of \$100,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; and

WHEREAS, all persons affected by the proposed improvement or assessment have executed waiver agreements waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the council recommending the improvement and their right to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and sections 45-79 and 45-80 of the Duluth City Code, 1959, as

amended and have requested that the council immediately determine to make the subject improvements.

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 \$100,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0493TR, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

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 05-0441 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Frank J. Michelizzi the sum of \$13,660.35 in full and final settlement of the claim which arose out of a blockage in the municipal sanitary sewer; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 05-0442 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 4213 West Fifth Street;

Front of 617 East Fifth Street;

Front of 5804 Elinor Street;

Front of 5806 Elinor Street.

Resolution 05-0402 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that pursuant to Minnesota Statutes Sections 645.02 and 645.021, the Duluth City Council hereby approves Laws of Minnesota 2005, Chapter 131, Section 16, and directs the city clerk to file a certificate of approval of such special law with the secretary of state.

Resolution 05-0427 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0627-28 with Michelle Hayko to provide city basketball, broomball, volleyball and no-check hockey league management in an amount not to exceed \$5,800, payable from special Projects Fund 210, Agency 030, Organization 3190, Object 5319.

Resolution 05-0428 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that E-Z-GO Textron Company be and hereby is awarded a contract for leasing approximately 90 golf carts and ten utility carts as needed during year 2004 for the Enger Park and Lester Park golf courses in accordance with specifications at an estimated amount of \$70,500, terms net 30, FOB destination, \$35,250 payable out of Golf Fund 0503, Department/Agency 400, Organization LSTR, Object 5415 and \$35,250 payable out of Enterprise Fund 0503, Department/Agency 400, Organization ENGR, Object 5415.

Resolution 05-0437 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 05-0461, by Councilor Stauber, amending Resolution 05-0177 to add Central Hillside Development Limited Partnership, LLLP, as a party to a Section 108 loan agreement with Hillside Business Association in the amount of \$7,282,000, was introduced for discussion.

Councilor Stauber moved to amend the resolution as follows:

Add the following at the end of the title: ", subject to approval of the same by HUD."

Add the following at the end of the resolution: ", said amendment to Resolution 05-0177 adding the developer as a party is hereby subject to the approval of the same by HUD," which motion was seconded and unanimously carried.

Resolution 05-0461, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Resolution 05-0177 is hereby amended to add Central Hillside Development Limited Partnership, LLLP (developer), as a party to the Section 108 loan agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0627-34 with Hillside Business Association (HBA) related to the construction of the Fifth Street redevelopment housing project in the amount of \$7,282,000 payable from Fund 264, said amendment to Resolution 05-0177 adding the developer as a party is hereby subject to approval of the same by HUD.

Resolution 05-0461, as amended, was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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Resolutions 05-0443 and 05-0444, by Councilor Gilbert, approving and denying, respectively, amendments to the conditions of resolutions 03-0426, 03-0462 and 03-0463 relating to special use permits for Cottage Homesteads II (Resolution 03-0462); Cottage Homesteads III (Resolution 03-0463); and Miller Hill 47 Limited Partnership (Resolution 03-0426) for properties located along Sundby Road, were introduced for discussion.

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

Randy Budisalovich, Ron DeGrio and Heather Odden, expressed support for Resolution 05-0444, for reasons of: public safety on Sundby Road; the road is deteriorating with shoulders falling off and chunks of tar flying through the air; the proper utilities and a sidewalk need to be included in this project; a special use low density permit should not have been approved for a community unit plan; promises were made when the Kohl's development was done that have not been complied with; density in this area is a concern; good common sense needs to be followed here; because of the construction that is being done, the buildings on properties that are at a lower elevation are being adversely affected with foundation shifts and water run off and private property owners should not be assessed for any road improvements that are necessary because of the increased traffic due to shopping at Kohl's.

Resolution 05-0443 failed upon a unanimous vote (Public Document No. 05-0627-29).

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Resolution 05-0444 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the city council did, on June 23, 2003, adopt resolutions 03-0426, 03-0462 and 03-0463 granting special use permits for Miller Hill 47 Limited Partnership; Cottage Homesteads

II; and Cottage Homesteads III for low density planned developments on the following described properties:

(a) Miller Hill 47 (Resolution 03-0426), 1516 Sundby Road; that part of NE $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 18, T50, R14, lying east of the County Road, except one acre on the south side (PID 2710-4570);

(b) Cottage Homesteads II (Resolution 03-0462), 1605 Sundby Road; Lot 1, Block 2, Miller Creek Division; that part of the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec 18, T50 R14, beginning at southwest corner thence north 208 feet thence east 86 feet to Sundby Road; thence southeasterly along said road to south line of said 40 thence west 172 feet to point of beginning (PID# 2710-4555); northerly 200 feet of the easterly 453.98 feet of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ lying west of Sundby Road (PID# 2710-4605) and (PID# 2710-4603);

(c) Cottage Homesteads III (Resolution 03-0463), 400 feet north of Page Street; SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 18, T50, R14, lying easterly of Sundby Road. except southerly 210 feet, lying within 100 feet of easterly 100 feet and except that part lying north of southerly 210 feet (PID 2710-4594); and

WHEREAS, Cottage Investors, LTD, has submitted to the city council a request for amendments to the conditions of these resolutions as follows:

(a) Resolution 03-0426: deletion of condition (b)(2) improvement plans for Sundby Road, including a sidewalk on one side of the roadway;

(b) Resolution 03-0462: deletion of condition (b)(2) improvement plans for Sundby Road, including a sidewalk on one side of the roadway;

(c) Resolution 03-0463: deletion of condition (b)(3) improvement plans for Sundby Road, including a sidewalk on one side of the roadway; and

said special use permit amendment applications were duly referred to the city planning commission for a study, report and public hearing and the city planning commission has subsequently reported its recommendation of denial to the city council; and

WHEREAS, the recommendation of denial was made because of the city planning commission's findings that the required improvements are appropriate safeguards to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if the conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that the above described amendments to the special use permits is hereby denied.

Resolution 05-0444 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an extension to the current agreement with Fryberger, Buchanan, Smith & Frederick, P.A., under which that firm will provide professional services related to the city's 2005 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 05-0627-35, at a cost to the city of not to exceed \$3,433, which shall be payable from the General Fund 100-700-1402-5312.

Resolution 05-0459 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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BY COUNCILORS ATKINS, STAUBER AND REINERT:

WHEREAS, the security of the United States and its citizens is protected by the citizen-soldiers of the Minnesota National Guard; and

WHEREAS, the various units of the Minnesota National Guard have been called into active service, deployed around the world, and served with honor and distinction; and

WHEREAS, the Minnesota Air National Guard 148th Fighter Wing has been renowned as a proficient and exemplary unit for many years; and

WHEREAS, the heroic service of the members of the 148th Fighter Wing has, and does, protect the safety and security of the nation; and

WHEREAS, the nation's long northern border presents a risk that international terrorists could infiltrate into the United States, carrying dangerous weapons of war for the purpose of harming the civilian population; and

WHEREAS, the federal government has considered reducing the size of the 148th Fighter Wing.

NOW, THEREFORE, BE IT RESOLVED, that the city council urges congress and the government of the United States to retain the Minnesota Air National Guard operations in Duluth at its current level, and, in addition, add to its mission the securing of our vulnerable northern border; and

BE IT FURTHER RESOLVED, that the clerk shall send a copy of this resolution to the governor and all of the members of congress from Minnesota.

Resolution 05-0419 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stover and President Ness -- 8

Nays: Councilor Stewart -- 1

Approved June 27, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0454, by President Ness, of intent to accept a Minnesota's Lake Superior coastal program grant, subject to a grant of the same by the Minnesota's Lake Superior coastal program to the city, for planning of a living water garden of approximately .5 acres to be located at the north end of Slip No. 2 and to work with Sweetwater Alliance regarding the same; and Resolution 05-0455, of intent to confer and plan with Sweetwater Alliance to enlarge the scope of the living water garden project by adding up to an additional 1.5 acres east of and adjacent to Slip No. 2 at Bayfront, were introduced for discussion.

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

Phil Meany, Ronald Miller, Jill Jacoby, Bill Mittlefehldt, Pat Farrell, Roberta Whitehall, Ron DeGrio, Catherine Conover, Joel Sipress, Fran Kaliher and Gus Gustafson expressed support for the resolutions, citing reasons of: this is an excellent project; it is in keeping with the unique topography of the city; this is a wonderful expansion of the concept of a garden, that is "to take care of the water"; this is a welcome project to the comprehensive plan; this project should be given a higher priority with the comprehensive plan; this project could make Duluth an eco-municipality; the Sustainable Duluth organization points the way for succeeding with this project; chloride in the water comes into the bay from polluted stormwater; having more land for this project is the best use of the Bayfront property; the council unanimously supported this project previously; \$100,000 in funding has been raised for this project already; this is a creative and innovative use of public space with the addition of a practical advantage of treating stormwater; this will also serve as an educational project; this will be an asset for attracting tourists and visitors; the area is currently an unused brown eyesore; the slip is not equipped for the docking of cruise ships; it is likely that an additional 1.5 acres of land will be needed for this project; the Bayfront task force, which had a divergent representation, had a consensus recommendation that a water garden project be integrated into the Bayfront property; the supporters of this project should not be punished for the fact that they have made more progress on this initiative than the overall plans for the Bayfront have and homeland security requirements would not allow docking of foreign ships unless there was an area enclosed with high barbed wire fencing, which is not desired.

Steve Townsend and Steve Sydow expressed concern regarding approval of these resolutions, because: this will not help Duluth's revenue problem because it takes the city's most valuable property and precludes economic development; this project will render this property useless; this project could be constructed where the stormwater runoff occurs, such as 21st Avenue West; the prior council consensus was for .5 acre; the receipt of a grant for this project should not deter the planning process for Bayfront and eliminate the possibility of docking cruise ships there; Bayfront is too valuable to let a small part of our visions dictate how we plan; shipping

is the safest, most economical and environmentally friendly form of transportation and docking should be given priority in the slips and an educational water garden can be constructed to go anywhere.

Pat Collins, program manager for the Minnesota coastal program, stated that for this particular project to be relocated to another site, there is a list of items to be complied with; the time limit to receive this grant is June 30, 2006, and that date can not be extended. In addition, another practical aspect is that it would have to be shown that the stated objectives would still be met at any other location.

Councilor Stewart moved to amend Resolution 05-0454 as follows:

(a) Strike the words "of approximately .5 acres located near the north end of slip number 2 at Bayfront and to work with Sweetwater Alliance regarding attainment of the grant" at the end of the resolution, and strike similar wording in the title and statement of purpose.

(b) Add the following two paragraphs:

"BE IT RESOLVED, that this declaration of intent to accept coastal program grant for the planning of a living water garden to be contingent upon relocating the living water garden project to a location not adjacent to Slip No. 2 at Bayfront; other locations to be considered may include, but need not be limited to the following: 21st Avenue West slip, daylight the storm sewer (up the hill from Slip No. 2) and adjacent to the Great Lakes Aquarium.

BE IT FURTHER RESOLVED, that a detailed living water garden project purpose memorandum be developed which defines the fundamental motivation for the project and its essential outcomes,"

which motion was seconded and discussed.

Councilors Atkins, Stauber and Stewart expressed support for the amendment for reasons of: other alternative sites, such as 21st Avenue West, should be looked at; there are still unanswered questions of what the total plan for the Bayfront area should be; there is need for a total of two acres and this is intended to find that larger location elsewhere; the city of Duluth's surface water management draft plan has been worked on for six years, and this living water garden should have been coordinated into that plan; Slip No. 2 is in terrible condition and it will cost millions of dollars to repair it; the .5 acres that was previously supported is not adequate for what is planned; it is unlikely that the council would support this project previously if it had known that an additional 1.5 acres was necessary and this is a good project, it is just not the proper location for it.

Councilor Stewart's amendment failed upon the following vote:

Yeas: Councilors Atkins, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stover and President Ness -- 5

Resolution 05-0454 was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that the Duluth City Council hereby declares its intent to accept a Minnesota's Lake Superior coastal program (costal program) grant, subject to a grant of the same by the coastal program to the city and subject to the grant terms being acceptable to the city, for the planning of a living water garden of approximately .5 acres located near the north end of Slip Number 2 at Bayfront and to work with Sweetwater Alliance regarding attainment of the grant.

Resolution 05-0454 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

Approved June 27, 2005

HERB W. BERGSON, Mayor

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Councilor Stover moved to amend Resolution 05-0455 by adding the following sentence at the end of the resolution: "The council's intent to confer, plan and enlarge, as set out in this resolution, is conditional upon construction of the project commencing before June 25, 2005," which motion was seconded and discussed.

President Ness and Councilor Stewart expressed concerns that both the fund raising and construction could be started by this date and that the time to put this condition deadlines on it is when the council sees a plan.

Councilor Stover's amendment passed upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber and Stover -- 6

Nays: Councilors Little, Stewart and President Ness -- 3

President Ness felt that: if this is to be done, it should be "world class" and given the potential for that with this additional land and very little else is planned for this area.

Councilors Atkins and Gilbert opposed or expressed concern about the resolution for reasons of: the total planning for the Bayfront should be completed first and there are a lot of things happening in this area, such as a possible DECC expansion, that need to be looked at.

Resolution 05-0455, as amended, failed upon the following vote (Public Document No. 05-0627-30):

Yeas: Councilors Johnson, Reinert, Stover and President Ness -- 4

Nays: Councilors Atkins, Gilbert, Little, Stauber and Stewart -- 5

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Resolution 05-0460, by President Ness and Councilor Atkins, establishing a task force on retiree health insurance, was introduced for discussion.

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

Katie Uttke reviewed how the new standards issued by the government accounting standards board will affect a city's financial situation and the importance of needing to address this issue.

Councilor Reinert moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 05-0447, by Councilor Stover, presenting a Charter amendment to the Charter commission - tax increment financing, was introduced for discussion.

Councilor Stover moved to table the resolution, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STOVER

05-025 - AN ORDINANCE GRANTING TO AQUILA, INC., ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO TRANSPORT, DISTRIBUTE AND SELL GAS IN A PORTION OF DULUTH AND TO USE THE STREETS, AVENUES AND ALLEYS FOR THAT PURPOSE.

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BY COUNCILOR STOVER

05-027 - AN ORDINANCE AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED; RELATING TO PARKING-HANDICAPPED ACCESS; PROVIDING CLEAR AREA.

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BY COUNCILOR REINERT

05-026 - AN ORDINANCE AMENDING CHAPTER 35-25(k) OF THE DULUTH CITY CODE, 1959, AS AMENDED; TO AUTHORIZE THE CONSUMPTION OF INTOXICATING LIQUOR AT THE ENGER PARK GOLF COURSE.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STOVER

05-023 (9729) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH IN THE VICINITY OF GRAND AVENUE AND ELINOR STREET TO LSPT, LLC.

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

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BY COUNCILOR STOVER

05-024 (9730) - AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH IN THE VICINITY OF CENTRAL AVENUE AND ROOSEVELT STREET TO LANCE PARTHÉ AND PATRICIA STOLL.

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

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RESOLUTION TABLED

At this time Councilor Little moved to remove Resolution 05-0358, amending resolution to remove no parking designation from the north side of portions of East Second Street, making alternate side parking inapplicable to portions of Second Street from 7:00 a.m. to 1:00 a.m., and making a portion thereof a metered zone, from the table, which motion was seconded and unanimously carried.

Resolution 05-0358 was adopted as follows:

BY COUNCILOR LITTLE:

RESOLVED, that that certain resolution of the Duluth City Council approved on November 12, 1956, establishing no parking zones is hereby amended by deleting from the no parking zones thereby established that portion of East Second Street lying between Sixth Avenue East and 12th Avenue East.

BE IT FURTHER RESOLVED, that pursuant to Section 33-97.8(d) of the Duluth City Code, 1959, as amended, the provisions of Section 33-97.8(a) of said Code shall not apply to that portion of East Second Street lying between Sixth Avenue East and Ninth Avenue East and between Tenth Avenue East and 12th Avenue East between the hours of 7:00 o'clock A.M. and 1:00 o'clock A.M. the following morning.

BE IT FURTHER RESOLVED, that pursuant to sections 33-108 and 33-110 of said Code, both sides of East Second Street between Ninth Avenue East and Tenth Avenue East are hereby designated as a metered zone during the hours of 7:00 o'clock A.M. and 1:00 o'clock A.M. the following morning.

BE IT FURTHER RESOLVED, that this resolution shall not be effective unless and until the Ordinance No. 9731 [File No. 05-021-O] is approved and goes into effect.

Resolution 05-0358 was unanimously adopted.

Approved June 27, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILOR LITTLE

05-021 (9731) - AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF ALTERNATE SIDE PARKING; AMENDING SECTION 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SUBPARAGRAPH (d).

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

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BY COUNCILOR LITTLE

05-022 (9732) - AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF FREE PARKING FOR HANDICAPPED AT METERS; AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SECTION 33-88.3.

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

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

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9729

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY IN WEST DULUTH IN THE VICINITY OF GRAND AVENUE AND ELINOR STREET TO LSPT, LLC.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, as shown on Public Document No. 05-0627-31 by quit claim deed, to LSPT, a limited liability company, under the Laws of the State of Delaware for \$3,500 to be deposited in General Fund 100-700-1420-4640, and to execute all documents necessary with regard to said conveyance:

Commencing at the point of intersection of the southerly line of Grand Avenue with the easterly line of Lot 6, Block 93, ADDITION TO ONEOTA; thence in a southerly direction along the easterly line of said Lot 6, a distance of 110.85 feet to Point of Beginning; thence continue along the easterly line of said Lot 6, extended, a distance of 50 feet to the point of intersection with the northerly line of the right-of-way of the former Northern Pacific Railway Company; thence deflecting 89° 46' 32" to the right onto and along aforesaid northerly right-of-way line of the Northern Pacific Railway Company a distance of 14.69 feet to a point; thence deflecting to the right at an angle of 46° 18' 54" and continuing westerly along the east-west center line of Section 7, Township 49, Range 14 a distance of 69.14 feet to a point; thence deflecting 133° 41' 6" to the right a distance of 62.25 feet along a line parallel with and 50 feet distant from said northerly right-of-way line of the former Northern Pacific Railway Company to Point of Beginning and there terminating. ALL SUBJECT to easements of record.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 7, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 27 2005
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9730

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING SALE OF CERTAIN PROPERTY
IN WEST DULUTH IN THE VICINITY OF CENTRAL AVENUE AND
ROOSEVELT STREET TO LANCE PARTHÉ AND PATRICIA STOLL.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, as shown on Public Document No. 05-0627-32 by quit claim deed, to Lance Parthé and Patricia Stoll for \$750 to be deposited in General Fund 100-700-1420-4640, and to execute all documents necessary with regard to said conveyance:

All that part of Lot 16, Block 18, WEST DULUTH FIRST DIVISION, according to the plat thereof on file and of record in the office of the county recorder in and for St. Louis County; which lies southwesterly of the following described line:

beginning at the northwest corner of said Lot 16; thence run southeasterly to a point on the south line of said Lot 16, distant 105 feet west of the southeast corner thereof and there terminating.

SUBJECT to easements, covenants and restrictions of record.

Section 2. That this ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 7, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 27 2005
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9731

BY COUNCILOR LITTLE:

AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF ALTERNATE SIDE PARKING; AMENDING SECTION 33-97.8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SUBPARAGRAPH (d).

The city of Duluth does ordain:

Section 1. That Section 33-97.8 of the Duluth City Code, 1959, as amended, is hereby 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;

(d) The council may, by resolution, limit the hours of the day during which alternate side parking applies to any street, avenue or any designated portion thereof. Any such limitation shall be noticed by official signs posted adjacent thereto designating the hours when alternate side parking is applicable and designating the area to which the limited applicability of alternate side parking is applicable. During times when alternate side parking is not applicable to any area so designated, other applicable parking limitations and restrictions shall apply.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 7, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 27, 2005
Approved June 27, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9732

BY COUNCILOR LITTLE:

AN ORDINANCE AUTHORIZING TIME LIMITS ON APPLICABILITY OF FREE PARKING FOR HANDICAPPED AT METERS; AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO ADD A NEW SECTION 33-88.3.

The city of Duluth does ordain:

Section 1. That Chapter 33 of the Duluth City Code, 1959, as amended, is hereby amended to add a new Section 33-88.3 which reads as follows:

Sec. 33-88.3. Handicapped parking at meters-time limits.

Pursuant to the authority of Minnesota Statutes, Section 169.345 Subd. 1 (2), the city council may, by resolution, establish one or more zones in which there is a limit on the maximum amount of time during which a vehicle displaying handicapped insignia parked at a metered parking space in that zone shall be exempt from paying the meter fee applicable to said space, provided that any such limitation shall be separately posted on official signs in conformance with the requirements of that Statute.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: August 7, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 27, 2005
Approved June 27, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 7, 2005, 5:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

Resolution 05-0484, by Councilor Johnson, approving settlement of claims of Tammy Olson in the amount of \$500,000, was introduced for discussion.

City Attorney Brown and Assistant City Attorney Wilson reviewed that the plaintiff is a former city employee and the facts of the case. Ms. Wilson continued by saying that all of Ms. Olson's claims are filed under the Human Rights Act.

Mr. Brown stated that their office believed that a settlement had been reached with the plaintiff in which to bring to the council, but the plaintiff has now decided that she does not want to accept that settlement and the issue whether the settlement had been finalized will be heard by the judge tomorrow. He explained that the council can decide whether to approve settlement or whether to go to trial, which would start in July.

To questioning from the council, Ms. Wilson replied that settling the claim would be in the best interest of the city for the following reasons: if the city goes to trial and the city does not prevail, the city is liable for Ms. Olson's attorney's fees and costs; a successful plaintiff can receive back wages and front pay; emotional distress damages could be awarded which has no cap and the court has within their discretion to triple the amount of damages.

Councilor Reinert questioned why the council needs to consider this action today when there is a decision being made by the court tomorrow.

Ms. Wilson replied that when the settlement was reached, the only condition stated was that it was conditioned upon city council approval. She continued by saying that by the council approving this settlement, it would be consistent with the city believing that an agreement was reached and the settlement is binding, which would carry forward to the court's decision tomorrow.

Councilor Little stated that whatever action the council takes at this meeting will not carry much weight with the judge when a decision is decided tomorrow, and that the city's risk in court is minimal, as an award of \$500,000 on an employment claim is uncommon in St. Louis County.

Resolution 05-0484 was adopted as follows:

BY COUNCILOR JOHNSON:

BE IT RESOLVED, that the proper city officials are authorized to execute documents and to do the acts necessary to settle the discrimination claims of former city employee, Tammy Olson, under the following terms and conditions:

(a) A full, final, and complete settlement, including release of all claims, which is enforceable by the court. (A motion to enforce a settlement agreement is currently scheduled to be heard on July 8, 2005);

(b) Required district court approval is secured;

(c) City will pay Olson the amount of \$64,000 on or before the 30th day following district court approval of this settlement;

(d) City will pay the sum of \$250,000 into a structured settlement via a nonqualified assignment and release through NABCO, or other agreed upon vendor, to fund an annuity on or before the 30th day following district court approval of this settlement;

(e) City will pay Olson's attorney the amount of \$144,000 on or before January 31, 2006.

(f) City will pay Olson the amount of \$42,000 on or before January 31, 2006;

(g) Olson agrees to never apply for or seek employment or contract work with the city.

Payment will be made from Self Insurance Fund 610, Agency 036, Organization 1651, Object 5841.

Resolution 05-0484 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Stauber, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Reinert -- 2

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Approved July 7, 2005
HERB W. BERGSON, Mayor

The meeting was adjourned at 6:12 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 11, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meetings held on June 9 and June 13, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0711-01 Scott J. Andrews, et al. (seven signatures), submitting petition to construct 1,360 lineal feet of low pressure sanitary sewer within West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly. -- Assessor

05-0711-02 Proctor Public Schools submitting request to purchase three tracts of land in Bay View municipal school forest. -- Administration

05-0711-20 Tom Selinski submitting communication regarding the proposed vacation of 18th Street South between Minnesota Avenue and Lake Avenue on Park Point (05-0421R and 05-0422R). -- Received

05-0711-21 Lois M. Shabatura submitting communication regarding the denial of a water resources management ordinance variance to Jacob Kapsner for two 8,000 square-foot lots at 2810 and 2814 Minnesota Avenue (05-0347R and 05-0348R). -- Received

05-0711-22 The following submitting communications regarding the appeal to reverse the board of zoning appeals decision to relax the requirements for front, rear and side yard setbacks and parking requirements for the demolition of existing and construction of a new structure at 230 West Third Street (05-0325R and 05-0326R): (a) Bill Bennett; (b) Center City Housing Corporation; (c) Center City Housing Corporation by William Burns, attorney; (d) Mike Chan; (e) Fred Lund; (f) Gary Olson; (g) Kurt Peters (supported by 56 signatures); (h) Linwood Skafta. -- Received

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REPORTS OF OFFICERS

05-0711-03 Assessor submitting:

(a) Affidavit of mailing of notice of public hearing in the City Council Chambers, third floor, City Hall, Monday, July 11, 2005, at 7:00 p.m. regarding the proposed street improvement for Superior Street from 38th to 40th avenues West. -- Clerk

(b) Confirmation of assessment roll to be levied to defray in full the expense of solid waste collection during the period March 1, 2004, to June 1, 2005, for which the collector has not been reimbursed;

(c) Letters of sufficiency regarding petitions to:

(1) Construct 100 lineal feet of eight inch PVC sanitary sewer main in Blackman Avenue;

(2) Vacate the alley in Blocks 69, 70, 71 and 72, Oneota;

(3) Vacate a ten foot utility easement in Lots 8-20, Boehms Tracts First Addition. -- Received

05-0711-04 Community development division manager submitting community development program performance report from April 1, 2004, to March 31, 2005. -- Received

05-0711-05 Facilities management submitting rental agreement with Jessica S. Nickel for the residential dwelling unit located within the Wheeler Fieldhouse, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

05-0711-06 Duluth airport authority balance sheet of April 30, 2005. -- Received

05-0711-07 Library board minutes of May 24, 2005, meeting. -- Received

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At this time, 7:05 p.m., President Ness called the public hearing regarding the Superior Street, 38th to 40th avenues West, street construction assessment to order.

Ed French, city engineering division, reviewed the street construction assessment.

- - -

At this time, 7:08 p.m., President Ness closed the public hearing and called the public hearing regarding Duluth transit authority (DTA) fare increases to order.

Dennis Jensen, DTA general manager, reviewed the reason for the fare increases and the recent action by the state legislature.

Michael Chan questioned if the new fare boxes would be swiping cards and how much the new fare boxes would cost. He also questioned that if the price of gas comes down, will the fares come down.

Mr. Jensen replied that it cost \$1.2 million to replace the fare boxes, but 80 percent of the cost is funded through federal government grants.

Durbin Keeney questioned what happens to people who have bought tokens and still have some left.

At this time, 7: 25 p.m., President Ness closed the public hearing and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschorf questioned why the city council was settling a lawsuit instead of the courts and questioned how the city has the money to settle now.

- - -

RESOLUTIONS TABLED

Councilor Gilbert moved to remove resolutions 05-0325 and 05-0326, affirming and reversing, respectively, a decision of the board of zoning appeals to relax the 380 square feet of lot area per unit requirement to 300 square feet, the front and rear yard setbacks requirements from 36 feet to five feet front and 15 feet, six inches rear, the side yard setback requirements from 36 feet to three feet, ten inches and one foot, the minimum parking requirement from 47 spaces to 13 spaces for the demolition of existing structures and construction of a new 70-unit building consisting of 40 efficiency units and 30 single room occupancy units (230 West Third Street), from the table, which motion was seconded and unanimously carried.

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

Bob Hanson, Jean Dickson, Charles Crew, Lance Shively, Kurt Peters, Woody Skafta and Mike Chan spoke against the project for the following reasons: there are legal ramifications of the city granting itself a variance; the city is struggling financially and cannot afford any further legal actions; the program needs to be examined to see if it is the best possible fit for the mentally ill and chronic alcoholics; parking will be reduced in the area when there already is a parking shortage on Third Street; there are several places already for the homeless that can be expanded; safety in the neighborhood will be an issue; this is not just a heartstring or compassion issue, but the issue is the variance and following the rules of the Zoning Code; what happens when there are people wanting to get into the house when the rooms are full; most of the people in the neighborhood are against the project as evidenced by a petition of 57 people; there is no hardship and there is a permitted use for this property without a variance; property rights is not a reason to grant a variance; it will increase congestion on the streets; this is a matter of convenience to the city of Duluth as an applicant; some questioned if there was an area for exercise to help the residents overcome their alcoholism and the city should wait until the comprehensive plan is finished and then take the opportunity to look at this idea to provide a service for the people who need it and at the same time provide the community with what is needed for the Downtown area.

Craig Olson, representing the Duluth Construction Trades Unions, David Ross, Andy Peterson, representing the Duluth Area Chamber of Commerce, Joann Hong, Durbin Keeney, Fred Lund, Maggie Kazel, Nettie Bothwell, Julia Dinsmore, Rick Klun, director of City Center Housing, Bill Bennett, Gary Olson, executive director of Center for Alcohol and Drug Treatment, Dan Maddy, chair of the Greater Downtown Council (GDC), Doug Happy, Sharla Gardner, Jim Soderberg, director of CHUM, Eric Torch, representing the Damiano Center; Vicki Sanville, Ben

Small, Joyce Kramer, Glen Anderson, Mark Johnson, Emily Larson, Jim Gruba, director of the Human Development Center, Marueen Ness, Fred Lund, Bill Burns, Steve O'Neil, Pam Kramer, Rick Heimbach and Michelle LeBeau spoke in favor of the project for the following reasons: it will create 25 full time construction jobs for one year which will be a big benefit to the construction industry in Duluth; thousands of dollars will be saved if chronic alcoholics have a place to live and get well; there needs to be a safe shelter when sobriety cannot be maintained after many attempts; using the emergency room to deal with problems such as alcoholism only offers a brief respite and is expensive for taxpayers; there is a moral obligation and responsibility to the poor and those who need help; this project will create 40 housing units that are desperately needed in this community; the housing concept will be well staffed and managed; this place will be for people who do not conform to society's thought on how people need to reform; it will give people dignity; the success rate for residents of wet houses is very limited; not all residents have family that can help take care of them; this is a tried and true treatment program that would be used which has been used across the nation; it will not cause a drop in property value; it will have security cameras on the property which will be continually monitored; there will be fencing on this property; the developer has raised \$9 million for this project; the slope of the property causes a hardship to build the type of building that is required by the Code; the use of a detoxification program and the costs associated with it will go down by a significant amount; the project has the support of the GDC in this location as it will help clean up the blight of the building and offers a new way to alleviate the problems of Downtown - panhandling, chronic alcoholism, people living on the streets; the council has repeatedly supported this project; there is an awareness of the need for this project for the last 20 years and how can a variance be the issue when the common good and betterment of the community is the real issue.

Councilor Gilbert reviewed the merits of the project and how it would be a positive catalyst for the neighborhood.

Councilor Little stated he does not think that the definition of hardship has been met and there must be another location in Duluth that could meet the needs of the public that could be built on without a variance.

Councilor Stewart reviewed that he has supported this project since its conception, which is long past due, but that the issue before the city council is if the City Code criteria for a hardship has been met and if a variance should be granted. He also voiced concern that the city applied for the variance and that there is no recommendation by city staff on this project, possibly because the city is the applicant, which is inappropriate. Councilor Stewart added that he believes only one out of the three required conditions that need to be met for a variance have been met.

Councilor Stauber questioned how the city shows hardship when the city wrote the Code and stated that this project does not meet Code. He also questioned why the project kept forging ahead when the developers knew that variances were going to be needed.

Councilor Johnson stated that sometimes the boundaries need to be stretched for a good cause for the city. She continued by saying that if the city does not do this project, hardship will be caused by not taking care of the homeless and alcoholics.

Mayor Bergson urged support of this project and reviewed there will be a reduction of funds to detoxification centers and health care costs with the creation of this project.

President Ness stated that hardship does exist within the Code for this project and the context of the project is vital. He continued by saying that the city needs to find ways to reinvest in the city and move forward.

Resolution 05-0325 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the city of Duluth owns property located at 230 West Third Street and legally described as Lots 44, 46 and 48 of Duluth Proper First Division - West Third Street; and

WHEREAS, the city of Duluth is planning to demolish the existing structures on the property and construct a new 70-unit building consisting of 40 efficiency units and 30 single room occupancy units; and

WHEREAS, pursuant to City Code the proposed construction would require 380 square feet of lot area per unit, 36 feet front, rear and side yard setbacks, and 47 parking spaces; and

WHEREAS, the city of Duluth applied to the board of zoning appeals for a variance to relax the 380 square feet of lot area per unit to 300 square feet, the front and rear yard setbacks from 36 feet to five feet front and 15 feet, six inches rear, the side yard setbacks from 36 feet to three feet, ten inches and one foot, the minimum parking requirement from 47 spaces to 13 spaces; and

WHEREAS, the board of zoning appeals considered this matter and determined that:

(a) There were special circumstances or conditions applying to the land in question that were peculiar to such property and did not generally apply to other land or buildings in the vicinity;

(b) That the granting of the variances was necessary for the preservation and enjoyment of a substantial property right and not merely a convenience to the applicant;

(c) That the proposed use is reasonable and allowable under the Code, but the area requirements of the Code do not adequately address the various types of housing types needed in the city of Duluth and especially fails to adequately address the housing needs of economically or socially disadvantaged populations;

(d) That the existing buildings on land do not meet current setback requirements and the proposed structure, even given the variances requested, would be an improvement over existing conditions;

(e) That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city; and

WHEREAS, Linwood A. Skafte has appealed the aforesaid decision to the Duluth City Council; and

WHEREAS, the city council has considered this appeal and agrees with the decision of the board of zoning appeals that the granting of a variance to reduce the lot area requirements, the minimum front, rear and side yard setbacks and the minimum parking requirement is appropriate in this case;

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth affirms the board of zoning appeals' decision of April 26, 2005.

Resolution 05-0325 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0326 failed upon the following vote (Public Document No. 05-0711-08):

Yeas: Councilors Little, Stauber and Stewart -- 3

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

- - -

President Ness and Councilor Atkins moved to remove Resolution 05-0460, establishing a task force on retiree health insurance, from the table, which motion was seconded and unanimously carried.

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

Garry Krause stated that the parties need to work together to come to a solution on this issue, but the labor contract cannot be changed after the fact. He cautioned the parties not to overstep the boundaries of fair labor standards and not to violate labor laws.

Marsh Stenerson requested that the parties involved in this issue be on the task force and that the issue must be solved through the collective bargaining process.

Ken Loeffler-Kemp reviewed that the last labor contract had significant changes which will produce large savings annually and millions of dollars in long term liability that have not yet been fully calculated. He continued by saying that the task force needs to find cost efficiency measures within the confines of current law and bargaining agreements.

Councilor Atkins reviewed that this task force is to gather information so the city and its bargaining units will have information to do their job in negotiations.

Councilor Stewart stated that the problem is not as severe as it is made out to be and there are some things that this task force cannot do, such as tell the mayor what to do or interfere in the collective bargaining process.

Councilor Gilbert stated that this task force is a good idea, but moved to amend the resolution as follows to help keep the task force working within the current contract standards: at the end of the sixth sentence after the phrase "federal and state law" add the phrase "and current contract agreements," which motion was seconded and unanimously carried.

President Ness explained the current situation is not sustainable, that by having independent eyes examine the facts and the laws it will eliminate the amount of misinformation and confusion out there and a good solution for the city and the employees will come about.

Resolution 05-0460, as amended, was adopted as follows:

BY PRESIDENT NESS AND COUNCILOR ATKINS:

BE IT RESOLVED, that the city council shall establish a retiree health care task force. The purpose of the task force shall be to identify and define the most significant financial issues related to the city's current retiree health care program, their causes, possible cost efficiencies, and potential solutions. The task force shall consist of five members. All five members shall be appointed by committee two of the Duluth City Council. The slate of five members must be approved by a vote of the council. The task force shall study significant factors, applicable laws, trends, and the city's history with this issue; and provide the city council with an unbiased account and summary of this study; and to provide the city with options as to how this issue might be addressed within the confines of federal and state law and current contract agreements. The task force shall produce a report containing its findings and recommendations. The report shall be delivered to the council by way of the clerk, on or before December 1, 2005. The members shall serve without compensation. Reasonable expenses, approved by the finance director, within the existing budget, shall be paid.

Resolution 05-0460, as amended, was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Stover moved to remove Resolution 05-0447, requesting the Charter commission to examine procedure for tax increment financing, from the table, which motion was seconded and unanimously carried.

Councilor Stover stated that he is trying to make the playing field even in Duluth for all businesses by still allowing tax increment financing (TIF) districts, but the districts will be created with a higher standard.

Councilor Stauber reviewed that TIF districts have been one tool that the city has been successful with, and a 6/9 vote is already required should the mayor veto a TIF resolution. He went on to say that this is a tool that can be used to help businesses start up and make improvements.

Resolution 05-0447 was adopted as follows:

BY COUNCILOR STOVER:

BE IT RESOLVED, that the city council requests that the Charter commission examine the Charter's procedural requirements for use of tax increment financing, and then consider the following ordinance for submission to the voters under M.S.A. Sec. 410.12, subd. 5, or to the council under M.S.A. Sec. 410.12, subd. 7, and perform its duties of review and recommendation under both statutes:

AN ORDINANCE AMENDING THE CITY CHARTER,
CREATING A REQUIREMENT THAT TAX
INCREMENT FINANCING MUST BE APPROVED BY
AT LEAST SIX VOTES.

BY COUNCILOR STOVER:

The city of Duluth does ordain:

Section 1. That the City Charter be amended by adding a new Section 54(F) to read as follows:

(F) Tax increment financing.

Should the city utilize tax increment financing of an improvement, development, or project, as authorized by M.S.A. Sec. 469.174 through Sec. 469.1799, or the successor of each, or otherwise by law, then such action, to take effect, must be implemented by ordinance approved by the affirmative vote of no less than six councilors qualified to vote thereon and then duly passed as provided in this Charter.

Section 2. That this amendment shall take effect at the time and through the procedure required by law.

Resolution 05-0447 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

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:

Pizza Luce III, Inc. (Pizza Luce), 11 East Superior Street, for July 13, 2005, from 5:00 p.m. to 8:00 p.m. (rain date July 14, 2005)

Legacy Restaurants, Inc. (Duluth Athletic Club Deli), 11 East Superior Street, for July 13, 2005, from 5:00 p.m. to 8:00 p.m. (rain date July 14, 2005)

Lyric Block Development Corporation (Porter's, Sneakers, The Greenery), 200 West First Street, for July 13, 2005, from 5:00 p.m. to 8:00 p.m. (rain date July 14, 2005)

Wizner Company (Norman's), 113 West First Street, for July 15, 2005, with the music and serving from 6:00 p.m. to 12:00 a.m. (rain date July 16, 2005)

Scanlon River Inn, Inc. (Pioneer Bar), 323 West First Street, for July 15, 2005, with the music and serving from 6:00 p.m. to 12:00 a.m. (rain date July 16, 2005)

Resolution 05-0448 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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

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

WHEREAS, the city council approves of the exemption application and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Duluth Playhouse and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 05-0449 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 alcohol, gambling and tobacco 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.

Licensee	Gambling site
ADOPT (A Denfeld Organ Project)	Max Limit Bar, 1426 Commonwealth Avenue, Duluth, Minnesota
Congdon Park Recreational Association	Round Up Bar and Grill, 415 East Fourth Street, Duluth, Minnesota
Owls Club #1200	118 East Second Street, Duluth, Minnesota

Resolution 05-0450 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for July 23 and 24, 2005, and August 11, 12, 13 and 14, 2005, with Paul Larson, manager.

Resolution 05-0471 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

Copasetic Softball Team, Wheeler Field, for July 23 and 24, 2005, with Paul King, manager.

Resolution 05-0472 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Chesley and Sons be and hereby is awarded a contract for Phase II City Hall exterior renovation consisting of rebuilding portions of deteriorated masonry walls, repointing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

mortar joints in portions of the exterior facade, replacing spalled and cracked brick, cutting new control joints in existing brick walls and caulking coping stones. The project also includes pointing of exterior fire escape, ladder, louvers and doors and caulking around windows within the repointing area in accordance with specifications on its low specification bid of \$178,528, terms net 30, FOB job site, payable out of Capital Fund 450, Department/Agency 030, Object 5520.

Resolution 05-0473 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Thane Hawkins Polar Chevrolet be and hereby is awarded a contract for furnishing and delivering one Chevrolet pickup truck for the utility operations division in accordance with specifications on its low specification bid of \$27,169.74, terms net 30, FOB destination, 20 percent (\$5,433.95) payable out of Water Fund 510 and 80 percent (\$21,735.79) payable out of Gas Fund 520, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0476 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed specifications for the new civil service classification of labor relations specialist, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-0711-09, are approved; that said classification shall be included in the confidential bargaining unit and be subject to that unit's collective bargaining agreement.

BE IT FURTHER RESOLVED, that pay range for said classification shall be the new Range 10A. The proper city officials are authorized to execute and implement the agreements or other documents necessary to carry out this resolution.

Resolution 05-0477 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcel for public recreation and outdoor education area:

File No.	Applicant	Legal Description	Location
05051	City of Duluth	Endion Division to Duluth, Lots 1, 2, east 1/2 of Lot 3 and west 1/2 of Lot 3, Block A Parcel ID Numbers; 1420-00010; 1420-00020; 1420-00030; and 1420-00040	20th Avenue East and Water Street, east of the Lakewalk East gate

Resolution 05-0457 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, Don Proulx has submitted to the city council a request for a special use permit for a ten unit assisted living facility on property described as the W1/2, NW1/4, NW1/4, Section 31, T50, R14, and located at the southeast corner of Haines Road and Morris Thomas Road; and said permit application was duly referred to the city planning commission for a study,

report and public hearing and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed (reference Planning Commission File No. 05061).

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Don Proulx to allow for the operation of a ten unit assisted living facility at the corner of Haines Road and Morris Thomas Road, on the condition that project be constructed and maintained in accordance with plans submitted by Don Proulx, entitled "Assisted Living Home, Morris Thomas Road," dated May 24, 2005, as identified as Public Document No. 05-0711-10.

Resolution 05-0458 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, petitions have been filed to:

(a) Vacate the westerly 46 feet of the utility easement located within vacated 31st Avenue West, between Blocks 4, 5, 10 and 11, Marine Division, Duluth; and

(b) Vacate the alley within Block 11, Marine Division Duluth; and

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

WHEREAS, the city planning commission unanimously approved the vacation of both the 46 westerly feet of the utility easement within the vacated 31st Avenue West and the alley within Block 11, Marine Division, at its June 22, 2005, meeting (reference Planning Commission File No. 05058).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the westerly 46 feet of utility easement within vacated 31st Avenue West, located between Blocks 4, 5, 10 and 11 and the vacation of the alley within Block 11, Marine Division, described on Public Document No. 05-0711-11.

RESOLVED FURTHER, 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 05-0465 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcel for street and utility purposes:

PC File No.	Applicant	Legal Description	Location
05063	City of Duluth	Duluth Heights Fifth Division, Block 6, westerly 33 feet of Lot 30 (010-0880-01850)	east of Robin Avenue between Palm Street and the alley north of Palm Street.

Resolution 05-0480 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, the city council adopted Resolution 05-094 on February 14, 2005, granting a Section 50-38 special use permit to Mark Lambert of Summit Management, LLC for Campus Park

II, a common interest community development on 31 acres near Rice Lake Road and Blackman Avenue; and

WHEREAS, Mark Lambert of Summit Management, LLC, has submitted to the city council an amended Section 50-38 special use permit request for a common interest community development on 31 acres of property legally described as follows:

(a) In Clague and Prindle's Addition to Duluth: all of Blocks 2, 3, 4 and those parts of Blocks 5 and 6 lying southwest of Rice Lake Road, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto; and

(b) In Triggs and Kennedy's Addition to Duluth: those parts of Blocks 38, 39, 42, 43, 44 and 45 lying southwest of Rice Lake Road and that part of Lots 10, 12, 14 and 16, Block 41 lying southeast of the northeasterly extension of Hickory Street to intersect with Rice Lake Road at Chinook Drive, including those parts of dedicated unbuilt streets and alleys lying adjacent thereto; and

WHEREAS, said amended permit application was duly referred to the city planning commission for a study, report and public hearing held during the regular meeting on Tuesday, June 22, 2005, and the commission has subsequently reported its recommendation of conditional approval to the city council; and

WHEREAS, the city council finds that the conditions contained in this resolution address the shortcomings identified by the city planning commission's findings of inadequacies in the submitted documents and that with the conditions contained herein, appropriate safeguards will exist to protect the comprehensive plan and to conserve and protect property values in the neighborhood if said conditions are observed (reference Planning Commission File No. 05059);

NOW, THEREFORE, BE IT RESOLVED, that an amendment to the previously approved special use permit is hereby granted to Mark Lambert and Summit Management, LLC, for a common interest community development of 18 residential buildings (in four styles), an office and recreation building, and a maintenance building on 31 acres of property located north of Davis Street, east of Connecticut Avenue and southwest of Rice Lake Road, with the following terms and conditions:

(a) That the project be limited to, developed and maintained according to plans submitted by RLK Kuusisto Ltd., entitled, Campus Park II, dated December 29, 2004, together with amendments submitted through June 27, 2005, and identified as Public Document No. 05-0711-12;

(b) That the director of the department of planning and development be allowed to approve the replacement of any building type AA or B with a building type A or C if soil or topography conditions make that building type more feasible;

(c) That the project secure necessary building, grading, erosion control and storm water management permits from the city and Minnesota pollution control agency;

(d) That a procedure for the maintenance and monitoring of the storm water ponds shown on the site plans be approved by the city engineer;

(e) That at all times during the construction of the project there shall be no net increase in storm water runoff from a pre-development condition;

(f) That building mounted lighting on all buildings specified on architectural plans have flat lens and be downcast or angled only slightly outward. The source of lights shall be hooded or controlled in some manner as not to light adjacent properties and to reduce general light pollution.

Resolution 05-0481 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement with St. Louis and Lake counties regional railroad authority for the exclusive use of Municipal Lot D located under the Interstate 35 Freeway between Fourth and Fifth avenues West for parking for the patrons and customers of its excursion trains operating from the St. Louis County Heritage and Arts Center for the period June 1, 2005, through September 30, 2005, at no

cost to the authority.

Resolution 05-0462 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Johnson Insurance Consultants for professional consulting services relating to city's group health insurance program during the year 2005, which agreement shall be substantially in the form of Public Document No. 05-0711-13 on file in the office of the city clerk, at a cost to the city of not to exceed \$13,200, which shall be payable from the Group Health Fund 630-036-1650-5441.

Resolution 05-0463 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are authorized to execute supplemental Agreement No. 4 to Department of the Army License No. DACW22-3-85-3007, said agreement filed as Public Document No. 05-0711-14, granting the city a license for the placement of a transformer pad between the piers of the Duluth Aerial Lift Bridge on Army Corps of Engineers' property.

Resolution 05-0470 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the professional services agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0711-15 with Moss and Barnett related to the cable franchise renewal process, increasing the amount payable thereunder by \$19,700, payable from Fund 0100, Agency 700, Organization 1407, Object 5441.

Resolution 05-0479 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hovland, Inc., be and hereby is awarded a contract for the sanitary and storm manhole adjustment program for the engineering division in accordance with specifications on its low specification bid of \$67,300, terms net 30, FOB job site, \$33,650 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5535 and \$33,650 payable out of Stormwater Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5535.

Resolution 05-0464 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, pursuant to Sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the sewer utility, there is established and shall be collected beginning with the meter readings made on August 1, 2005, 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

	effective August 1, 2005	effective February 1, 2005
Customer charge	\$ 5.89 per month	\$ 5.89 per month
User charge - Class I	\$ 3.75/ccf	\$ 3.64/ccf
User charge - Class II	\$ 5.22/ccf	\$ 5.07/ccf
User charge - Class III	\$ 6.44/ccf	\$ 6.25/ccf
Tate and Lyle	\$10.76/ccf	\$10.76/ccf
Ikonics/Chromaline	\$ 6.46/ccf	\$ 6.46/ccf

RESOLVED FURTHER, that the revenues derived from the rate increase increment be expended exclusively for the replacement and rehabilitation of sanitary sewer infrastructure.

BE IT FURTHER RESOLVED, that any prior rate regulations inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 05-0468 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, effective with the water meter readings after August 1, 2005, all customers of the water utility of the city of Duluth, whose water supply is measured by meter, shall be charged for such water in accordance with the schedule of rates established by this resolution as follows:

MONTHLY METERED VOLUME		
	effective August 1, 2005, rate \$/CCF	effective August 1, 2004, rate \$/CCF
first 4,000 cubic feet, per 100 cubic feet	\$2.01	\$1.91
next 96,000 cubic feet, per 100 cubic feet	\$1.31	\$1.25
next 900,000 cubic feet, per 100 cubic feet	\$1.09	\$1.04
over 1,000,000 cubic feet, per 100 cubic feet	\$0.90	\$0.86

For consumers requiring water at an elevation in excess of 290 feet above Lake Superior, the rate for all water in excess of 100,000 cubic feet per month shall be effective August 1, 2005, \$1.31 per 100 cubic feet.

FIXED CHARGES ARE AS FOLLOWS		
Meter size	effective August 1, 2005	
1 inch & under	\$ 3.50	(no change)
1 ½ inch	\$ 6.13	(no change)
2 inch	\$ 10.50	(no change)

FIXED CHARGES ARE AS FOLLOWS		
Meter size	effective August 1, 2005	
3 inch	\$ 38.50	(no change)
4 inch	\$ 49.00	(no change)
6 inch	\$ 73.50	(no change)
8 inch	\$101.50	(no change)
10 inch	\$133.00	(no change)

Water metered at or beyond the city limits, for use by individual customers located outside the corporate limits of the city of Duluth:

All water, per 100 cubic feet - \$3.04, effective August 1, 2005.

Rates charged for water furnished to political subdivisions or state or federal government installments located outside the corporate limits of the city will be by individual contract, using the following schedule of rates:

effective August 1, 2005	Hermantown		Proctor		Rice Lake	
first 100,000 cubic feet, per 100 cubic feet	\$2.53	\$2.44	\$2.83	\$2.69	\$2.25	\$2.14
next 200,000 cubic feet, per 100 cubic feet	\$2.26	\$2.15	\$2.50	\$2.38	\$2.00	\$1.90
over 300,000 cubic feet, per 100 cubic feet	\$2.03	\$1.93	\$2.26	\$2.15	\$1.80	\$1.71
(Proctor 300,001-500,000 cubic feet) over 500,000 cubic feet, per 100 cubic feet	n/a		\$2.26	\$2.15	n/a	

RESOLVED FURTHER, that the revenues derived from the rate increase increment be expended exclusively for the replacement and rehabilitation of water system infrastructure.

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

Resolution 05-0469 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of year 2005 citywide street patch and sidewalk repairs program for the engineering division in accordance with specifications on its low specification bid of \$327,215, terms net 30, FOB job sites, payable out of Permanent Improvement Fund 0411, Department/Agency 035, Object 5403.

Resolution 05-0474 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide rehabilitation and reconstruction of four lift stations; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, the city desires to hire professional engineering services to provide the engineering services required for design, plan preparation and specifications for construction phases; and

WHEREAS, MSA Professional Services, 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 MSA Professional Services, Inc., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$95,366, will be payable from the Sewer Fund 530-500-1905-5536.

Resolution 05-0475 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Tech Sales Company be and hereby is awarded a contract for flow logger equipment for the utility operations division in accordance with specifications on its low specification bid of \$13,717.20, terms net 30, FOB job sites, payable out of sanitary funds 0530 (75 percent) and 0535 (25 percent), Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0478 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 of Ramsey Street on August 3 and 4, 2005, from 6:00 p.m. to 11:00 p.m. and on portions of Ramsey Street, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue on August 5, 2005, from 6:00 p.m. to 1:00 a.m. (August 6) 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 05-0397 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers 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. 05-0711-16, with the state of Minnesota, department of public safety, for the operation by the city fire department of a hazardous materials emergency response team in the amount of not to exceed \$90,000, to be deposited in General Fund 100, Agency 100, Organization 1505, Revenue Source 4220-02.

Resolution 05-0451 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are hereby authorized to accept Grant No. EMW-2003-FP-01945 in the amount of up to \$38,800 from the U.S. department of homeland security to reimburse the city for the costs of acquiring up to 20 laptop computers for use by the city's fire department and housing inspectors, such funds to be deposited in Special Projects Fund 210, Agency 030, Organization 3169, Revenue Source 4209, subject to the provision of matching funds in the amount of \$13,200, payable from General Fund 100, Agency 700, Organization 1420, Object 5580.

Resolution 05-0452 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 Superior Street between Lake Avenue and First Avenue East and Third and Fourth Avenues West on July 13, 2005, from 8:00 a.m. to 8:00 p.m., and on First Street between Third and Fourth Avenues West and First and Second Avenues West on July 15, 2005, from 6:00 p.m. to 12:00 a.m. 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 05-0453 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute and implement an agreement with Duluth Amateur Youth Basketball Association providing for the association's use of the Washington Recreation Center for its program activities for the period November 1, 2005, through March 1, 2008; said agreement to be substantially in the form of Public Document No. 05-0711-17 on file in the office of the city clerk; said monies to be deposited into Fund 210, Agency 030, Special League Account 3190-4420-06.

Resolution 05-0467 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

WHEREAS, the city of Duluth desires to contract with Dr. Mary Wictor; and

WHEREAS, the city desires to hire a veterinary to provide health care for animals at the Lake Superior Zoo; and

WHEREAS, Dr. Mary Wictor has submitted a proposal for the veterinary services in connection with the animal health care.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute and implement an agreement containing substantially the terms on file with the clerk as Public Document No. 05-0711-18 with Dr. Mary Wictor to provide the city with such veterinary services.

BE IT FURTHER RESOLVED, that the cost of said veterinary services, not to exceed \$40,000, will be payable from the General Fund 0100, Department/Agency 400, Organization 1814, Object 5310.

Resolution 05-0486 was unanimously adopted.
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolutions 05-0347 and 05-0348, by Councilor Gilbert, upholding and reversing, respectively, the Duluth planning commission's denial of a water resources management ordinance variance to Jacob Kapsner for two 8,000 square-foot lots at 2810 and 2814 Minnesota Avenue (Kapsner/Tamburro), were introduced for discussion.

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

Carla Tamburro and Jake Kapsner reviewed the hardship issues and stated that it is common sense to agree to their application plan of dividing the four parcels into two even lots of

8,000 square feet. Ms. Tamburro added that they are trying to preserve the land for their family now and in the future.

Councilor Stewart voiced concern that if the city approves having two lots going from conforming and nonconforming lots into two nonconforming lots, it would set a bad precedent for future appeals.

In response to councilor questions, City Attorney Brown replied that because the lots would be nonconforming, any future development on the lot would need a variance which could eventually end up before the council.

Ms. Tamburro stated it is their understanding that if the variance is granted, this variance would allow them to build on the nonconforming lots without having to go through the variance process again.

Councilor Gilbert stated this issue is about hardship, which has not been shown, and turning conforming lots into nonconforming lots is not a benefit to the city.

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At this time, 10:55 p.m., Councilor Reinert moved to extend the meeting to 11:30 p.m., which motion was seconded and unanimously carried.

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To questioning by the council, Mr. Brown replied that the resolution reversing the planning commission's decision does not specify that the resulting two 8,000 square foot lots would be buildable and that this issue needs to be cleared up before a decision is made on this property.

Councilor Johnson voiced concern that if the parcels are divided into two nonconforming lots, any future building on the lots may not be allowed and variances would be required by the city at a later date.

Councilor Reinert moved to table both resolutions, which motion was seconded and unanimously carried.

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Resolutions 05-0421 and 05-0422, by Councilor Gilbert, denying and approving, respectively, the vacation of portions of 18th Street South between Minnesota Avenue and Lake Avenue on Park Point (Selinski), were introduced for discussion.

Councilor Gilbert moved to table both resolutions, which motion was seconded and unanimously carried.

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Resolution 05-0488, by Councilor Gilbert, clarifying Resolution 05-0454 regarding living water garden, was introduced for discussion.

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

Mark Howard urged support of the resolution and the use of living water gardens for other areas in Duluth where remediation is needed for rivers.

Resolution 05-0488 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the council duly passed Resolution 05-0454; and

WHEREAS, there are two possible configurations of the proposed living water garden, each of which deserves consideration.

NOW, THEREFORE, BE IT RESOLVED, that the intention to accept a grant from the Minnesota Lake Superior coastal program, expressed in Resolution 05-0454, applies to the design of two configurations; one, a .5 acre site located near the north end of Slip 2, and the other a 1.5 acre site along the east side of Slip 2.

BE IT FURTHER RESOLVED, that the city has not committed to the use of the said 1.5 acre site for a living water garden.

Resolution 05-0488 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the Duluth surface water management goals and policy statements, a copy of which is on file in the office of the city clerk as Public Document No. 05-0711-19, are hereby approved and adopted.

Resolution 05-0446 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that Superior Street from 38th to 40th avenues West and 38th Avenue West from Michigan Street to Superior Street (City Job No. 0427TR) be improved.

RESOLVED FURTHER, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$525,000; \$5,000 from Gas Fund 520; \$10,000 from Water Fund 0510; \$55,000 from Sanitary Sewer Fund 0530; \$400,000 from DEDA funds; and \$55,000 is assessable to abutting property.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0456 was unanimously adopted.

Approved July 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, the Duluth transit authority will experience a reduction in state operating funds for CY2005; and

WHEREAS, the price of diesel fuel has escalated beyond the budgeted level; and

WHEREAS, the Duluth transit authority has determined that a fare increase will partially offset the loss of funding and increase operating costs; and

WHEREAS, the Duluth transit authority has held the required public hearings and requested that the council approve the fare system changes.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves the Duluth transit authority request to increase Duluth transit authority fares effective August 15, 2005:

Regular Route	Current	Proposed
Base fare	\$ 1.00	\$ 1.25
Off-peak fare	\$ 0.50	\$ 0.60
Off-peak elderly and disabled	\$ 0.50	\$ 0.60
Youth fare	\$ 0.75	\$ 1.00
DASH/MASH	\$ 0.25	\$ 0.25
Trolley fare	\$ 0.25	\$ 0.50
Day pass		\$ 3.00
Seven day pass adult		\$15.00
Seven day pass teen		\$12.00
Monthly pass	\$28.00	\$30.00 *
Teen pass - youth pass	\$23.00	\$25.00 *

Regular Route		Current	Proposed
Summer pass (June, July, August)		\$30.00	\$45.00 *
Transfers		free	good for 60 minutes
31 day pass			\$35.00 *
31 day pass youth			\$30.00 *
STRIDE			
	Peak	\$ 2.00	\$ 2.50
	Off-peak	\$ 1.00	\$ 1.20
* \$2.00 additional charge for a contactless card. If reused, no additional cost.			

Resolution 05-0483 was unanimously adopted.
 Approved July 11, 2005
 HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-029 - AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY CODE; ADDING A NEW ARTICLE XXXII GOVERNING A HOUSING INVESTMENT FUND.

- - -

BY COUNCILOR GILBERT

05-030 - AN ORDINANCE AUTHORIZING CONVEYANCE OF LOT 10, BLOCK 117, AND LOT 10, BLOCK 118, WEST DULUTH SECOND DIVISION, TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA) FOR \$9,375.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STOVER

05-025 (9733) - AN ORDINANCE GRANTING TO AQUILA, INC., ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO TRANSPORT, DISTRIBUTE AND SELL GAS IN A PORTION OF DULUTH AND TO USE THE STREETS, AVENUES AND ALLEYS FOR THAT PURPOSE.

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

- - -

BY COUNCILOR STOVER

05-027 (9734) - AN ORDINANCE AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED; RELATING TO PARKING-HANDICAPPED ACCESS; PROVIDING CLEAR AREA.

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

- - -

BY COUNCILOR REINERT

05-026 (9735) - AN ORDINANCE AMENDING CHAPTER 35-25(k) OF THE DULUTH CITY CODE, 1959, AS AMENDED; TO AUTHORIZE THE CONSUMPTION OF INTOXICATING LIQUOR AT THE ENGER PARK GOLF COURSE.

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

The meeting was adjourned at 11:20 p.m.

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

ORDINANCE NO. 9733

BY COUNCILOR STOVER:

AN ORDINANCE GRANTING TO AQUILA, INC., ITS SUCCESSORS
AND ASSIGNS, THE RIGHT TO TRANSPORT, DISTRIBUTE AND
SELL GAS IN A PORTION OF DULUTH AND TO USE THE
STREETS, AVENUES AND ALLEYS FOR THAT PURPOSE.

The city of Duluth does ordain:

Section 1. There is hereby granted to Aquila, Inc., d/b/a Aquila Networks, a Delaware corporation, its successors and assigns (hereinafter company), for the period of 25 years after the effective date hereof, a nonexclusive natural gas franchise, including the right to transport, distribute and sell natural gas for heating and other purposes within that area of the city of Duluth (hereinafter the city) which is contiguous to the city of Proctor, Minnesota, known as Bayview Heights, and more particularly described as follows:

beginning on Interstate Highway 35 at the westerly intersection of the corporate city limits, and going easterly on Interstate Highway 35 to the intersection of Skyline Parkway; then northeasterly along Skyline Parkway to the intersection of Getchell Road; then northerly along Getchell Road to the corporate city limits; then westerly along the city limits to the intersection of Boundary Avenue, which is the corporate city limits; then southerly along the city limits to the intersection of Interstate Highway 35 (hereinafter the service area);

and for that purpose to establish the necessary facilities and equipment, and to install and maintain gas mains and service lines and other appurtenances necessary to the transport, distribution and sale of gas, in and along the streets, alleys, avenues, bridges, public rights-of-way and other public places within said service area, and for the distribution of natural gas from or through said service area to points beyond the limits thereof and to do all things which are reasonable, necessary or customary in the accomplishment of this objective, subject to the further provisions of this ordinance.

Section 2. All mains, pipes, lines and other appurtenances and appliances constructed or maintained by the company, its successors and assigns, shall be constructed and maintained in a safe and secure manner and so as not to interfere with the public uses of the streets, alleys, avenues, bridges, public rights-of-way and other public places, and shall at all times be subject to the reasonable regulation and control of the city council and the provisions of the Duluth City Code, and all other applicable laws, rules, regulations and government orders.

This ordinance is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by company for service within the present or future limits of the service area and the rules and regulations regarding the character, quality and standards of service to be furnished by company shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by company.

If an energy supplier is unable to furnish an adequate supply of energy due to severe natural disaster, war, an emergency or an order or decision of a public regulatory body, then the company shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing, or allocating extensions of service or supply of energy to any customers or prospective customers and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be nondiscriminatory as between communities receiving service from the company.

Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the service area and to the general public as is reasonably necessary; and repairs and replacements shall be made

promptly by company, leaving such properties in as good as condition as existed immediately prior to excavation.

Company agrees that for the term of this franchise, it will use its best efforts to maintain facilities and equipment sufficient to meet the current and future energy requirements of the service area, its inhabitants and industries. While maintaining its facilities and equipment, company shall obtain permits as required by ordinance, except that in emergency situations, company shall take immediate unilateral actions as it determines are necessary to protect the public health, safety and welfare; in which case, company shall notify the city as soon as reasonably possible.

If the city elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or other public place for a public purpose, company, upon reasonable notice from the city, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the city, at the cost and expense of company.

The city shall give company written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the company.

Section 3. The city shall in no way be liable or responsible for any incident or damage that may occur in the construction, operation and maintenance by the company of its mains, pipes, lines and other appurtenances and appliances hereunder; and the company, its successors and assigns, shall indemnify the city and hold it harmless against any and all liabilities, loss, cost, damage or expense which may accrue to the city by reason of any act or omission of the company in the construction, operation, and maintenance of its mains, pipes, lines and other appurtenances and appliances hereunder, or by the ownership by the company of such facilities, or by the company's carrying on the business of utilizing this franchise; provided, however, that the company need not save harmless the city from claims, demands, losses and expenses arising only and completely out of the negligence of the city, its employees or agents.

Section 4. This ordinance shall not be considered as granting to the company, its successors and assigns, any exclusive privilege of constructing, operating or maintaining mains, pipes, lines and other appurtenances and appliances in the streets, alleys, avenues, bridges, public rights-of-way and other public places of the city for gas transport, distribution and sale.

Section 5. The company agrees to pay the city in consideration of the rights to be exercised under this franchise an annual fee equal to 1-1/2 percent of its gross receipts from sales of gas within the service area; such annual franchise fee covering the preceding calendar year shall be paid on February 1 of the succeeding year, with the filing of the annual report required by Section 84 of the City Charter.

Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The money received by the city shall be deposited in Fund 100-030-1324-4072.

Section 6. The rights of the company hereunder are in all respects subject to, and the company shall keep, perform, and observe all the terms, provisions and limitations of the Home Rule Charter of the city of Duluth, and in particular those of Chapter XI of said Charter, except Section 86 and Section 88, paragraphs 3(a) and (b) of said Charter to the extent pre-empted by state law, which said Charter and Chapter XI thereof are hereby expressly referred to and made a part hereof, as fully as though the same were incorporated in this ordinance, and all rights reserved by the city by said Charter shall be exercised in the manner and be subject to the limitations prescribed by such Charter; provided, however, that if any provisions of said Charter are amended or repealed during the term of this franchise, such changes shall be deemed applicable to the company upon its filing of a written consent thereto with the city clerk, and provided further, that if any of the provisions of the Charter are made inapplicable to or declared unenforceable against public gas utilities because of state legislation or judicial decision, such provisions shall no longer be deemed to be a part of this agreement. The company reserves the right, during the term of this agreement, to the extent permitted or not in conflict with state or federal law, to seek amendments to said Charter, to seek state legislation preempting the

application of the provisions of such Charter to public gas utilities and to engage in or support judicial action aimed at having the provisions of such Charter declared unenforceable against public gas utilities.

It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following:

(a) Physical events that could not be reasonably guarded against or anticipated such as severe acts of God, unforeseeable and/or severe landslides, lightning, earthquakes, fires, floods, washouts, explosions, accident or necessity of repairs to machinery, equipment or distribution or transmission lines;

(b) Acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars;

(c) Governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order or regulation promulgated by a governmental authority having jurisdiction;

and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to anticipate, prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

Section 7. Pursuant to Section 82 of the City Charter, this ordinance shall be published verbatim in the official paper of the city of Duluth once a week for four successive weeks after its passage and shall take effect 30 days from and after its last publication; provided, however, that this ordinance shall not become effective unless the company has filed a written acceptance of the terms and conditions of such ordinance with the city clerk prior to such effective date. (Effective date: September 11, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed July 11, 2005

Approved July 11, 2005

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9734

BY COUNCILOR STOVER:

AN ORDINANCE AMENDING CHAPTER 33 OF THE DULUTH CITY CODE, 1959, AS AMENDED; RELATING TO PARKING-HANDICAPPED ACCESS; PROVIDING CLEAR AREA.

The city of Duluth does ordain:

Section 1. That the Duluth City Code, 1959, as amended, be amended to add a new Section 33-88.4 to read as follows:

Sec. 33-88.4. Clear area.

When a parking space for the physically disabled or handicapped has been established pursuant to Section 33-82.2 or other valid law, and one side of the parking space is along the curb or side of a road, then a clear zone is established along that side of the parking space to allow convenient access to a vehicle parked in the space. The clear zone shall be an area the length of the space and within six feet from the side of the road or the curb which forms one side of the parking space. No person or entity shall place or allow to remain in this clear zone any object that could inhibit convenient access to a vehicle, including, but not limited to, planters, garbage containers, coin operated newspaper vending machines, vending machines, bicycles, bicycle stands, sign standards, guard rails, chairs, tables, fences,

equipment, machinery. Violation of this Section shall be punished by the same penalty provided for a violation of illegally parking in a parking zone established for the exclusive use of physically disabled persons. Each day of a continuing violation is a separate violation.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: August 21, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 11, 2005
Approved July 11, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9735

BY COUNCILOR REINERT:

AN ORDINANCE AMENDING CHAPTER 35-25(k) OF THE DULUTH CITY CODE, 1959, AS AMENDED; TO AUTHORIZE THE CONSUMPTION OF INTOXICATING LIQUOR AT THE ENGER PARK GOLF COURSE.

The city of Duluth does ordain:

Section 1. That Chapter 35-25(k) of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 35-25. Restrictions as to use of golf course.

No person on a golf course shall:

(a) Post or display any sign, banner or advertisement, write upon, cut, mutilate, deface or otherwise, disturb any building, bench, ornament, flowers, trees or other property upon such golf course. No person shall commit any depredation in or upon any golf course;

(b) Sell or beg upon such golf course without the authority of the city council;

(c) Permit or allow any dog or other domestic animal in or upon any golf course;

(d) Hunt for, take or carry away from any such golf course or from any place adjacent to such golf course any golf ball without the permission of the golf course supervisor of such golf course or other authorized recreation department employee, exception is hereby provided for the owner of a lost golf ball;

(e) Attempt to sell any golf ball or other golf supplies or accessories in, on or about any such golf course, or public property adjacent thereto except those persons duly licensed to do so by the department of public recreation under the authority of the city council;

(f) Remain or stand nearer than 100 feet to the fairway of any such golf course during the progress of any golf game upon such golf course. This Section shall not apply to persons actually taking part in any golf game, nor to official caddies acting under the authority of the golf course supervisor or other person in charge of the course, nor to persons attending any exhibition or other special event or tournament under authority of the golf course supervisor or the municipal golf division;

(g) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any wild animal, reptile or bird on or adjacent to any golf course;

(h) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any golf course in the city any substance, matter or thing, liquid or solid, which will

or may result in the pollution of such waters. Nor shall any person bathe, swim or wade in such waters, other than to retrieve his golf ball;

(i) Ride, drive or operate any vehicle on the golf courses of the city, including the service roads on such golf courses, except to perform work ordered by the department of public recreation or in the course of use by individual players. Exception is hereby made when the manager of the municipal golf division designates areas for temporary or seasonal operation of vehicles;

(j) Park any vehicle in other than established or designated parking area. Such use shall be in accordance with the posted directions thereat and with the instructions of the golf course supervisor or other authorized recreation department employee. Failure to obey the regulations of this paragraph shall subject the violator or the owner of the vehicle wrongfully parked to the expense of removing such vehicle in addition to any other penalty provided in this Code;

(k) Except as provided in this Section, use, consume or have in possession any intoxicating liquor on any golf course in the city. 3.2 percent malt liquor sold on the premises under the authority of the city council may be consumed on the golf course or in the club house. Intoxicating liquor sold on the premises of the Enger Park Golf Course under the authority of the city council may be consumed on the Enger Park Golf Course or in the Enger Park Club House;

(l) Enter upon or use the golf course or the buildings thereon during times other than the regular golf season as a place of recreation or other use, when ordered by the golf course supervisor or other authorized municipal golf division employee to desist therefrom;

(m) Expose or offer for sale any article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any article or thing on such golf course. Exception is hereby made as to any regularly licensed concessionaire acting by and under authority of the city council to sell on such golf course;

(n) No person under the age of ten years shall enter upon the golf course during the golf season for any purpose, unless accompanied by an adult person, and then only by permission of the golf course supervisor of the golf course.

(o) Conduct or take part in any gambling games on any golf course.

In addition to any other penalties provided in this Code, a person violating any of the provisions of this Section shall pay the cost of repairs or replacement resulting from such violation.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

(Effective date: August 21, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 11, 2005
Approved July 11, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 25, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Johnson -- 1

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0725-01 Cirrus Design Corporation, et al. (three signatures), submitting petition to vacate utility easements in Lot 3, Block 4, Airport Division. -- Assessor

05-0725-02 Minnesota state auditor submitting:

(a) Comprehensive annual financial report for the year ended December 31, 2004, for Western Lake Superior Sanitary District;

(b) Management and compliance report for the year ended December 31, 2004, for Western Lake Superior Sanitary District. -- Received

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REPORTS OF OFFICERS

05-0725-03 Assessor submitting letter of sufficiency of petition to construct 1,360 lineal feet of low pressure sanitary sewer within West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly. -- Received

05-0725-04 Facilities management submitting rental agreement for Trinity Road fill site with Ulland Brothers Construction Company, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

- - -

REPORTS OF BOARDS AND COMMISSIONS

05-0725-05 Charter commission minutes of January 12, 2005, meeting. -- Received

05-0725-06 Commission on disabilities minutes of June 1, 2005, meeting. -- Received

05-0725-07 Duluth human rights commission minutes of June 8, 2005, meeting. -- Received

05-0725-19 Parking commission minutes of May 10, 2005, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kay L. Lewis expressed her concerns on light pollution, specifically from the new parking ramp that will be constructed at Third Avenue East and First Street and that the necessary light should be directed only at the task that is necessary.

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Frank Nichols, representing Beautiful Environments Are Very Easily Recreated (BEAVER), commented on the need for rain water gardens, noting the functional and aesthetic values.

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Greg Price expressed support for a resolution regarding wetland retention in the city limits.

- - -

Mel J. Heinrich expressed support a joint law enforcement center for the city, county, state and federal agencies, noting that the consolidation would be a cost savings and more efficient.

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the city is authorized to enter into a sponsorship agreement with North Shore Inline Marathon under which the city will contribute \$15,000, plus in-kind services, to assist with promotion of the year 2005 marathon, which agreement is on file in the office of the city clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

as Public Document No. 05-0725-08, and such contribution shall be paid from Fund 258-030-5436-06.

Resolution 05-0506 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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, 2005, subject to departmental approvals and the payment of sales and property taxes:

Gonzalez Ramos, Inc. (Maya Family Restaurant), 1725 Miller Trunk Highway, with Flores De Gonzalez, president and 50 percent stockholder, and Columba Ramos, vice president and 50 percent stockholder, transferred from Columba Ramos (Maya Family Mexican Restaurant), same address.

Resolution 05-0493 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale wine license for the period ending August 31, 2005, and issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2006, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Khoe Tran and Nhanh Dinh (Saigon Café), 2224 Mt. Shadow Drive, transferred from Khoe Tran and Nhanh Dinh (Saigon Café), 915 West Central Entrance.

Resolution 05-0494 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

Beerhunters Softball Team, Wheeler Field, for August 6 and 7, 2005, with Ron Herung, manager.

Duluth Police Softball Team, Wheeler Field, for July 30 and 31, 2005, with Matt McShane, manager.

Woodland Fastpitch Association (Jimmy Herald Memorial Tournament), Woodland Avenue and Anoka Street, for July 30 and 31, 2005, with Brett Klosowski, manager.

Resolution 05-0495 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Country Club, 3901 East Superior Street, for August 17, 2005, with Gary Schneider, manager.

Resolution 05-0496 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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, 2005, subject to departmental approvals and the payment of sales and property taxes:

Range Restaurants, LLC (Grizzly's Grill & Saloon), 1722 Miller Trunk Highway, with LRB Restaurant Company, 75 percent stockholder (Steve Letnes, 70 percent stockholder and Barry Rindahl, 30 percent stockholder) and Barry Rindahl, five percent stockholder and Rick Lampton, 20 percent stockholder, transferred from LRB Restaurant Company (Grizzly's Grill & Saloon), same address.

Resolution 05-0497 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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, 2005, subject to departmental approvals and the payment of sales and property taxes:

Bergey's LLC (Bergey's), 2232 West Superior Street, with William Berg, president and 50 percent stockholder and Nancy Bennett, vice president and 50 percent stockholder, transferred from C&S of Duluth, Inc. (Terry's Place), same address.

Resolution 05-0498 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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:

Historic Union Depot (Veterans Memorial Hall), 506 West Michigan Street, for August 10, 2005, from 4:30 p.m. to 8:00 p.m.

Resolution 05-0499 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Energy & Air Systems, Inc., be and hereby is awarded a contract for the installation of emergency vehicle auto disconnect exhaust systems at Fire Station #8 as per plans and specifications as prepared by the city architect for the low specification bid of \$29,900, FOB destination, payable out of Capital Fund 450, Department/Agency 030, Object 5520.

Resolution 05-0504 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of police lieutenant, which were approved by the civil service board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-0725-09, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1105-1110, \$4,812 to \$5,997 per month.

Resolution 05-0490 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of appliance mechanic journeyman, which were approved by the civil service

board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-0725-10, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 30, \$3,324 to \$3,971 per month.

Resolution 05-0491 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of deputy fire marshal, which were approved by the civil service board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-0725-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 230, \$4,802 per month.

Resolution 05-0492 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a utility easement in those portions of Lots 8 through 20, Boehms Acre Tracts, First Addition, described as: the utility easement lying between Lots 8 through 20. Boehms Acre Tracts, 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, by a unanimous vote, the vacation petition at its July 12, 2005, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of those portions of Lots 8 through 20, Boehms Acre Tracts, First Addition, and as more particularly described on Public Document No. 05-0725-12.

RESOLVED FURTHER, 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 05-0501 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials hereby authorized to execute and implement a contract, in substantially the form of the contract on file with the clerk as Public Document No. 05-0725-13, with Noah A. Dennis, independent licensed teacher, to serve as a part time contract teacher to provide basic education instructional services to Workforce Investment Act program participants at the Duluth workforce center for the period July 16, 2005, through July 15, 2006, at a cost of \$23,400, payment to be made from Fund 268.

Resolution 05-0487 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a memorandum of understanding, in substantially the form and containing substantially the terms of that draft memorandum of understanding on file in the office of the city clerk as Public Document No. 05-0725-14, with the Duluth Workforce Council, Inc., to function as a workforce invest-

ment board withing the meaning of the Federal Workforce Investment Act, effective July 1, 2005, until terminated by either party.

Resolution 05-0489 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to apply for and accept a clean water partnership grant, in partnership with the Southern St. Louis County Soil and Water Conservation District, in the amount of \$31,000 from the Minnesota state pollution control agency for the continuation of clean-up work associated with Miller Creek, subject to the provision of an equivalent match in the form of providing the use of city services, materials and equipment.

Resolution 05-0482 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to reimburse Minnesota Power and Light Company for its actual costs of purchasing and installing, in a manner satisfactory to the city engineer, an automatic source transfer switchgear and necessary connecting facilities to provide an automatic back-up power source to the Lakewood filtration plant and pumping station in an amount of up to \$75,000, payable from Fund 0510, Agency 500, Organization 1955, Object 5401.

Resolution 05-0485 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into development and assessment agreements, substantially in the form of those on file in the office of the city clerk as Public Document No. 05-0725-15(a) and Public Document No. 05-0725-15(b), with James Gruba and Therese Gruba and with Robert and Sandra Peters to reimburse city through assessment for the cost of upgrading water service to their properties at 311 East Anoka Street and 323 East Anoka Street, respectively, in the amount of \$4,700 each, payable to the Special Assessment Debt Service Fund 325.

Resolution 05-0502 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for construction of bituminous surface on 14th Street from Central Entrance to 400 feet easterly for the engineering division in accordance with specifications on its low specification bid of \$44,347.50, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530.

Resolution 05-0503 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, the city has received a petition from owners of 100 percent of the abutting property to construct a residential street, sanitary sewer, water and gas mains in Bristolwood First Addition.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 05-0508 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that National Waterworks, Inc., be and hereby is awarded a contract for approximately 50 various types of HDPE watermain repair parts for the public works and utility division in accordance with specifications on its low specification bid of \$27,385.36 terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1945, Object 5227.

Resolution 05-0509 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for construction of an eight inch DIP watermain and an eight inch PVC sanitary sewer in West Palm Street from Robin Avenue to Teak Avenue for the engineering division in accordance with specifications on its low specification bid of \$94,406.50, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530.

Resolution 05-0510 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement with Praxair, Inc., and the Duluth economic development authority granting easements for the construction of temporary and permanent roadways connecting West Superior Street to West Michigan Street through the Oneota III area and committing the city to construct temporary and permanent roads over those easements.

Resolution 05-0511 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 1,360 feet of low pressure sanitary sewer in West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly.

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the city 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 further direct procedures prescribed by Section 62 of the Charter.

Resolution 05-0513 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that Letourneau and Sons, Inc., be and hereby is awarded a contract for construction of Superior Street, 38th to 40th avenues West and a rural section of 38th Avenue West from Michigan Street to Superior Street for the engineering division in accordance with specifications on its low specification bid of \$393,258.75, terms net 30, FOB job site, payable out of Special Assessment Fund 410 and Department/Agency 038, Object 5530, Project Number SA2005-0427TR.

Resolution 05-0518 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct 100 lineal feet of eight inch PVC sanitary sewer in Blackman Avenue to serve Lots 11 and 13, Block 1, Clague and Prindle's Addition.

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 05-0519 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0519 the council did request the administration to prepare plans and specifications for the construction of 100 lineal feet of eight inch PVC sanitary sewer in Blackman Avenue to serve Lots 11 and 13, Block 1, Clague and Prindle's Addition. Construction to be part of City Project No. 0341TR, Duluth Heights Southeast 3, at an estimated cost of \$9,060; 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 benefitting 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 \$9,060, payable from Street Improvement Program 440, Agency 038, Object 5530, Project No. SIP 2005-0341TR, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, which land and premises are described in the report of the special assessment board; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0520 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 Michigan Street between Fifth and Sixth avenues West on August 10, 2005, from 4:30 p.m. to 8:00 p.m. in

conjunction with the St. Louis County Historical Society Classic Car Show, 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 05-0500 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0521, by Councilor Stauber, pertaining to resolutions 05-0454 and 05-0488; living water garden, was introduced for discussion.

Councilor Stauber moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 05-0522, by Councilor Stewart, awarding contract to Oscar J. Boldt Construction for construction of medical district parking ramp and skywalks in the amount of \$11,548,400, was introduced for discussion.

Councilor Stewart moved to table the resolution, which motion was seconded and unanimously carried.

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BY COUNCILOR ATKINS:

WHEREAS, many years ago, the City of Duluth leased land to the U.S. department of defense (DoD) for the operation of a United States air force (USAF) base at the Duluth International Airport (DIAP); and

WHEREAS, in the early 1980's, the USAF ceased to operate an air base facility at DIAP and released portions of the previously leased premises to the city for operation by the Duluth airport authority (DAA); and

WHEREAS, other portions of the leased premises, including the subject property, were retained by the DoD and provided for use to other federal and related agencies including the Minnesota air national guard; and

WHEREAS, in 1993, Cirrus Aviation, Inc. (Cirrus), commenced manufacture and marketing of general aviation aircraft at the DIAP adjacent to the subject property; and

WHEREAS, Cirrus's manufacturing and marketing operations at the DIAP have been a resounding success, requiring the company to expand its operations at the DIAP in the past and requiring that they do so again in order to meet the demand for their aircraft; and

WHEREAS, the property upon which Cirrus needs to expand is presently part of the property remaining under lease to DoD and, in addition, has been determined to be impacted by low level environmental contaminants which are subject to a long term DoD clean up program as required by the Minnesota pollution control agency (MPCA); and

WHEREAS, DoD is desirous of cooperating with the proposed expansion of Cirrus and, to that end, is willing to grant a right of early access to the property to allow early commencement of construction of the expansion and to amending the lease to exclude the subject property but is unable to do so as long as they are required to clean up the property because their funding source for such clean up work can only be used on property under their ownership or control; and

WHEREAS, DoD is willing to grant a right of early access to the property to allow early commencement of construction of the expansion and to amending the lease to exclude the subject property at this time if a responsible party will take upon itself the clean-up obligations in conformance with the requirements of MPCA; and

WHEREAS, city staff has received assurances that the level of contamination existing on the subject property is minimal, that the cost of any required clean up should be low, that state of Minnesota department of trade and economic development grants will be available to assist the city in paying for any required clean up and that Cirrus will assist the city in resolving any clean up issues; and

WHEREAS, the city has determined that it is of vital importance to the long term development of Cirrus, of the DIAP and of the city that the city take whatever steps are necessary to facilitate the expansion of Cirrus on the subject property at this time.

RESOLVED that the city of Duluth does hereby commit to accept all liability, including financial liability, for the costs of any environmental clean-up work required by MPCA to be performed upon the subject property, which property is generally shown on that map on file in the office of the city clerk as Public Document No. 05-0725-16, subject to DoD granting rights of early access to the subject property and amending the existing lease to release it therefrom in a time and manner which will allow the expansion of Cirrus to go forward during the fall of 2005 and Cirrus entering into a lease and development agreement wherein Cirrus commits and agrees to construct an expansion of its manufacturing facility and conduct manufacturing operations in such new facility under terms and conditions acceptable to the city, the DAA and Duluth economic development authority as appropriate.

Resolution 05-0524 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

BE IT RESOLVED, that the city council approves the appointment of the following individuals, who have been appointed by Council Committee 2, to the task force on retiree health insurance established by Resolution 05-0460:

Don Bye;

David Lindstrom;

John Nys;

Arend "Sandy" Sandbulte;

Al Winters.

Resolution 05-0523 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into the second amendment, a copy of which is on file in the office of the city clerk as Public Document No. 05-0725-18, with the University of Minnesota's Natural Resources and Research Institute for services related to the Duluth streams project, extending the term thereof through March 31, 2006, and increasing the amount payable thereunder by \$24,000, payable from Fund 535, Department 500, Organization 1915, Object 5441.

Resolution 05-0505 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement, containing substantially the terms of that agreement on file with the city clerk as Public Document No. 05-0725-17, between the city, Duluth police local and Charles M. Erickson, which agreement pertains to application of benefits under the collective bargaining agreement to the severance of the employment relationship.

Resolution 05-0403 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

WHEREAS, communities across the United States have designated August 2, 2005, 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 participate in local anti-crime 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 2, 2005, 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 05-0466 was unanimously adopted.

Approved July 25, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0507, by Councilor Reinert, amending Resolution 04-0682 adopting license, permit and fee charges for 2005; increasing fees for resident permit parking, was introduced for discussion.

Councilor Reinert moved to table the resolution so that it could be considered at the same time as the accompanying ordinance, which motion was seconded and unanimously carried.

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to pay to Robert Unzen and Adele Unzen \$130,000 in full and final settlement of a lawsuit arising out of an accident occurring on October 22, 2001; payment to be made from the Self Insurance Fund 610-036-1651-5841.

Resolution 05-0514 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Little and Stauber -- 2

Absent: Councilor Johnson -- 1

Approved July 25, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-031 - AN ORDINANCE AMENDING SECTION 50-100 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED (BOARD OF ZONING APPEALS AND PLANNING COMMISSION).

- - -

BY COUNCILOR GILBERT

05-032 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 TO C-1, PROPERTY LOCATED AT THE INTERSECTION OF 71ST AVENUE WEST AND GRAND AVENUE.

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BY COUNCILOR LITTLE

05-033 - AN ORDINANCE PERTAINING TO SIGNAGE; AMENDING SECTIONS 44-2 AND 44-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR REINERT

05-034 - AN ORDINANCE AMENDING SECTIONS 33-126, 33-129 AND 33-130 OF THE DULUTH CITY CODE, 1959, AS AMENDED; RESIDENT PARKING PERMITS.

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

John Goldfine expressed concern about this change and stated that: this discussion should take place after the college students have arrived and so that they can be a part of the process; the same standards held for the students are not held for anyone else; if the problem was from

a non-student, would the police be called; this is kicking the students around and residents should be good neighbors to the students.

Peter Handberg, speaking on behalf of Neighborhood Planning District 10, as a member of the parking commission and a member of the advisory group for campus neighbors, expressed support for the ordinance, noting reasons of: if there were no controls at all, there would not be sufficient parking for either a homeowner or renter; by having these controls, there is a procedure to deal with any hardship conditions; and there have been occasions where a student parks illegally with a visitor permit and goes to UMD.

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The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-029 (9736) - AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY CODE; ADDING A NEW ARTICLE XXXII GOVERNING A HOUSING INVESTMENT FUND.

Councilors Stauber and Stewart expressed concerns that: there be a residency requirement before applicants could apply for these funds; some of the agencies that apply do not have conflict of interest rules and city funds should not be used for private developers, where one gets the incentive and others do not.

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

Frank Jewel, president of the Duluth housing commission, expressed support for the ordinance, noting that: there is a review process where a group determines whether funding is appropriate, so concerns relative to a nonresident applying would be addressed; conflict of interest rules are appropriate and this funding is the catalyst for greater housing investments.

Councilor Stauber moved to table the ordinance, which motion failed upon the following vote:

Yeas: Councilors Little and Stauber -- 2

Nays: Councilors Atkins, Gilbert, Reinert, Stewart, Stover and President Ness -- 6

Absent: Councilor Johnson -- 1

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

Yeas: Councilors Atkins, Gilbert, Reinert, Stover and President Ness -- 5

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilor Johnson -- 1

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BY COUNCILOR GILBERT

05-030 - AN ORDINANCE AUTHORIZING A FREE CONVEYANCE OF PORTIONS OF LOT 10, BLOCK 117, AND LOT 10, BLOCK 118, WEST DULUTH SECOND DIVISION, TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA).

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

Charlie Bell and Michael Talarico supported the ordinance, stating that this lot is undevelopable and is needed so a variance does not need to be applied for. In addition, they felt that DEDA should not have to pay for this property. Mr. Bell and Mr. Talarico noted that: they will not be asking for tax increment financing, that approximately 8,000 yards of fill that was put in by the previous developer is not compactable and will have to be removed; two more house foundations were discovered that were not originally known and they will be paying taxes on this property.

Councilor Reinert moved to amend the ordinance as follows:

(a) In the title, delete the phrase, "FOR \$7, 256";

(b) In the body, first paragraph, delete the phrase, "for \$7, 256, said amount to be deposited in General Fund 100-700-1420-4640," and insert, "at no cost to DEDA";

(c) In the statement of purpose, first sentence, add the word, "free" before the phrase, "conveyance of two lots,"

which motion was seconded and discussed.

Councilor Stewart opposed the amendment, stating that the city should sell their properties, especially when it is to a private developer, that it is not the job of the city to make private projects viable, that the amount of the money is not a great amount and it sets a bad precedent.

The motion to amend the ordinance carried upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stover and President Ness -- 5

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilor Johnson -- 1

Councilor Stauber moved to table the ordinance, as amended, because the amendment was considered by Assistant City Attorney Asleson as sufficient enough to require new first and second readings at upcoming council meetings, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Little, Reinert, Stauber and Stewart -- 5

Nays: Councilors Gilbert, Stover and President Ness -- 3

Absent: Councilor Johnson -- 1

The meeting was adjourned at 8:40 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9736

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 2 OF THE CITY CODE;
ADDING A NEW ARTICLE XXXII GOVERNING A HOUSING
INVESTMENT FUND.

The city of Duluth does ordain:

Section 1. That Duluth City Code, 1959, as amended, be amended by adding to Chapter 2 thereof (administration) a new Article XXXII titled housing investment fund program to read as follows:

Article XXXII. Housing Investment Fund Program.

Sec. 2-167. Fund - duration.

This Article governs the administration of the fund of money created by City Council Resolution Number 05-0269, hereinafter the fund, and this Article shall terminate, cease having effect and repeal at the time the fund is completely spent, or on December 31, 2011, whichever occurs earlier. Any money in the fund at the time of termination shall be returned to the community investment trust fund.

Sec. 2-168. Source.

The fund shall consist only of money transferred to it, pursuant to Resolution Number 05-0269, from the community investment trust fund, created by Section 54(E) of the Charter, or its successor.

Sec. 2-169. Program - allowed expenditures; limit.

(a) The expenditure program created by this Article shall be managed and monitored by the city's community development division, or its successor. Each expenditure from the fund must be approved by the city council by resolution. The Duluth housing commission has the right to make written recommendation to the council about any expenditure from the fund, any proposed contract for the use of money from the fund, or any application for an expenditure from the fund. Each recipient of money from the fund, and each applicant, and each contractor must make a report, in a form acceptable to the city, at least annually, on its activities and expenditures, and account for project costs and revenue, and any other relevant information. The program shall be known as the Housing Investment Fund program (HIF);

(1) The purpose of the program, and the only allowed purpose of an expenditure from the fund, is the improvement or creation of owner-occupied homes and of rental residential units within the city of Duluth. The allowed uses of expenditures from the fund are:

(A) Eligible housing projects or programs with funding that is insufficient;

(B) New construction of homeowner or rental residential housing, including supportive housing for homeless households and individuals;

(C) Housing rehabilitation, which can include improvements to existing homes and rental units, preservation of historically significant residential buildings, or the creation of additional housing through the adaptive remodeling and alteration of non-residential buildings;

(D) Acquisition of buildings and land for housing development and for conversion of rental residential property to occupant ownership;

(E) Demolition or deconstruction of condemned or blighted vacant properties, and the construction of new housing on the cleared site; and

(F) Residential accessibility and visitability improvement programs;

(2) The following are examples of uses that are not eligible for program expenditures:

(A) Pre-development activities, studies, promotions, evaluations;

(B) An applicant's general operating costs such as salaries, benefits, supplies, utilities, insurance;

(C) Administrative or other overhead costs;

(D) Furnishings, equipment, appliances, non-architectural decorations;

(E) Soft costs, including legal, architectural, engineering, market assessment, appraisal or other services;

(F) Landscaping;

(G) Cleanup of vacant lots (such as removal of appliances, cars, miscellaneous garbage);

(H) Demolition and clearance of blighted properties for any purpose other than new housing development;

(I) Public infrastructure such as streets, sidewalks, lights, sewers, utilities that do not directly serve the project property;

(b) For each five years of the fund's operation, and for the operation of the fund over its entire term of operation, at least 50 percent of the total expenditures out of the fund must be for projects and activities that directly assist in creating and improving the physical existence of residential housing which is affordable to a household with a total income equal to or less than 60 percent of the area median income as calculated by the federal government.

Sec. 2-170. Solicitation of proposals.

At least once each calendar year, the city of Duluth, through any procedures required by law, shall publicly issue a request for proposal (RFP) to carry out the purpose of the HIF program. A fair effort shall be made to inform government housing agencies and private developers of the RFP. Procedures for solicitation of proposals or bids must conform to applicable state or city of Duluth laws.

Sec. 2-171. Eligible applicants.

(a) The following entities are eligible to apply for funds, loans, or contracts under the HIF program:

(1) A non-profit corporation duly certified by the federal government as qualified under Section 501(c)3;

(2) A public corporation or authority created by state or local law;

(3) A privately-owned business that has existed for at least two years and has completed at least one housing development project;

(4) A partnership or joint venture of two or more of the above;

(b) Any applicant that is a nonprofit corporation must submit its most recent federal Form 990 report to the city. Any applicant must be responsible and qualified under the standards of the state and city purchasing regulations and procedures.

Sec. 2-172. Award regulations.

(a) For each dollar expended from the fund for a contract or project, the recipient must demonstrate, achieve, and guarantee in an enforceable agreement, secured at the option of the city, that at least five dollars of funds from sources other than funds which come, directly or indirectly, from local Duluth tax revenues, including those local revenues from the city or its subsidiaries, authorities, or commissions, shall be spent on costs of the project, which costs would qualify for HIF funding under this ordinance;

(b) The following regulations apply to awards for projects to create new or improved residential housing structures:

(1) Funding awards shall be in the form of loans, which may be interest bearing or deferred. Projects providing long-term (over 30 years) affordability may be considered for forgivable loans. The decision to forgive shall not occur before one year prior to the end of the loan period;

(2) The maximum award shall be of \$150,000 per housing project, unless the housing project includes an on-site American Indian Center supported by the Duluth American Indian commission, in which case the maximum amount of funds for the American Indian housing project/program shall not exceed 20 percent of total housing investment fund revenues;

(3) The project must be completed within 24 months of funding availability;

(4) The project must demonstrate a funding gap indicating the need for housing investment funds, and 70 percent of total funding must be secured or likely to be secured within 6 months of the time of application. Housing investment funds are not intended to fund projects in the early stages of development, but to help complete project financing;

(5) The applicant must own or have a purchase agreement on any property to be rehabilitated;

(6) The applicant must own, have a purchase agreement, or for tax forfeit property have a commitment from a public entity to make available for transfer to the applicant the land needed for new housing construction;

(c) The following regulations apply to awards for housing programs:

(1) Funds for housing programs shall be recycled into additional housing units, or used to ensure long-term affordability of assisted units, or be repaid to the housing investment fund;

(2) Housing programs are allowed to initially apply for up to \$150,000, and thereafter may apply for additional funds for multiple years. Requests for multi-year funding will be considered on a case-by-case basis;

(3) Housing investment funds shall be used to leverage new resources, i.e., create a revolving loan fund or larger program.

Sec. 2-173. Program objectives; fund distribution.

The city intends to use the available money in the fund to assist projects and programs in all of the following categories:

(a) Housing projects with funding gaps (i.e., the American Indian Center affordable housing project, HOPE VI, and At Home in Duluth initiatives);

(b) Affordability and value gap funding for the production of new housing units to meet the housing 1000 goal by 2010;

(c) Preservation of existing housing stock, including historic preservation of residential buildings and residential rental rehabilitation loan fund;

(d) Supportive housing for people who are homeless and at risk of being homeless;

- (e) Housing for veterans;
- (f) Housing for American Indian households;
- (g) Loan fund to revert current rental units back into home occupant ownership;
- (h) Blight removal and rebuilding on existing housing sites;
- (i) Accessibility and visitability improvements for existing single-family homes.

Sec. 2-174. Proposal selection.

(a) The city staff may utilize the Duluth housing commission, or other qualified source, to assist in selecting proposals for the HIF program. Selection shall be done in conformance with any applicable law. Selection shall be done by way of a fair process that includes a method that quantifies, by scoring, the application of criteria to each qualified proposal or application for funds. In addition to criteria required by law, the following criteria must be met for consideration for funding:

- (1) Need for the activity: as demonstrated in the city's consolidated plan, or other policy or plan that has been adopted by the city council;
- (2) Project readiness: funds must be spent within 24 months of award;
- (3) Applicant capacity: applicant must have sufficient demonstrated capacity to carry out the activity;
- (4) Leverage: HIF funding must be leveraged at a minimum of a 5:1 ratio;
- (5) Accessibility/visitability: activities must provide for accessibility/visitability or provide sufficient rationale why doing so is not feasible;
- (6) Long-term affordability/recycling of funds: activities must either provide for long-term affordability of the housing or have the ability to recapture and recycle the funds via a deferred or interest-bearing loan;

(b) In addition, the following criteria can be utilized to the extent applicable to a proposal:

- (1) Neighborhood revitalization impact: the extent to which activity will contribute to investment and positive change in core Duluth neighborhoods that have experienced disinvestment and are in need of revitalization;
- (2) City-wide/neighborhood economic integration impact: the extent to which activity enhances equalization of home owner and rental housing, affordable and market rate housing across the city;
- (3) Households earning 60 percent or less of the Duluth median income are served;
- (4) Provisions of new units: the extent to which the activity will fund new units including: adaptive reuse, bringing condemned buildings or buildings not used previously for housing on-line;
- (5) Preservation of existing housing: the extent to which the housing preserves existing units;
- (6) Demonstrated economic impact: the extent to which the housing has demonstrated economic impact on the community where it is located and/or the people it serves.

When city staff has made a selection, it shall inform the applicant chosen and present the applicant with any contract or other instrument to be used to carry out the proposal. When the applicant accepts the documents, the proposal shall be recommended to the city council for approval, subject to any other procedures that may be required by law.

Section 2. That this ordinance shall take effect 30 days after its passage and publication and shall terminate as set out therein. (Effective date: September 4, 2005)

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

Yeas: Councilors Atkins, Gilbert, Reinert, Stover and President Ness -- 5

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Nays: Councilors Little, Stauber and Stewart -- 3
Absent: Councilor Johnson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 25, 2005
Approved July 25, 2005
HERB W. BERGSON, Mayor

- - -

OFFICIAL PROCEEDINGS

Special emergency meeting of the Duluth City Council held on Friday, August 5, 2005, 10:00 a.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Johnson, Little, Reinert, Stauber, Stover and Vice President Stewart -- 7

Absent: Councilor Gilbert and President Ness -- 2

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for August 6, 2005, with Kathy Camps, manager.

Resolution 05-0531 was unanimously adopted.

Approved August 5, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 alcohol, gambling and tobacco 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:

Licensee	Gambling Site
Irving Youth Hockey Club, one day off site	Bristol Street and Ramsey Street, Duluth, MN

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 05-0541 was unanimously adopted.

Approved August 5, 2005

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 10:07 a.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 8, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0808-08 Daniel Lax submitting:

(a) Petition to construct a residential street, sanitary sewer, watermain and gas main to serve Bristolwood First Addition. -- Assessor

(b) Waiver agreement for the construction of a residential street, sanitary sewer, watermain and gas main to serve Bristolwood First Addition. -- Engineer

05-0808-01 Lotus Realty Services, et al. (eight signatures), submitting petition to construct a permanent alley between Blocks 12 and 13, east of Central Avenue (Bristol to Ramsey streets). -- Assessor

05-0808-18 Ted Chura submitting communication regarding settlement of city claim against A & L Development, Inc. (05-0525R). -- Received

05-0808-09 Janet Draper submitting communication regarding residential parking permits (05-0507R and 05-034-O). -- Received

- - -

REPORTS OF OFFICERS

05-0808-02 Assessor submitting affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, August 9, 2005, at 3:30 p.m. in Room 402, City Hall, regarding the proposed construction of sanitary sewer in West Morgan beginning at Joshua Avenue and extending westerly. -- Clerk

05-0808-03 Auditor submitting comprehensive annual financial report for the city of Duluth for the fiscal year ended December 31, 2004. -- Received

05-0808-04 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from March of Dimes on October 20, 2005 (raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

05-0808-05 Civil service board minutes of: (a) May 3; (b) June 7, 2005, meetings. -- Received

05-0808-06 Duluth airport authority unaudited balance sheet for month ended May 31, 2005. -- Received

05-0808-07 Duluth transit authority minutes of June 29, 2005 meeting. -- Received

- - -

At this time, 7:03 p.m., President Ness recessed the council meeting to call to order the public hearing on property tax abatement for the Lakewalk extension project.

Administrative Assistant Winson requested Bob Tofte, attorney with the Fryberger law firm, to explain the tax abatement process.

Mr. Tofte explained that this hearing is required under the process creating a tax abatement district and the city's portion of the taxes paid by the property owners for the new townhomes that are being built in the district will pay for the debt service on the bonds. He continued by saying that the district is from 23rd Avenue East to 26th Avenue East and the bonds will be used to finance the land acquisition extending the Lakewalk in that area.

At this time, 7:06 p.m., President Ness closed the public hearing and the regular order of business was resumed.

- - -

RESOLUTION FOR RECONSIDERATION

At this time, Councilor Stauber moved to reconsider Resolution 05-0403, authorizing an employment severance agreement and to table it for further information, which motion failed upon the following vote:

Yeas: Councilors Atkins, Little, Stauber and Stewart -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stover and President Ness -- 5

- - -

RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 05-0521, pertaining to resolutions 05-0454 and 05-0488; living water garden, from the table, which motion was seconded and unanimously carried.

President Ness stated that the time to put a completion date on the project is once the design phase is completed. He moved to amend the resolution by deleting the last paragraph, which set a completion date condition for grant acceptance and the planning and design of the garden, which motion was seconded and carried upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Councilor Little stated that if money cannot be raised in three years for this project it will never be built.

Resolution 05-0521, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, Resolution 05-0454 expressed the council's intent to accept a grant for planning a living water garden; and

WHEREAS, Resolution 05-0488 clarified the council's intent.

NOW, THEREFORE, BE IT RESOLVED, that the city council declares that the parcel of land of approximately 1/2 acre in area which is the site for planning and design of a living water garden, and referred to in the above-mentioned resolutions, is located at the north end of Slip 2, as shown on the diagram on file with the clerk as Public Document No. 05-0808-10.

Resolution 05-0521, as amended, was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Gilbert moved to remove resolutions 05-0347 and 05-0348, upholding and reversing, respectively, the Duluth planning commission's denial of a water resources management ordinance variance to Jacob Kapsner for two 8,000 square foot lots at 2810 and 2814 Minnesota Avenue, from the table, which motion was seconded and unanimously carried.

Councilor Gilbert stated that the applicants need to be informed on the opinion of the city attorney's office before the council votes on the issue.

City Attorney Brown reviewed that the council needs to take action on this appeal by August 25, otherwise the variance will be granted by default.

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

- - -

Councilor Reinert move to remove Resolution 05-0507, amending Resolution 04-0682 adopting license, permit and fee charges for 2005; increasing fees for resident permit parking, from the table, which motion was seconded and unanimously carried.

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

- - -

MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Duluth Softball Players Association, Wheeler Field, for August 15-28, 2005, with John Vaydich, manager.

Resolution 05-0530 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the Rocky Mountain Elk Foundation 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 Rocky Mountain Elk Foundation 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 05-0532 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for August 27 and September 17, 2005, with Kathy Camps, manager.

Resolution 05-0542 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of head mechanic, which were approved by the civil service board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-0808-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 28, \$3,065 to \$3,626 per month.

Resolution 05-0515 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the reappointment by Mayor Bergson of Robert A. Prusak to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2008, is confirmed.

Resolution 05-0517 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to acquire from the state of Minnesota certain property located adjacent to Grand Avenue and Blocks 3 and 4, Morgan Park

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

First Addition, as shown on file in the city clerk's office as Public Document No. 05-0808-12 for an amount not to exceed \$1,500, payable from Special Revenue Fund 255-020.

Resolution 05-0526 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 13, 2005, municipal primary election, as listed in Public Document No. 05-0808-13.

RESOLVED FURTHER, that pursuant to Minnesota Statutes, 204B.31(d), election judges shall be compensated at a rate of \$7 per hour and chairperson 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 \$.405 per mile; payable from General Fund 015-1512-5441.

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

RESOLVED FURTHER, that Resolution 05-0516 be amended, relating to the designation of polling places for the September 13, 2005, municipal primary election as follows:

POLLING PLACE LIST

POLLING PLACE	ADDRESS
8. Duluth Congregational Church	3833 East Superior Street
9. Pilgrim Congregational Church	2310 East Fourth Street
10. U.M.D. Kirby Student Center	1120 Kirby Drive
11. Kenwood Lutheran Church	324 West Cleveland Street
12. Chester Park United Methodist Church (lower level)	819 North 18th Avenue East
13. Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
23. Lincoln Park Senior Center (lower level)	2014 West Third Street
24. Holy Cross Lutheran Church (lower level)	410 North Arlington Avenue
25. Duluth Heights Community Club	33 West Mulberry Street
26. Piedmont Elementary School (gym - rear entrance)	2827 Chambersburg Avenue
27. St. Lawrence Church	2410 Morris Thomas Road
28. Holy Family Catholic Church	2430 West Third Street
29. Harrison Community Club	3002 West Third Street

Resolution 05-0516 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, based on the recent history of actual sewer system overflows and the estimated flow of clear groundwater to the city's sanitary sewer system originating in each of its

sewer basins, the availability of city resources to reduce such flows under the city's I&I program and the results anticipated from so allocating such resources, the director of public works and utilities has recommended that sewer basins 10 and 11 be added to sewer basins 1, 2, 3, 4, 5, 6, 25 and 26 as basins designated for inspection as provided for in Section 43-33 of the Code; and

WHEREAS, the council accepts said recommendation.

RESOLVED, that pursuant to the provisions of Section 43-33 of the Code, sanitary sewer basins 10 and 11 are hereby designated as districts in the city wherein the city can best utilize its available resources to reduce the amount of unpolluted water entering or infiltrating the city's wastewater collection system and said basins are therefore designated as districts within which the city shall focus its enforcement efforts under Chapter 43 of the Code.

FURTHER RESOLVED, that the director of public works and utilities is hereby directed to notify, in writing, the owners and persons in control of premises connected with the sanitary sewer within said district to disconnect any prohibited drain or device within 90 days after the date of such notice in the manner prescribed for such notices in said Section 43-33.

Resolution 05-0527 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for construction of Bridge #L6122 Superior Street over Chester Creek for the engineering division in accordance with specifications on its low specification bid of \$614,206.50 terms net 30, FOB job site, payable out of Street Improvement Program Fund 0411, Department/Agency 035, Object 5530, Project PI0164TR.

Resolution 05-0528 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Viele Contracting, Inc., be and hereby is awarded a contract for construction of sanitary sewer at 87th Avenue West from 740 feet north of King Street to 160 feet northerly for the engineering division in accordance with specifications on its low specification bid of \$25,689.45 terms net 30, FOB job site, payable out of Fund 0535, Department/Agency 500, Object 5533, City Job No. 0405SN, Organization 1905.

Resolution 05-0529 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0508 the council did request the administration to prepare plans and specifications for the construction of a residential street, sanitary sewer, watermain and gas main to serve Bristolwood First Addition at an estimated cost of \$510,000; and

WHEREAS, said plans and specifications have been prepared and filed with the secretary of the special assessment board; and

WHEREAS, all persons affected by the proposed improvement or assessment have executed waiver agreements waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the council recommending the improvement and their right to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and sections 45-79 and 45-80 of the Duluth City Code of 1959 as amended and have requested that the council immediately determine to make the subject improvements.

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 \$510,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Number SA2006-0465TR and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

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 05-0534 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Morton Salt Division c/o Hallett Dock Company be and hereby is awarded a contract for furnishing road salt for year 2005/2006 winter season for the maintenance operations division in accordance with specifications on its low specification bid of \$474,138, terms net, FOB destination, payable out of General Fund 0100, Dept./Agency 500, Organization 1920, Object 5223.

Resolution 05-0535 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Viele Contracting, Inc., be and hereby is awarded a contract for construction of eight inch DIP watermain in Ethel Avenue from Springvale Road to 365 feet northerly for the engineering division in accordance with specifications on its low specification bid of \$86,210, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530; City Project SA-0456WA.

Resolution 05-0536 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city of Duluth desires to provide the year 2006 Minnesota turnback project for Michigan Street from 13th Avenue West to Mesaba Avenue; and

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for design and construction phases; and

WHEREAS, RLK 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 RLK Kuusisto, Ltd., to provide the city with such engineering services.

BE IT FURTHER RESOLVED, that the cost of said engineering services, estimated at \$44,014, will be payable from the Public Improvement Fund 0411, Department/Agency 035, Object 5530.

Resolution 05-0537 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

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. 05-0808-15 with Bayfront Blues Festival, Inc., (contractor) and the Duluth economic development authority (DEDA), pursuant to which the contractor agrees to produce, promote and manage the Blues Festival at Bayfront Festival Park, rental and a portion of ticket receipts to be payable into Fund 0237, Agency 015, Revenue Source 4623.

Resolution 05-0512 was unanimously adopted.

Approved August 8, 2005
HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 05-0525, by Councilor Stover, approving settlement of city claim against A&L Development, Inc., in the amount of \$22,000, was introduced for discussion.

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

Jon Donahue, Alyssa Donahue, Ted Chura and Jeremiah Brown questioned how the city could not realize that they had missed charging the building for their water and gas; urged the council not to give A&L Development, Inc., a 39 percent reduction of this bill and questioned how in good conscience the council could ask the citizens to subsidize this company's water and gas bill.

Mr. Brown reviewed that state law and city ordinance require that all settlement proposals need to come before the city council and this proposal is to make A&L Development, Inc., pay the amount of money the city paid the wholesaler for that gas, not the amount of money that would have been billed every month to that location.

Councilor Little reviewed that this is a situation where the city is suing A&L Development, Inc., and that this is a negotiated settlement that needs more clarification on the actual dollars involved.

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

Yeas: Councilors Little and Stauber -- 2

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7
Resolution 05-0525 failed unanimously (Public Document No. 05-0808-14).

- - -

At this time, 8:05 p.m., President Ness recessed the council meeting to call to order the public hearing on the Tax Increment Financing (TIF) District 23 amendment.

Mr. Winson explained that this is an amendment to TIF District 23 as there are changes in the project's sources and uses, and that the amendment changes were approved at the Duluth economic development authority's June meeting.

There was no one from the public who spoke on this matter.

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

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BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council (the council) of the city of Duluth, Minnesota (the city), as follows:

Section 1. Recitals.

1.01 The city entered into a property acquisition and sales agreement, Lakewalk Town Homes Development, Lakewalk Townhomes L.L.C. (the development agreement) dated December 7, 2004, with the Duluth economic development authority (DEDA) and Lakewalk Townhomes, L.L.C. (the developer). Among the terms provided in the development agreement, the developer agreed to grant the city an option to purchase land to extend the Lakewalk near 23rd Avenue East to 25th Avenue East adjacent to Lake Superior. The land subject to such option is referred to as the developer Lakewalk property in the development agreement (the developer Lakewalk property). The developer has granted the city an option to purchase the developer Lakewalk property pursuant to a Lakewalk property option agreement, Lakewalk Town Homes Development, Lakewalk Townhomes L.L.C. (the option agreement), dated December 21, 2004, between the developer and the city.

1.02 The city desires to acquire the developer's Lakewalk property for the extension of the city's Lakewalk (the project).

1.03 Pursuant to Minnesota Statutes, Section 469.1812 through 469.1815 (the act), the council may grant an abatement of the taxes imposed by the city on parcels of property, subject to certain conditions set forth in the act.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

1.04 The city desires to utilize tax abatement under the act to pay the debt service on the city's general obligation tax abatement bonds in the approximate amount of \$310,000 to be issued pursuant to Minnesota Statutes, Section 469.1814 and Minnesota Statutes, Chapter 475, to pay for the acquisition of the developer's Lakewalk property, capitalized interest and costs of issuance of the bonds (the bonds).

1.05 The parcels on which abatement of taxes imposed by the city (the abatement) will occur are located between 23rd Avenue East and 25th Avenue East and between Interstate Highway 35 and the shoreline of Lake Superior and are more fully described in the following tax parcels:

010-1440-00350	010-1430-00100	010-1430-00280	010-1430-00430
010-1440-00370	010-1430-00110	010-1430-00290	010-1430-00440
010-1440-00380	010-1430-00120	010-1430-00300	010-1430-00450
010-1440-00390	010-1430-00130	010-1430-00310	010-1430-00460
010-1440-00480	010-1430-00140	010-1430-00320	010-1430-00470
010-1430-00010	010-1430-00150	010-1430-00330	010-1430-00480
010-1430-00020	010-1430-00160	010-1430-00340	010-1430-00490
010-1440-00490	010-1430-00170	010-1430-00350	010-1440-00050
010-1440-00500	010-1430-00180	010-1430-00360	010-1440-00060
010-1440-00510	010-1430-00190	010-1430-00370	010-1440-00080
010-1430-00040	010-1430-00200	010-1430-00380	010-1440-00330
010-1430-00050	010-1430-00210	010-1430-00390	010-1440-00010
010-1430-00060	010-1430-00220	010-1430-00400	010-1430-00250
010-1430-00070	010-1430-00230	010-1430-00410	010-1440-00340
010-1430-00080	010-1430-00240	010-1430-00420	010-1440-00360
010-1430-00090			

(Such above-listed parcels and any modification of such parcels as a result of platting the property described in such parcels are herein referred to as the parcels).

1.06 The council has on August 8, 2005, held a public hearing on the abatement, at which all those wishing to speak were heard. Notice of the hearing was published in the *Duluth News Tribune* on July 27, 2005, a date more than ten days, but less than 30 days before the hearing.

Section 2. Findings.

2.01 Based on the city efforts to encourage development of the project, the council expects and hereby finds that the benefits to the city of the proposed abatement for the acquisition of the developer's Lakewalk property will be at least equal to the costs to the city of the proposed abatement for the Lakewalk property.

2.02 The council finds that the abatement is in the public interest because it will provide for the acquisition of public facilities for the extension of the Lakewalk.

2.03 The council finds that the project is a public benefit as it will provide the public with access to Lake Superior through the Lakewalk in an area previously not accessible.

Section 3. Terms of the abatement. The terms by which the city will grant the abatement are as follows:

3.01 The term of the abatement for the parcels shall be 13 years commencing with the tax payments in 2007 and ending with the tax payments in 2019.

3.02 The amount of the abatement shall be all of the city's portion of the taxes on the parcels in 2007 and thereafter through 2019 to provide for the payment or prepayment of the principal of and interest on the bonds (or any bonds issued to refund the bonds).

3.03 The abatement shall be retained by the city and shall be used and is hereby pledged to pay the principal of and interest on the bonds (or any bonds issued to refund the bonds).

Section 4. Administration. The city will add to its levy amount for the applicable current year (2007-2019) the total amount of the current year abatement authorized hereunder.

Resolution 05-0533 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0539, by Councilor Stewart, awarding contract to Carlson Media, Inc., for production services for Aerial Lift Bridge documentary in the amount of \$10,000, was introduced for discussion.

To Councilor Stewart's questioning, Mr. Winson replied that \$10,000 is the city's contribution to this project, to be paid from tourism taxes and that the Duluth-Superior Foundation is looking to provide a \$25,000 grant that the council will be asked to approve at a future meeting. He further stated that the net proceeds will go to the Duluth legacy fund.

Councilors Gilbert and Little suggested that this type of proposal should be available to other companies as there is a business benefit to do a project at cost for the city and that the city could be setting a precedent by giving it one company.

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

Sandy Hoy, representing Carlson Media, stated that they have been working on this project for over a year and are looking for other sponsors for this project. She continued by saying that all documentary rights are being turned over to the legacy fund and that there are no profits other than to cover production costs.

Resolution 05-0539 was adopted as follows:

BY COUNCILOR STEWART:

BE IT RESOLVED, that the people, city officials, are authorized to execute and implement a contract containing substantially the terms of that contract on file with the clerk as Public Document No. 05-0808-17, between city of Duluth and Carlson Media, Inc., for the production of a broadcast quality one hour long video documentary "Gateway to the World: Duluth/Superior's Aerial Lift Bridge 100 Years."

BE IT FURTHER RESOLVED, that the property rights and sole proceeds from the said media documentary shall be owned by the city of Duluth and may be transferred to the Duluth legacy fund for a public purpose as set out in the enabling legislation that created the fund for the administrative services division payable out of Special Project Fund 0100, Department/Agency 700, Organization 1410, Object 5441.

Resolution 05-0539 was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Gilbert, Little and Stauber -- 3

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth act as the legal sponsor for a project contained in the business and community development application that was submitted on August 3, 2005, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for funding of this project on behalf of Cirrus.

BE IT FURTHER RESOLVED, that city of Duluth has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

BE IT FURTHER RESOLVED, that city of Duluth has not incurred any costs and has not entered into any written agreements to purchase property.

BE IT FURTHER RESOLVED, that city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, 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, and that the city of Duluth certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the compliance Section (S-7) of the business and community development application.

BE IT FURTHER RESOLVED, that, as applicable, the city of Duluth has obtained credit reports and credit information from Dunn and Bradstreet. Upon review by the city attorney's office,

no adverse findings or concerns regarding, but not limited to, tax liens, judgements, court actions, and filings with state, federal and other regulatory agencies were identified. Failure to disclose any such adverse information could result in revocation or other legal action.

BE IT FURTHER RESOLVED, that the mayor and city clerk or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the applicant.

Resolution 05-0538 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth act as the legal sponsor for a project contained in the business and community development application that was submitted on August 3, 2005, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for funding of this project on behalf of Cirrus.

BE IT FURTHER RESOLVED, that city of Duluth has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

BE IT FURTHER RESOLVED, that city of Duluth has not incurred any costs and has not entered into any written agreements to purchase property.

BE IT FURTHER RESOLVED, that city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, 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, and that the city of Duluth certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the compliance section of the greater Minnesota business development public infrastructure grant.

BE IT RESOLVED, that the mayor and city clerk or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the applicant.

Resolution 05-0543 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth act as the legal sponsor for a project contained in the business and community development application that was submitted on August 3, 2005, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for funding of this project on behalf of SMDC.

BE IT FURTHER RESOLVED, that city of Duluth has the legal authority to apply for financial assistance and the institutional, managerial, and financial capability to ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life.

BE IT FURTHER RESOLVED, that city of Duluth has not incurred any costs and has not entered into any written agreements to purchase property.

BE IT FURTHER RESOLVED, that city of Duluth has not violated any federal, state or local laws pertaining to fraud, bribery, 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, and that the city of Duluth certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the compliance section of the greater Minnesota business development public infrastructure grant.

BE IT RESOLVED, that the mayor and city clerk or their successors in office, are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the applicant.

Resolution 05-0544 was unanimously adopted.

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0546, by Councilor Reinert, amending agreement with Lou Campbell Productions for the use of Bayfront Festival Park, was introduced for discussion.

Mr. Winson explained that this would amend the contract with the promoter to replace scheduled events that did not work out with new events.

Councilor Little stated that coming in after the event has happened and telling the city that the event has been changed results in the council not voting on the actual contract.

Resolution 05-0546 was adopted as follows:

BY COUNCILOR REINERT:

WHEREAS, the city council approved Resolution 05-0101 authorizing an agreement with Lou Campbell, d/b/a Lou Campbell Productions, allowing for the use of Bayfront Festival Park to present three special events; and

WHEREAS, weather and scheduling conflicts have affected two of the three events specified in the agreement.

NOW, THEREFORE, BE IT RESOLVED, that the agreement, Public Document No. 05-0214-31 on file in the office of the city clerk, be amended to:

substituting in Article III(2), Viking Fest on July 22, 2005, for Tribute Weekend;

substituting in Article III(1), Bridge Fest on August 20, 2005, for National Act on July 9, 2005.

Resolution 05-0546 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved August 8, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0547, by Councilor Reinert, amending agreement with Lou Campbell Productions for the use of Bayfront Festival Park, was introduced for discussion.

Mr. Winson explained that the promoter has incurred much higher costs to produce the Fourth Fest event than was anticipated and has requested the city to increase their contribution by \$5,000 which is being supported by the mayor.

Councilor Atkins stated that a promoter should understand the risks involved with putting on an event and, by agreeing to the additional money, the city would be setting a precedent for other events that may end up short of money.

Several councilors stated that giving more money to the promoter than the contract's specified amount would be unfair to other bidders and would set a bad precedent.

Resolution 05-0547 failed unanimously (Public Document No. 05-0808-16).

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-030 - AN ORDINANCE AUTHORIZING A FREE CONVEYANCE OF PORTIONS OF LOT 10, BLOCK 117, AND LOT 10, BLOCK 118, WEST DULUTH SECOND DIVISION, TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-031 (9737) - AN ORDINANCE AMENDING SECTION 50-100 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED (BOARD OF ZONING APPEALS AND PLANNING COMMISSION).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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

- - -

BY COUNCILOR GILBERT

05-032 (9738) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 TO C-1, PROPERTY LOCATED AT THE INTERSECTION OF 71ST AVENUE WEST AND GRAND AVENUE.

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

- - -

BY COUNCILOR LITTLE

05-033 (9739) - AN ORDINANCE PERTAINING TO SIGNAGE; AMENDING SECTIONS 44-2 AND 44-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Garry Krause stated that there are enough distractions already for drivers and there should be some restrictions in this ordinance prohibiting large signs being placed near intersections.

Councilor Reinert stated that the ordinance should stay unchanged until someone challenges the city to do otherwise.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Reinert -- 1

- - -

BY COUNCILOR REINERT

05-034 (9740) - AN ORDINANCE AMENDING SECTIONS 33-126, 33-129 AND 33-130 OF THE DULUTH CITY CODE, 1959, AS AMENDED; RESIDENT PARKING PERMITS.

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

John Vigen stated that the current Code has worked well for the city, but as homes change and occupancy changes, and with more cars in families, neighborhoods need help to control traffic and on street parking. He reviewed changes to the Code and urged support to improve family quality in the neighborhoods of the city.

Janet Draper, Peter Handberg and Robert Cormier urged support of the ordinance as it will help both students and homeowners, and that enforcement of the ordinance is a key part to this ordinance change.

Councilor Stover stated that the University of Minnesota-Duluth (UMD) neighborhoods have this problem and this Code change imposes laws on neighborhoods that do not need this change.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

- - -

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

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

- - -

ORDINANCE NO. 9737

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING SECTION 50-100 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED (BOARD OF ZONING APPEALS AND PLANNING COMMISSION).

The city of Duluth does ordain:

Section 1. That Section 50-100 of Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

Sec. 50-100. Height, area and bulk regulations.

Every building or portion thereof in the C-4 business center commercial district used for dwelling purposes shall comply with the lot area per family requirements of the R-4 apartment residential district.

(a) No building erected or structurally altered after July 14, 1958, shall exceed the cubical contents of a prism having a base equal to the area of the lot and having a height two times the width of the street on which the lot abuts; provided, however, that a tower with a base not exceeding 25 percent of the lot area and with no side greater than 60 feet in length and no wall within 20 feet of any lot line may be constructed without reference to the above limitations;

(b) If the lot abuts on two streets of unequal width, then, for the purpose of calculating the cubical contents, the wider of the two streets shall control for a distance of 200 feet measured at right angles back from such wider street; provided, that such 200 feet shall be within the C-4 business center commercial district;

(c) Lot area per family requirements shall not apply to dormitories, fraternities, sororities, clubs, hotels or apartment hotels where no built-in cooking facilities are provided in individual rooms or apartments.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 18, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 8, 2005
Approved August 8, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9738

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 12 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-3 TO C-1, PROPERTY LOCATED AT THE INTERSECTION OF 71ST AVENUE WEST AND GRAND AVENUE.

The city of Duluth does ordain:

Section 1. That Plate No. 12 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 Map No. 12 at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 18, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:

Passed August 8, 2005
Approved August 8, 2005

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9739

BY COUNCILOR LITTLE:

AN ORDINANCE PERTAINING TO SIGNAGE; AMENDING
SECTIONS 44-2 AND 44-23 OF THE DULUTH CITY CODE, 1959,
AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 44-2 of Chapter 44 of the Duluth City Code, 1959, is amended to add a new Section (o) as follows:

Sec. 44-2. Definitions.

For the purposes of this ordinance [Chapter] the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Animated sign. An animated sign is one which has any moving, rotating or otherwise physically animated part (as distinguished from lights that give the appearance of animation by flashing, blinking or fluctuating) but does not include changeable message signs which are stationary for a continuous time period of at least four seconds in each eight-second period;

(b) Awning sign. Awning sign means any sign affixed to an awning, as such term is defined in Section 4506 of the Uniform Building Code, 1982 Edition;

(c) Double or triple faced sign. A double or triple faced sign is any sign having displays on an integral structure which has two or three faces which are either back to back or "V" or triangular shaped with no internal angle of more than 60 degrees;

(d) Ground sign. Ground sign means any sign, other than a pole sign, which is supported vertically by a structure attached to the ground;

(e) Flashing sign. Flashing sign shall mean a sign which has direct illumination which is not kept constant in intensity at all times when in use, or which exhibits sudden or marked changes in lighting effects. Signs with direct illumination which indicate the time, temperature, date or other public service information shall not be considered flashing signs;

(f) Direct illumination. Direct illumination means illumination by light sources which are effectively visible, either directly or through a translucent material, as a part of the sign and illuminate outward therefrom;

(g) Indirect illumination. Indirect illumination means illumination which is derived from light sources which are not visible to intended viewers of the sign but which illuminate the sign by being directed at the sign's reflective face;

(h) Marquee sign. Marquee sign means any sign affixed to a marquee, as such term is defined in Section 414 of the Uniform Building Code, 1982 Edition;

(i) Mobile sign. Mobile sign means any sign so constructed as to permit movement from place to place, whether on wheels or otherwise;

(j) Off premises sign. Off premises sign means a sign which directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located;

(k) On premises sign. On premises sign means a sign which directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located;

(l) Pole sign. Pole sign means any free standing, elevated sign erected on a pole or poles connected to the ground and which is less than 60 square feet in area;

(m) Political sign. Political sign means any sign which directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both;

(n) Projecting sign. Projecting sign means a sign which is affixed to the outside of an exterior wall of any building and which extends more than 18 inches from the building wall face;

(o) Property owner opinion sign. Property owner opinion sign means a sign which conveys a noncommercial message;

(p) Pylon. Pylon means a decorative extension above the roof line of a building which is designed as an integral part of such building and which is constructed of masonry or is completely enclosed by the same material as the main exterior walls of such building;

(q) Roof sign. Roof sign means any sign erected, constructed or maintained above and connected to the roof of any building. For purposes of this Section a penthouse, elevator housing or any structure housing mechanical equipment of any kind shall not be deemed a part of the roof of any building;

(r) Sign. Sign means any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is located outdoors, when more than one square foot in area; but shall not be deemed to include temporary parks and recreation signs permitted pursuant to Chapter 35 of this Code, or overhead banners and devices regulated under Article III of Chapter 45 of this Code, or to any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device. The area of a sign includes the space inside a continuous line drawn around and enclosing all letters, designs and background material, except that the area of a double or triple faced sign shall be the area of the largest face, and the area of a spherical sign shall be the area of the outline against the horizon formed by the largest dimension thereof;

(s) Wall sign. Wall sign means a sign which is affixed to the outside of an exterior wall of any building when such sign extends no more than four feet above the top of such exterior wall and is parallel thereto, and when such sign projects no more than 18 inches from the building wall face or from a parapet constructed thereon. Signs painted directly on the surface material of a building shall be considered a wall sign only if limited in content to the name of the principal firm or establishment located in such building or the name of the building's management firm;

(t) Height. The height of a sign shall be the vertical distance from the average finished grade directly below the sign to the uppermost point on the sign or sign structure, whichever is higher.

Section 2. That Section 44-23 of the Duluth City Code, 1959, is amended to read as follows:

Sec. 44-23. Regulations in R-1-a, R-1-b, R-1-c and R-2 zoning districts.

The following signs are permitted to be located in the R-1-a, R-1-b, R-1-c and R-2 districts set forth in Chapter 50 of this Code:

(a) One each sign containing the words entrance, exit, stop and no trespassing, each not exceeding three square feet in area. No illuminated or animated signs are permitted;

(b) One sign advertising property for sale, lease or rent, or informing that property has been sold, not exceeding six square feet in area and located not less than ten feet from any property line unless affixed to a building, and having no illumination. Such signs are to be removed within seven days after the property has been sold, leased or rented;

(c) One name plate per dwelling indicating the name of the occupant and a permitted occupation, not exceeding two square feet in area. Only indirect illumination is permitted;

(d) Church bulletin board, not exceeding 25 square feet, located not less than ten feet from any property line and on same property as the church. Only indirect illumination is permitted. Permit required;

(e) Recreation field signs to include: One directional sign no more than 20 square feet in area and ten feet in height, one sign identifying the recreational field not more than ten square feet in area and attached to the principal building, and one scoreboard sign for each play area. No sign other than score boards shall contain advertising and no scoreboard shall contain more than ten square feet of product or service advertising. Only indirect illumination is permitted;

(f) Political or property owner opinion signs must be located not less than three feet from any side property line or public street or sidewalk improvement and if illuminated must comply with ordinances regulating illumination. Signs over six feet in height must comply with structure safety standards as evidenced by a valid building permit;

(g) Signs informing of construction or remodeling.

For nonresidential construction or remodeling, one sign announcing contemplated or actual improvements on a site shall be allowed, which sign shall not exceed 32 square feet in area, provided that an additional 16 square feet shall be allowed for identification of architects, engineers and prime contractors. Only indirect illumination is permitted.

For residential construction or remodeling, one sign identifying the architects, engineers and prime contractors, having a total area of no more than 20 square feet shall be allowed. Only indirect illumination is permitted.

No signs permitted under this Subsection shall be located within a required yard as established in Chapter 50 of this Code, and all such signs shall be removed within seven days after completion of the improvements;

(h) Temporary signs on the premises which do not advertise any ongoing business activity, do not exceed six square feet in area, are not illuminated, are located at least ten feet from side property line or public street or sidewalk improvement and are not maintained for more than two days;

(i) Only in conjunction with a home occupation as defined and permitted by Chapter 50 of this Code, one sign not exceeding one square foot which is attached to the dwelling, which contains only the name and title of the person engaged in such occupation and which is not illuminated.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: September 18, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Reinert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 8, 2005
Approved August 8, 2005
HERB W. BERGSON, Mayor

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ORDINANCE NO. 9740

BY COUNCILOR REINERT:

AN ORDINANCE AMENDING SECTIONS 33-126, 33-129 AND 33-130 OF THE DULUTH CITY CODE, 1959, AS AMENDED;
RESIDENT PARKING PERMITS.

The city of Duluth does ordain:

Section 1. That Section 33-126 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-126. Types and numbers of permits available; eligibility criteria; fees.

Any resident of any property which abuts any portion of any street or highway which portion is included in any resident permit parking zone, who is not less than 16 years old, may apply to the city clerk for resident's permits and/or visitor's permits for such zone. For any such resident to be eligible for such permits such resident must specify the address at which such resident is residing and must verify that such residence is the resident's permanent or usual place of abode. For any such eligible resident to be eligible for resident's permits, such resident must specify and verify for each vehicle for which such a permit is sought, the name of the manufacturer of such vehicle, the model year of such vehicle, and the license plate number assigned to such vehicle, and that the resident has a bona fide possessory interest in each such vehicle, as an owner, purchaser or lessee. Any such eligible resident may obtain a resident's permit for each such vehicle in which the resident has such a bona fide possessory interest, provided that a total of no more than three resident permits shall be issued to the inhabitants of any one "dwelling unit" as such term is defined in Chapter 29A. Any such eligible resident may obtain one regular visitor's permit, provided that a total of no more than two regular visitor's permits shall be issued to the inhabitants of any one "dwelling unit" as such term is defined in Chapter 29A, and may obtain any number of special visitor's permits. Notwithstanding the provisions above, the city clerk may issue resident permits or regular visitor's permits in excess of the above, and may issue regular visitor's permits to nonresidential building occupants in the zone, but only upon the joint recommendation of the police department, traffic engineer and parking commission. The police department, traffic engineer and parking commission shall fully investigate any application for additional regular visitor's permits before making a positive or negative recommendation to the city clerk. Notwithstanding the provisions of this Section, the Duluth City Council may, by resolution, authorize the city clerk to issue additional regular visitor's permits to nonresidential building occupants in the zone subject to any terms and conditions the city council deems appropriate.

Any such eligible resident may obtain a replacement for any resident's permit or regular visitor's permit obtained by such resident and verified by such resident as having been lost or destroyed; and permit so replaced shall then be invalid.

The city council may, by resolution, prescribe a fee for any permit issued pursuant to this Article.

Section 2. That Section 33-129 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-129. Vicinity of effectiveness of permits; required location of display on vehicle.

Any permit issued pursuant to this Article shall be valid only within 500 feet of the property of the address of the resident to which the permit is assigned. For any such permit to be effective, such permit must be displayed on or immediately behind the lower left corner of either the windshield or the rear window of the vehicle for which the permit is being used, and the permit must be readily visible from the exterior of the vehicle at the location where the permit is so displayed. If the vehicle has no windshield or rear window, the permit must be otherwise displayed on the vehicle so as to be readily visible.

Section 3. That Section 33-130 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-130. Behavior prohibited in connection with obtaining or using permits.

No person shall:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

(a) Make any false statement in connection with his or her application for any permit authorized by this Article;

(b) Sell, rent or lend any permit issued pursuant to this Article.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 18, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 8, 2005
Approved August 8, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, August 15, 2005, 7:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stover and President Ness -- 8

Absent: Councilor Stewart -- 1

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-035 - AN ORDINANCE AUTHORIZING THE CONSENT BY THE CITY OF DULUTH TO AN EASEMENT AGREEMENT BETWEEN CENTER CITY HOUSING CORPORATION AND CENTRAL HILLSIDE DEVELOPMENT LIMITED PARTNERSHIP, LLLP.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-030 (9741) - AN ORDINANCE AUTHORIZING A FREE CONVEYANCE OF PORTIONS OF LOT 10, BLOCK 117, AND LOT 10, BLOCK 118, WEST DULUTH SECOND DIVISION, TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA).

Councilors Stauber and Little noted that they would not be supporting the ordinance for reasons of: the city should not be giving land away to a private developer; no public purpose is being served; this is only being done so that the developer does not have to apply for a variance; there is value to this land, even if small, therefore some reimbursement should be paid to the city and, given the financial conditions of the city, this is not the time to be giving land away.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little and Stauber -- 2

Absent: Councilor Stewart -- 1

- - -

The meeting was adjourned at 7:24 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9741

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING A FREE CONVEYANCE OF PORTIONS OF LOT 10, BLOCK 117, AND LOT 10, BLOCK 118, WEST DULUTH SECOND DIVISION, TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY (DEDA).

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby conveys to DEDA by quit claim deed its right, title and interest in and to real estate located in St. Louis County, Minnesota, hereinafter described at no cost to DEDA:

Lot 10, Block 117, West Duluth Second Division, subject to an easement in favor of the city of Duluth for roadway purposes upon that property over which the road is currently located.

Lot 10, Block 118, West Duluth Second Division, subject to an easement in favor of the city of Duluth for roadway purposes upon that property over which the road is currently located.

Section 2. That this ordinance shall take effect and be in force 30 days after its passage and publication. (Effective date: September 25, 2005)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little and Stauber -- 2

Absent: Councilor Stewart -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed August 15, 2005

Approved August 15, 2005

HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 22, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0822-01 Allied Properties, Inc., et al. further petition (five signatures) to reclassify from R to C-5 Lots 14, 15 and 16, Block 31, Duluth Heights, Sixth Division. -- Assessor

05-0822-08 Robert and Tammy Olson regarding construction of watermain at 1504 Osage Avenue:

(a) Petition. -- Assessor

(b) Waiver agreement. -- Engineering

05-0822-02 Dean Symens, et al. (two signatures), petition to vacate a 1/2 block of 46th Avenue East from Otsego Street south to alley easement. -- Assessor

05-0822-11 Miller-Dwan Foundation copy of letter from Marshall School regarding proposed reclassification of tax forfeited parcels for the construction of a hospice facility on Pecan Avenue (05-0568R). -- Received

05-0822-10 The following communications regarding the proposed ordering of a low pressure sanitary sewer in West Morgan Street (05-0574R): (a) Kathy Pykkonen; (b) Frank and Kristy Stokes (supported by 11 citizens). -- Received

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REPORTS OF OFFICERS

05-0822-03 Assessor letters of sufficiency of petitions to:

(a) Construct:

(1) Permanent alley in Central Avenue from Bristol to Ramsey streets;

(2) Residential street, sanitary sewer, water and gas mains to serve

Bristolwood First Addition;

(b) Vacate:

(1) One-half block of 46th Avenue East from Otsego Street south to alley easement;

(2) Utility easements in Lot 3, Block 4, Airport Division. -- Received

05-0822-04 Building official appeal of board of zoning appeals' denial of a variance to reduce the minimum front yard setback requirements for the construction of a new dwelling on property located at 3129 Minnesota Avenue (Marick Development, Inc., by Daniel Maddy, attorney). -- Committee 2 (Planning and economic development)

05-0822-09 Community development manager public notification of Neighborhood Housing Service's request for waivers to HUD conflict of interest rules. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0822-05 Civil service board minutes of: (a) May 3; (b) June 7, 2005, meetings. -- Received

05-0822-06 Commission on disabilities minutes of July 6, 2005, meeting. -- Received

05-0822-07 Duluth human rights commission minutes of July 13, 2005, meeting. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Chester Johnson expressed his concern over what he felt is an inequity in the fee structure for the city's rental property license. He noted that he is the owner of a duplex where he lives in one unit and rents out the other and that he received a notice that next year's license will be \$220 for this one rental unit. Mr. Johnson stated that six years ago this license was \$56, three years ago the fee was \$83 and now there is a 160 percent increase. He further noted that for a unit with five rental units, the fee would be \$200 plus \$20 per unit, for a cost of \$300, or \$60 per unit, which is an inequity compared to his single rental unit.

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Clifford Tchida expressed concern that there are no regulations to insure the safe use of scooters.

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KL Lewis commented that: the Blues Festival was fantastic; eminent domain might not be used properly with building acquisitions in the east business district; the skywalk that is planned to connect to St. Mary's Medical Center/Duluth Clinic parking ramp should be incorporated into the ramp and consideration of the neighborhood should be considered with regard to lighting the ramp.

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Garry Krause commented that there has been a call for civility in this year's election races, but 30 of his campaign signs disappeared the first night they were up.

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RESOLUTIONS TABLED

Councilor Gilbert moved to remove resolutions 05-0347 and 05-0348, upholding and reversing, respectively, the Duluth planning commission's denial of a water resources management ordinance variance to Jacob Kapsner for two 8,000 square foot lots at 2810 and 2814 Minnesota Avenue, from the table, which motion was seconded and unanimously carried.

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

Mike Braun presented a diagram and elaborated on his belief of how the property could be developed in either of the two options. He stated that he had been told that the first option would not be allowed, but that the second option would be allowed. Mr. Braun felt he was given inaccurate information and proceeded to acquire the property, and thus should not be held responsible and should be allowed to develop this property. He concluded that if it is necessary to sell this property, a house will be built on this land which would not be set back.

Councilors felt that the law requires the council to act on this issue. They requested that staff in the city attorney's office meet with this applicant to clarify what options they might have.

Resolution 05-0347 was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city council of the city of Duluth, finds that the decision of the planning commission denying the variance request of Jacob Kapsner and Carla Tamburro is upheld and that the variance shall not be granted upon the following grounds and reasons:

(a) Applicants seek city approval for the creation of a lot that does not conform to the minimum area requirements set forth in Chapter 51, Section 29, of the city of Duluth Legislative Code. Chapter 51 does not grant to the planning commission or the city council the authority to authorize the creation of nonconforming lots. Therefore, the city is without legal authority to grant the requested variance;

(b) Chapter 51, Section 1, provides that one of the purposes of the regulations is to protect the water resources found within the city and such protection is necessary for the public good. It further provides that an additional purpose of the regulations is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. The creation of a nonconforming lot does not serve to promote the public good established in Chapter 51, Section 1;

(c) The creation of a nonconforming lot would result in a lot that does not enjoy the benefit of development rights granted to nonconforming lots pursuant to Chapter 51, sections 7 and 29(e)(3)(C). Without such rights, the owners will be unable to expand the current uses or replace structures should they be destroyed. Should such destruction occur the property could not be redeveloped. This would result in the loss of property tax base. It is not in the public interest to authorize land uses that create the potential for loss of tax base;

(d) The applicant has failed to demonstrate the existence of a hardship as required by Chapter 51, Section 30, and as defined by Chapter 51, Section 2. Hardship may be established by demonstrating that the property cannot be put to reasonable use under the condition allowed by the regulations set forth in Chapter 51; that the plight of the landowner is due to circumstances unique to his property and are not created by the landowner. Economic

considerations alone shall not constitute a hardship. Here, the lot currently meets the minimum area requirements and is currently being put to a reasonable use.

Thus, the applicant cannot meet the first requirement to support a finding of hardship. Resolution 05-0347 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0348 failed upon a unanimous vote (Public Document No. 05-0822-12).

- - -

Councilor Gilbert moved to remove resolutions 05-0421 and 05-0422, denying and approving, respectively, the vacation of portions of 18th Street South between Minnesota Avenue and Lake Avenue on Park Point, from the table, which motion was seconded and unanimously carried.

Councilors Stewart and Stover expressed concerns that the council should uphold the prior resolution of the council and not vacate the right-of-ways or accesses to the beach and vacated sections have had houses built on them and the public is not aware of where the public easements are located.

Resolution 05-0422 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, a sufficient amended petition was filed with the city clerk requesting the vacation of the northerly and southerly 20 feet of 18th Street South between Minnesota Avenue and Lake Avenue legally described as: the northerly 20 feet of 18th Street South adjoining Lot 21, Minnesota Avenue, and Lot 22, Lake Avenue, and the southerly 20 feet of 18th Street South adjoining Lot 19, Minnesota Avenue, and Lot 20, Lake Avenue, Upper Duluth (FN05044); 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 found that said street right-of-way is not useless for the purpose for which it was intended, based on the following findings:

(a) This right-of-way is used and has the potential for future improvements for lakeshore access;

(b) The commission did recommend denial, by a 9-1 vote, of the street vacation petition at its June 14, 2005, meeting; and

WHEREAS, the city council did hold a committee meeting on July 11, 2005, and in consideration of the amendment offered by the applicant at that time, referred the amendment to the planning commission and the commission has again recommended denial, by a vote of 7-3, of the amended request; and

WHEREAS the city council makes the following findings in support of the vacation petition:

(a) This action preserves a 20 foot wide right-of-way that cannot be obstructed;

(b) Pedestrian access to the lakeshore is preserved (reference Planning Commission File No. 05044).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the easement described above as more particularly described on Public Document No. 05-0822-13.

BE IT FURTHER RESOLVED, that this resolution shall not become effective until such time that the reciprocal easement and restriction agreement (Public Document No. 05-0822-13) is recorded.

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 05-0422 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber and President Ness -- 7

Nays: Councilors Stewart and Stover -- 2

Approved August 22, 2005

HERB W. BERGSON, Mayor

Resolution 05-0421 failed upon the following vote (Public Document No. 05-0822-29):

Yeas: Councilors Stewart and Stover -- 2

Nays: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber and President Ness -- 7

MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the first time:

BY COUNCILOR GILBERT

05-0587 - RESOLUTION APPROVING A BUSINESS SUBSIDY DEVELOPMENT AGREEMENT AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AND DELIVER NECESSARY DOCUMENTS FOR THE CIRRUS DESIGN CORPORATION PROJECT.

CONSENT AGENDA

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

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

BY COUNCILOR STAUBER:

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) \$4,260,000 general obligation street improvement bonds, Series 2005D, are hereby authorized and shall be issued for the purpose of financing the 2005 street improvement program, including payment of part of the interest cost of such bond issue and expenses incurred in the issuance of the bonds, pursuant to Minnesota Statutes, Chapter 475, and the City Charter; and

(2) \$310,000 general obligation tax abatement bonds, Series 2005E, are hereby authorized and shall be issued pursuant to Minnesota Statutes, Section 469.1814, and Chapter 475 and the City Charter to pay for the acquisition of property for the extension of the city's Lakewalk, including payment of part of the interest costs of such bond issue and expenses incurred in the issuance of the bonds.

The \$4,260,000 general obligation street improvement bonds, Series 2005D, and the \$310,000 general obligation tax abatement bonds, Series 2005E, are hereinafter referred to as the bonds;

(b) Issuance and sale of bonds. The terms and conditions of the bonds and the sales thereof are set forth in the official terms of offerings on file with the city clerk as Public Document No. 05-0822-14. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the bonds and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds;

(c) Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales of the bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolution. The form, specifications and provisions for repayment of the bonds shall be set forth in subsequent resolutions of this city council.

Resolution 05-0570 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license, on sale Sunday license, dancing license and 2:00 a.m. beverage license for the period ending August 31, 2005, subject to departmental approvals:

Lemon's Reef, Inc. (Reef Bar), 2002 London Road, with Thomas Lemon, president and 26 percent stockholder, Mary Bjorklund, 25 percent stockholder, and Karen Lemon Landgren, secretary, treasurer and 49 percent stockholder, transferred from Michael C. Lemon, president and 26 percent stockholder, Mary Bjorklund, 25 percent stockholder, and Karen Lemon Landgren, secretary, treasurer and 49 percent stockholder.

Resolution 05-0551 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale Sunday intoxicating liquor license for the period beginning September 1, 2005, and ending August 31, 2006, subject to departmental approvals:

Lake Aire Service Company Duluth, Inc. (Best Western Edgewater), 2330 London Road.

Resolution 05-0553 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 23 and 24, 2005, with the serving and music ceasing at 1:00 a.m.

Resolution 05-0554 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following bed and breakfast on sale wine license for the period beginning September 1, 2005, and ending August 31, 2006, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Castles in the Sky, LLC (Manor on the Creek Inn), 2215 East Second Street.

Resolution 05-0556 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 81 on sale intoxicating liquor, 84 on sale Sunday intoxicating liquor, six additional bar, 16 on sale dancing, two late hour entertainment licenses and 30 2:00 a.m. beverage licenses, for the period beginning September 1, 2005, and ending August 31, 2006,

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. 05-0822-15.

Resolution 05-0557 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 18 on sale wine licenses for the period beginning September 1, 2005, and ending August 31, 2006, 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. 05-0822-16.

Resolution 05-0558 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of eight on sale club liquor licenses for the period beginning September 1, 2005, and ending August 31, 2006, 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. 05-0822-17.

Resolution 05-0559 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 20 off sale intoxicating liquor licenses for the period beginning September 1, 2005, and ending August 31, 2006, 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. 05-0822-18.

Resolution 05-0560 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of one brewery malt liquor off sale intoxicating liquor license for the period beginning September 1, 2005, and ending August 31, 2006, 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. 05-0822-19.

Resolution 05-0561 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 alcohol, gambling and tobacco commission; and

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

NOW, THEREFORE, BY 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.

Licensee	Gambling site
Multiple Sclerosis Society	Lake Avenue Pub, 109 West Superior Street
Irving Community Association	Gopher Lounge, 402 North Central Avenue Mitch's, 2113 West Superior Street Shotz Bar, 1321 Commonwealth Avenue Stadium Lanes, 132 North 34th Avenue West
Irving Youth Hockey	North Pole Bar, 5606 Raleigh Street

Resolution 05-0562 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the Memorial Blood Centers and Animal Allies have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

WHEREAS, the city council approves of the exemption applications and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Memorial Blood Centers and Animal Allies and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 05-0563 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

WHEREAS, on July 6, 2005, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of C&S of Duluth, Inc., d/b/a Terry's Place, and has submitted its report to the city council of the city of Duluth as Public Document No. 05-0822-20; and

WHEREAS, pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 22, 2005, the city council considered the records and evidence submitted.

BE IT RESOLVED, that the city council of the city of Duluth, based upon the records and evidence presented, hereby adopts the finding of facts as set forth in Public Document No. 05-0822-20 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of C&S of Duluth, Inc. (Terry's Place), 2232 West Superior Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council take no disciplinary action.

Resolution 05-0565 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

WHEREAS, on August 3, 2005, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Wizner Company, d/b/a Norman's Bar, and has submitted its report to the city council of the city of Duluth as Public Document No. 05-0822-21; and

WHEREAS, pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 22, 2005, the city council considered the records and evidence submitted.

BE IT RESOLVED, that the city council of the city of Duluth hereby adopts the finding of facts as set forth in Public Document No. 05-0822-21 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Wizner Company (Norman's), 113 West First Street.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council imposes a \$1,000 fine to be paid in 60 days and suspends the license of Wizner Company for the operation of Norman's Bar for a period of ten days. The license suspension shall be stayed for a one year period following council action and lifted if no further violations of the law occur during that one year period.

Resolution 05-0566 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Holiday Station Stores be and hereby is awarded a contract for furnishing and delivering fuel as needed for 12 months commencing September 1, 2005, for the fleet services division, in accordance with specifications at an estimated amount of \$480,000, terms net 30, FOB destination, payable out of Fleet Services Fund 0660, Department/Agency 015, Organization 1560, Object 5212.

Resolution 05-0571 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Inter-City Oil Company, Inc., be and hereby is awarded a contract for furnishing and delivering fuel as needed during the next 12 months for the various departments/divisions, in accordance with specifications at an estimated amount of \$50,000, terms net 30, FOB destination, payable out of various funds, departments/agencies, organizations, objects.

Resolution 05-0572 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of signal technician, which were approved by the civil service board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-0822-22, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that pay range will change from Pay Range 28, pay rate of \$3,065 to \$3,626 per month to Pay Range 30, pay rate of \$3,324 to \$3,971. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0548 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

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, the city's 2006 allocation of LIHTCs is estimated at \$246,125; 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 2006 setting forth criteria governing the award of the city's LIHTCs; and

WHEREAS, the city received one application for a project requesting allocation of 2006 LIHTCs (the project); and

WHEREAS, the application for the project has been scored in accordance with the plan.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, that the city hereby approves prioritization of the project to receive 2006 low income housing tax credits as set forth below:

First priority - Harbor View Phase II.

Resolution 05-0550 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the utility easements in Lot 3, Block 4, of Airport 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 determined that said utility easements are useless for the purposes for which they were intended because all existing utilities have either been removed or will be relocated to a nearby easement after receiving the consent of the city engineer; and

WHEREAS, the city planning commission unanimously approved the vacation of said utility easements at its regular meeting of August 9, 2005 (reference PC File No. 05081).

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth finds there is no need or necessity to retain the petitioned utility easement and approves the vacation more particularly described as Public Document No. 05-0822-23 with the following conditions:

(a) That the electric service provided by the utility pole in the westerly utility easement be relocated to a location deemed appropriate to the city engineer;

(b) That the sanitary sewer service provided in the easterly utility easement be relocated to a location deemed appropriate by the city engineer.

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

Resolution 05-0569 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2005 state legislative program, which agreement is on file in the office of the city clerk as Public Document No. 05-0822-24, at a cost to the city of

not to exceed \$14,000, which shall be payable from the General Fund 100-700-1402-5312.

Resolution 05-0575 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

RESOLVED, that the proper city officials are authorized to enter into a agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-0822-26, with the Duluth-Superior Area Community Foundation to accept a grant in the amount of not to exceed \$25,000, payable to Fund 100, Agency 700, Organization 1407, Revenue Source 4660, to defray a portion of the cost of producing a DVD entitled, "Gateway to the World: Duluth-Superior's Aerial Lift Bridge."

Resolution 05-0584 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a first amendment to agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0822-27, with Carlson Media, Inc., for the provision of professional services related to the development and production of an Aerial Lift Bridge documentary increasing the amount payable thereunder by not to exceed \$25,000, payable from Fund 100, Agency 700, Organization 1410, Object 5441, and providing for receipt of proceeds to the Duluth legacy fund.

Resolution 05-0585 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

WHEREAS, under the provisions contained in Minnesota Laws of 2005, Chapter 20, Article 1, Section 23, subdivision 3, the 2005 legislature appropriated \$4,950,000 for a one-time grant to the city of Duluth to construct sanitary sewer overflow (SSO) storage facilities at selected locations within the city; and

WHEREAS, to receive this money, the city must submit required information and enter into a grant agreement with the Minnesota public facilities authority;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth has the legal authority to apply for the grant and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for its design life.

BE IT FURTHER RESOLVED, that the proper officials are hereby authorized to enter into a grant agreement with the state of Minnesota for \$4,950,000 for the funding of sanitary sewer overflow (SSO) storage facilities at selected locations in the city of Duluth.

Resolution 05-0545 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Thane Hawkins Polar Chevrolet, Inc., be and hereby is awarded a contract for furnishing and delivering two cab and chassis for the utility operation division in accordance with specifications on its low specification bid of \$69,219.18, terms net 30, FOB destination, (20 percent) \$13,843.84 payable out of Water Fund 0510; (30 percent) \$20,765.75 payable out of Gas Fund 0520; (50 percent) \$34,609.59 payable out of Storm Water Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0555 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Resolution 03-0650 to Letourneau & Sons, Inc., for the construction of 5,200 feet of sanitary sewer, reconstruct sanitary sewer Pumping Station #20 - Part A and street improvements - Part B in conjunction with the Morgan Park wastewater collection system - Phase I, be amended to increase the amount by \$509,892.62 payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533, for a new total of \$1,992,591.72.

Resolution 05-0573 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that MSA Professional Services, Inc., be and hereby is awarded an amended contract (#19674) for professional engineering services for study, design and construction of sanitary sewer overflow (SSO) facilities for extra work at the Dodge Street facility and an additional sanitary sewer overflow at 60th Avenue East and Congdon Road for the engineering division in accordance with specifications on its low specification bid of \$386,679, terms net 30, FOB job site, \$69,064 payable out of Sewer Fund 0531, Department/Agency 500, Organization 5532 for Job #0352SN, and \$317,615 payable out of Sewer Fund 0531, Department/Agency 500, Organization 5532, Job #0431SN.

Resolution 05-0580 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following two stall handicapped parking zone is hereby established: front of 19 North 21st Avenue West.

Resolution 05-0549 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officers are authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$3,000, and to execute any documents required to be executed to accept such grant; grant funds in the amount of \$3,000 to be deposited in General Fund 100-200-1620-4220-01.

Resolution 05-0576 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the state of Minnesota, department of public safety, in the amount of \$12,852, and to execute any documents required to be executed to accept such grant; such funds to be deposited in Fund 100-200-1620-4220-01.

Resolution 05-0577 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to apply for a grant from the United States department of justice, office of community oriented policing, in the amount of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

\$474,310, and to execute any documents required to be executed to accept such grant; such funds to be deposited in Fund 215-200-2269-4209-02.

Resolution 05-0578 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to enter into an agreement with Adventure Duluth, LLC, providing for a permit for the Adventure Duluth racing adventure event to be held at various park and recreation venues on September 24, 2005; said agreement to be substantially in the form of Public Document No. 05-0822-25 on file in the office of the city clerk, and providing for the payment of \$760; funds to be deposited in Fund 100, Agency 400, Organization 1812, Revenue Source 4170-01.

Resolution 05-0579 was unanimously adopted.

Approved August 22, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 05-0568, by Councilor Gilbert, requesting the board of county commissioners of St. Louis County to reclassify from conservation to nonconservation and to offer for sale tax forfeited parcels now withheld from sale in conservation, was introduced for discussion.

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

Maureen Johnson; Mary Roberts; Pat Burns, president of the Miller-Dwan Foundation; Robert Niedringhaus; Kay Bloom; Mike VanScoy; Mary Boynton; Joanne Cirillo; Cathy Berendts; Dean Fox; Margaret Wolters; Ron Edmunds; Dave Johnson and Luke Sydow spoke in support of the resolution, citing reasons of: this is an excellent, quiet, peaceful location in which you can say good-bye to a loved one; there are no hospice houses north of the Twin Cities; a beautiful setting is important for patients, but also for the families; this facility will be for all hospital patients in the area; this specific location is easy for all to find; this location has affordable access to sewer and water; students from Marshall High School will still have access to part of this land for an outside classroom; the hospital environment is no long financially feasible for the teminally ill; hospice provides care for the patient when there is nothing else that can be done to cure the cancer; the hospital environment is not the place to be when this time comes; family members remember the setting in which their loved ones died in; as a regional care center, Duluth should be proud of this addition; this project already has \$1.5 million of support; this home will serve needs, whether families have the means to pay for it or not; this is an excellent use for the land, especially over high density apartments and this use will save much of the natural setting.

Resolution 05-0568 was adopted as follows:

BY COUNCILOR GILBERT:

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

File No.	Applicant	Legal Description	Location
05077	Patricia Burns, Miller-Dwan Foundation	Clague and Prindles Division; Block 11, Lots 1-16; Block 12, Lots 1-16, 17-29 odd numbered lots; Block 13, Lots 2-30 even numbered lots. Parcel ID numbers: 010-0540-03070 through 03220; 010-0540-03370 through 03530; 010-0540-03550 through 03650; 010-0540-3680; 03700; 03720; 03740; 03760; 03780; 03800; 03820; 03840; 03860; 03880; 03900; 03920; 03940; 03960.	between Rice Lake Road and Baylis Street west of Pecan Avenue (Duluth Heights)

Resolution 05-0568 was unanimously adopted.
Approved August 22, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Jason Borman the sum of \$12,525.35 in full and final settlement of a claim which arose out of a sewer backup at 1039 - 85th Avenue West on April 13, 2005; payment to be made from Self-Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 05-0567 was unanimously adopted.
Approved August 22, 2005
HERB W. BERGSON, Mayor

- - -

Resolution 05-0574, by Councilor Stover, ordering the construction of approximately 1,360 feet of low pressure sanitary sewer in West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly (City Job No. 0512SN) at an estimated cost of \$159,300, was introduced for discussion.

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

Frank Stokes and Garry Krause spoke in opposition of the resolution for reasons of: there will be fees, in addition to the assessment, that will be almost twice the assessment; it is a very small section of the street; the nine property owners are paying for the majority of it; the grinder, low pressure system is not favored because of the maintenance and repair costs that are attributed to it; there is support for the use of a gravity system; this is not a long term solution and the majority of citizens affected do not support this.

Kathy Pykkonen and Marla Halvorson supported the resolution, for reasons of: this is an issue of public health because of the contamination caused by the privately owned systems; the lift/gavity system is in the \$49,000 to \$56,000 range, which is not affordable for the property owner; this project is supported by the city engineer and recommended by the special assessment board; there are no other feasible solutions to acquire a city sewer connection and the process and dialog should be allowed to continue for the project, including the remonstrance petition process.

Council discussion ensued relative to possible options to construct this project, including expanding the area to be connected to the sanitary sewer system.

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

Yeas: Councilors Atkins and Reinert -- 2

Nays: Councilors Gilbert, Johnson, Little, Stauber, Stewart, Stover and President Ness -- 7

Councilor Stauber felt that six of the nine residents here do not support the project, so the project should not continue.

Resolution 05-0574 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, by resolution of intent numbered 05-0531 the council did request the administration to prepare plans and specifications for the construction of approximately 1,360 feet of low pressure sanitary sewer in West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly (City Job No. 0512SN) at an estimated cost of \$159,300; 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 benefitting property owners; the public hearing has been held that allowed property owners to voice their opinion; 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 \$159,300, payable from Special Assessment Fund 0410, Agency 038, Object 5530 and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; that those assessed be permitted to pay said assessment in installments over a 15 year period, subject to Section 68 of the City Charter; that said assessment satisfy all the requirements of Section 60 of the Charter.

BE IT FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 62 of the City Charter and that said improvement is hereby ordered.

Resolution 05-0574 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Approved August 22, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STEWART

05-038 - AN ORDINANCE REGULATING ALIENATION OF REAL PROPERTY BY THE CITY.

- - -

BY COUNCILOR GILBERT

05-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAPS NO. 11, 13 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-A, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED ABOVE WEST SKYLINE PARKWAY, SOUTH OF WEST ARBUTUS DRIVE AND APPROXIMATELY 1,600 FEET EAST OF US HIGHWAY 2 (SUGARLOAF).

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

Janet Draper expressed opposition to the ordinance, stated that: this development puts intense development on a steep, forested, rocky location; an environmentally sound development for this area should be well away from the stream, does not mitigate wetlands and removes few hard wood trees; there should be an overall plan for this area and the city should be telling developers what type of development is allowed in these areas, not the developers telling the city what they want.

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BY COUNCILOR STOVER

05-036 - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE WOMEN'S TRANSITIONAL HOUSING COALITION, INC.

- - -

BY COUNCILOR REINERT

05-028 - AN ORDINANCE PERTAINING TO THE PARKS AND RECREATION COMMISSION; AMENDING SECTION 2-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-035 (9742) - AN ORDINANCE AUTHORIZING THE CONSENT BY THE CITY OF DULUTH TO AN EASEMENT AGREEMENT BETWEEN CENTER CITY HOUSING CORPORATION AND CENTRAL HILLSIDE DEVELOPMENT LIMITED PARTNERSHIP, LLLP.

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

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The meeting was adjourned at 8:55 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9742

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING THE CONSENT BY THE CITY OF DULUTH TO AN EASEMENT AGREEMENT BETWEEN CENTER CITY HOUSING CORPORATION AND CENTRAL HILLSIDE DEVELOPMENT LIMITED PARTNERSHIP, LLLP.

The city of Duluth does ordain:

Section 1. That the city of Duluth hereby authorizes the mayor and the city clerk to execute a consent, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0822-28, to an easement agreement for joint parking by and between Center City Housing Corporation (Center City) and Central Hillside Development Limited Partnership, LLLP (Central Hillside) for their respective housing projects which projects provide low- and moderate-income housing, a public purpose, said easement affecting two properties upon which the city has or will have mortgage liens:

(a) One mortgage lien pursuant to a HOME program grant agreement upon property located in St. Louis County, Minnesota, and legally described as follows: Lots 12 and 13, Block 108, Portland Division of Duluth;

(b) Two mortgage liens pursuant to two Section 108 loan agreements upon property located in St. Louis County, Minnesota, and legally described as follows:

Parcel I: Northerly 48 feet of Lot 98 and northerly 48 feet of westerly 35 feet of Lot 100, East Fifth Street, Duluth Proper, First Division (abstract property);

Parcel II: All those parts of Lot 98 and the westerly 35 feet of Lot 100, East Fifth Street, Duluth Proper, First Division, and the west ten feet of Lot 4, Block 108, Portland Division of Duluth that lie between two straight lines drawn across said lots and parallel with the southerly line of East Fifth Street and distant respectively 48 feet and 99 feet therefrom (abstract property);

Parcel III: All that part of Lot 98 and the westerly 35 feet of Lot 100 on East Fifth Street, Duluth Proper, First Division, and Lot 3 and the westerly ten feet of Lot 4, Block 108, Portland Division of Duluth, that lies southerly of a line drawn across said lots parallel to the southerly line of said East Fifth Street and distant southerly 99 feet therefrom (torrens property - Certificate of Title No. 288613);

Parcel IV: All that part of Lot 102, East Fifth Street, Duluth Proper, First Division, lying within 25 feet of the northeasterly boundary line of said Lot 102; and all that part of Lot 104, East Fifth Street, Duluth Proper, First Division, lying within 25 feet of the southwesterly boundary line of said Lot 104, East Fifth Street, Duluth Proper, First Division; and Lots 6 and 7, Block 108, Portland Division of Duluth, except minerals (torrens property - Certificate of Title No. 294879);

and

Easterly 15 feet of Lot 100, and the westerly 1/2 of Lot 102, East Fifth Street, Duluth Proper, First Division, and the easterly 15 feet of Lot 4, and all of Lot 5, Block 108, Portland Division of Duluth (abstract property);

Parcel V: Lot 8, Block 108, Portland Division of Duluth and the east 1/2 of Lot 104, East Fifth Street, Duluth Proper, First Division (abstract property);

Parcel VI: Lot 9, Block 108, Portland Division of Duluth (abstract property);

Parcel VII: Lots 10 and 11, Block 108, Portland Division of Duluth, except minerals (abstract property);

Parcel VIII: South ten feet of the south 40 feet of the north 90 feet of Lots 14, 15 and 16, Block 108, Portland Division of Duluth, and the southerly 40 feet of Lots 14, 15 and 16, Block 108, Portland Division of Duluth (abstract property);

Parcel IX: Northerly 50 feet of Lots 14, 15, and 16, Block 108, Portland Division of Duluth and northerly 30 feet of southerly 40 feet of northerly 90 feet of Lots 14, 15 and 16, Block 108, Portland Division of Duluth (abstract property).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: October 2, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 22, 2005
Approved August 22, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, August 29, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Absent: Councilor Stauber -- 1

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At this time, 5:03 p.m., the public hearing regarding the Cirrus business subsidy began.

Tom Cotruvo, business development manager, gave a overview of the nature of the Cirrus project expansion, noting: that the project would create more than 220 new jobs, the funding sources and expenditures and the time frame to meet all necessary deadlines.

Steve Overom, Duluth economic development authority's (DEDA) legal counsel, reviewed the legal aspects of the loan agreements.

Bill King, Cirrus Design, commented in detail on: the nature of this expansion; that the expansion should consist of quality buildings that require good soil conditions to build on and the rationale for the space needed.

At this time, 5:28 p.m., the public hearing was declared closed and the regular order of business was resumed.

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MOTIONS AND RESOLUTIONS

The following entitled resolution was read for the second time:

BY COUNCILOR GILBERT

05-0587 - RESOLUTION APPROVING A BUSINESS SUBSIDY DEVELOPMENT AGREEMENT AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AND DELIVER NECESSARY DOCUMENTS FOR THE CIRRUS DESIGN CORPORATION PROJECT.

Councilor Stewart noted that Cirrus is a great company and has done a lot for the community, but that he would not be supporting any of the resolutions on the agenda because: there was a large volume of materials received last Friday and again tonight; with a limited amount of time the council is being asked to make multi-million dollar decisions; he does not favor the use of tax abatement and relying on the hope of a \$900,000 grant is uncertain.

Resolution 05-0587 was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, based upon the circumstances set out in the statement of purpose, the business subsidy created in this development agreement, on file in the office of the city clerk as Public Document No. 05-0829-02, is approved, and the proper city officials are authorized to execute and implement the documents determined by this city attorney to be necessary to carry it out, but such authorization being conditional upon the completion of the following events:

(a) Cirrus Design, or its designee, has entered into a lease(s) for the site(s) of the project that contain terms and provisions acceptable to the DAA; and

(b) The proper city officials authorized to execute and implement the documents referenced above are hereby empowered to approve nonsubstantial changes to the terms of the documents to be executed; and

(c) All requirements of law, including public hearings, have been complied with.

Resolution 05-0587 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stover and President Ness -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Stauber -- 1

Approved August 29, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR GILBERT:

BE IT RESOLVED, based upon the circumstances set out in the statement of purpose, that the proper city officials are authorized to enter into the following:

(a) A Duluth recovery loan program (DRLP) loan in the amount up to \$622,000 is hereby approved subject to the terms and provisions of the 1200 Fund DRLP resolution, on file in the office of the city clerk as Public Document No. 05-0829-03;

(b) A Minnesota investment fund (MIF) loan in the amount up to \$500,000 is hereby approved subject to the terms of the application for the MIF loan;

(c) DEDA is hereby authorized to administer the infrastructure grant on behalf of the city;

(d) The proper city officials are hereby authorized to execute and deliver such documents and certificates as legal counsel for the city considers necessary or appropriate to give effect to the transactions contemplated herein.

Resolution 05-0589 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stover and President Ness -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Stauber -- 1

Approved August 29, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Atkins moved to suspend the rules to consider Ordinance 05-041 at this time, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR ATKINS

05-041 - AN ORDINANCE AMENDING SECTION 5-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED; LICENSING OF ADULT BOOK STORES.

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

Dale Stewart, Jeanna Holiday, Shelly Bakke, supported the ordinance for reasons of: Lincoln Park has tried to improve the area in the last few years; they are not in favor of promoting this type of business in this area; there is a residential dwelling within 20 feet of this property, the current distance requirement is too vague as to how it is measured; the term "adult bookstore" is misleading because it allows for "viewing booths"; previous zoning amendments lead to several areas that would allow for this type of business, therefore this distance change is needed; and there are several daycare centers, Duluth Art Institute's youth programs and an under-18 dance club in the area that should not be exposed to this type of business.

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Resolution 05-0599, by Councilor Gilbert, authorizing skywalk agreement with Greysolon Apartments Limited Partnership pertaining to the Greysolon Plaza property, was introduced for discussion.

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

Dave Barschdorf expressed concern that taxpayers should not have to pay for skywalks that could be paid for by the hospital that is receiving the benefits and that hospitals should also pay property taxes.

William Burns, counsel for the developer, and George Sherman, developer, responded to many councilor questions.

Council Stover felt that there is more substantial benefit to the private developer than the public and could not support this resolution.

Councilor Stewart expressed a concern over the restricted hours that are proposed for businesses that are being asked for an easement through their buildings without any benefits to those businesses.

Councilor Reinert moved to amend the resolution's agreement, Section 6.4, to delete the phrase "6:00 A.M. to 12:00 Midnight" and replace it with the phrase "(to be negotiated)," which motion was seconded and carried upon a unanimous vote.

Resolution 05-0599, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers 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. 05-0829-04, with Greysolon Apartments Limited Partnership for the extension of the Downtown skywalk system through the Greysolon Plaza property.

Resolution 05-0599, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert and President Ness -- 6

Nays: Councilors Stewart and Stover -- 2

Absent: Councilor Stauber -- 1

Approved August 29, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers 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. 05-0829-01, with Duluth Grand LLC for the extension of the Downtown skywalk system through the Sheraton Duluth Hotel property.

Resolution 05-0600 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stover and President Ness -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Stauber -- 1

Approved August 29, 2005

HERB W. BERGSON, Mayor

RESOLUTION TABLED

Councilor Stewart moved to remove Resolution 05-0522, awarding contract to Oscar J. Boldt Construction for construction of medical district parking ramp and skywalks in the amount of \$11,548,400, from the table, which motion was seconded and unanimously carried.

Administrative Assistant Winson reported that unused tax increment financing (TIF) funds will be used to finance the additional bonding that may need to be done to financially cover the cost of the ramp construction.

Resolution 05-0522 was adopted as follows:

BY COUNCILOR STEWART:

RESOLVED, that Oscar J. Boldt Construction be and hereby is awarded a contract for construction of East First Street Medical District parking ramp facility and related skywalks for the architect division in accordance with specifications on its low specification bid of \$11,548,400, terms net 30, FOB job site, payable out of Medical District Expansion Fund 435 and Department/Agency 030, Object 5520 (Project Number OT-0422).

Resolution 05-0522 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stover and President Ness -- 7

Nays: Councilor Stewart -- 1

Absent: Councilor Stauber -- 1

Approved August 29, 2005

HERB W. BERGSON, Mayor

The meeting was adjourned at 7:34 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 12, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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The minutes of the city council meetings held on June 20, 27, July 7, 11 and 25, 2005, were unanimously approved.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0912-22 Michael J. and Mary E. Ewing submitting petition to vacate Boone Street running from 79th Avenue East to Highway 61 right-of-way. -- Assessor

05-0912-01 Gary Milk House/Jim Shelton concurrent use permit application to install three conduits under Dickson Street. -- Planning commission

05-0912-02 Frank Stokes, et al. (12 signatures), submitting remonstrance petition to construct 1,360 lineal feet of low pressure sanitary sewer within West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly. -- Assessor

05-0912-03 Linda Trottier, et al. (four signatures), submitting petition to construct a watermain in Lawn Street from Portal Avenue to approximately 383 feet east of center line of Portal Avenue. -- Assessor

05-0912-04 Aquila, Inc., submitting acceptance of terms, conditions and provisions of Ordinance 9733, approved on July 11, 2005, granting Aquila, Inc., its successors and assigns, the right to transport, distribute and sell gas in a portion of Duluth and to use the streets, avenues and alleys for that purpose. -- Received

05-0912-21 Betty Gordon submitting communication use of the foghorn (05-0597R). -- Received

05-0912-05 Mary Margaret David (supported by nine signatures) submitting appeal of the planning commission's approval of a water resources ordinance variance request at 422 South 19th Avenue East (Joe Kleiman). -- Committee 2 (Planning and economic development)

05-0912-06 The following submitting communications regarding proposed designation of a portion of Mississippi Avenue as a residential permit parking zone (05-0617R): (a) Gordon R. and Joyce A. Fon; (b) Dairlyn Gower. -- Received

05-0912-23 The following submitting communications regarding the proposed Sugarloaf Enterprises, LLC, reclassification of property (05-037-O): (a) Alison Clarke; (b) Susan Cook; (c) Jill Jacoby; (d) Sally Ann Keyes; (e) Timothy S. LaMaster; (f) Renee' Lindberg; (g) Peggy Marrin; (h) Laurie DeGrio Mattson; (i) Nancy Nelson; (j) Wendy Sjoblom; (k) Joe Thorne. -- Received

05-0912-25 The following submitting communications regarding the proposed 2006 budget and levy (05-0604R and 05-0605R): (a) Daryl Blazier; (b) Bill and Brenda Doup; (c) J.A. Esson. -- Received

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REPORTS OF OFFICERS

05-0912-24 Mayor Bergson submitting: (a) 2006 budget; (b) 2006 budget address. -- Received

05-0912-07 Assessor submitting letters of sufficiency to:
(a) Construct a watermain at 1504 Osage Avenue;
(b) Reclassify from R to C-5 Lots 14, 15 and 16, Block 31, Duluth Heights, Sixth Division. -- Received

05-0912-08 Building official submitting appeal of the board of zoning appeals denial of a variance for the construction of a detached garage at 4101 East Superior Street (Travis and Melissa Bumgardner). -- Committee 2 (Planning and economic development)

05-0912-09 Clerk submitting application to the Minnesota gambling control board for exemption from lawful gambling license from Duluth Art Institute Association on November 6, 2005 (raffle). -- Received

05-0912-10 Community development division manager submitting 2006 CDBG funding requests. -- Received

05-0912-11 Treasurer submitting annual report of all gifts received by the city for \$5,000 or less during the period of August 1, 2004, through July 31, 2005, pursuant to Resolution 97-0954. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0912-12 Board of zoning appeals minutes of: (a) July 12; (b) July 26, 2005, meetings. -- Received

05-0912-13 Building appeal board minutes of July 13, 2005, meeting. -- Received

05-0912-14 Duluth airport authority: (a) Minutes of: (1) July 19; (2) August 2, 2005, meetings; (b) Unaudited balance sheet for June 30, 2005. -- Received

05-0912-15 Duluth state convention center administrative board minutes of July 26, 2005, meeting. -- Received

05-0912-16 Duluth transit authority income statement for month of April, 2005. -- Received

05-0912-17 Environmental advisory council minutes of: (a) April 6; (b) May 4; (c) June 1; (d) July 6, 2005, meetings. -- Received

05-0912-18 Heritage preservation commission minutes of: (a) March 22; (b) April 26; (c) May 24; (d) June 28, 2005, meetings. -- Received

05-0912-19 Parking commission: (a) Minutes of July 12, 2005, meeting; (b) Report on parking meters in the Downtown area. -- Received

05-0912-38 Planning commission minutes of August 9, 2005, meeting. -- Received

05-0912-20 Spirit Mountain recreation area authority minutes of: (a) November 8; (b) December 13, 2004; (c) January 10; (d) February 7; (e) March 14; (f) April 20; (g) May 16; (h) June 16, 2005, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Kim McKay stated that the city's human rights office is needed in Duluth as it is getting to be a bigger problem every day.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

Councilor Atkins moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to the requirements of Minnesota Statutes, Section 275.065, subdivision 6, the city council hereby sets the following date and time for the public hearing to review the city's final budget of 2006 and final city property tax levy for taxes payable in 2006: December 5, 2005, at 7:00 p.m. in the Duluth City Council Chamber.

Resolution 05-0603 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2006 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,316,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,316,900.

Resolution 05-0606 was unanimously adopted.
Approved September 12, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2006, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

George's Liquor, Inc. (George's Liquor), 1340 Arrowhead Road, with Thomas George, president and 100 shares and Christine George, vice president and 100 shares, transferred from Thomas George (George's Liquor), same address.

Resolution 05-0552 was unanimously adopted.
Approved September 12, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, Muskies, Inc. - Lake Superior Chapter and Duluth Ducks Unlimited have applied to the Minnesota gambling control board for a lawful gambling exemption (raffle); and

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

WHEREAS, the city council approves of the exemption applications and wishes to waive the 60 day waiting period.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Muskies, Inc. - Lake Superior Chapter and Duluth Ducks Unlimited and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 05-0564 was unanimously adopted.
Approved September 12, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with SJA Architects for the sum of not to exceed \$97,940, from Capital Fund 450, Agency 030, Object 5520, Project CP 2004-C409, for providing certain architectural and engineering services to the city of Duluth in connection with police station addition at City Center West, 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. 05-0912-26.

Resolution 05-0594 was unanimously adopted.
Approved September 12, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Ziegler, Inc., be and hereby is awarded a contract for furnishing and delivering grader blades for the fleet division in accordance with specifications on its low specification bid for a total of \$35,299.43, terms net 30, FOB destination, payable out of Fleet Fund 660, Department/Agency 015, Object 5221.

Resolution 05-0613 was unanimously adopted.
Approved September 12, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 alcohol, gambling and tobacco commission; and

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

NOW, THEREFORE, BY 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.

Licensee	Gambling site
Multiple Sclerosis Society	Club Saratoga, 331 Canal Park Drive
Duluth Curling Club	Baja Billy's, 600 East Superior Street
Lester Park Hockey Association	O'Gilby's, 511 East Fourth Street
Duluth Softball Players Association	Rustic Bar, 401 North Central Avenue
American Red Cross, Northland Chapter	Curly's Bar, 2015 West Superior Street

Resolution 05-0614 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

RESOLVED, that the city is hereby authorized to execute a medical claim audit engagement letter (Public Document No. 05-0912-27) with Mercer Human Resources Consulting to perform a medical claims audit of Blue Cross and Blue Shield of Minnesota for an amount not to exceed \$11,000, which shall be paid from the group health fund.

Resolution 05-0615 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license subject to departmental approvals:

Lakeside/Lester Park Business Association (Lester River Festival), Lester Park, for September 24, 2005, with Rita Walker, manager.

Resolution 05-0629 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson of Jean Mattson (basic unit) and Bob Troolin (at large) to the deferred compensation plan commission for terms expiring on December 31, 2006 and 2009, respectively, replacing James Anderson, who resigned, and Jean Mattson, are confirmed.

Resolution 05-0610 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, pursuant to the Laws of Minnesota, 1967, Chapter 374, a Senior Service America,

Inc. (or SSAI), grant in the amount of \$218,907 for the period of July 1, 2005, through June 30, 2006. Program funds will be accepted upon receipt of notices of funds available. A copy of this agreement and budget shall be on file in the city clerk's office as Public Document No. 05-0912-28. Monies received shall be deposited in Fund 270, Budget Item 6330.

Resolution 05-0588 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending Sections 2, 3, 5, 7, 18, 19, 21, 25, 36 and 60(A) of the City Charter; and

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendment to the City Charter is hereby called for September 26, 2005, at 7:30 p.m., in the council chamber at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News-Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on September 26, 2005, at 7:30 p.m., in the city council chamber 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 2, 3, 5, 7, 18, 19, 21, 25, 36 and 60(A) of the City Charter in the manner hereinafter set forth:

[text of proposed Ordinance No. 05-040-O]

Resolution 05-0592 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract containing substantially the terms of that contract on file with the city clerk as Public Document No. 05-0912-29, between the city and Van Iwaarden Associates for actuarial services related to retiree benefits; payment for such services will be paid out of Fund 630, Agency 036, Organization 1650, Object 5441.

Resolution 05-0611 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, it appears that it may be necessary to construct a water main within Osage Avenue from Page Street to 410 feet north of the center line of Page Street.

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 05-0586 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth are hereby authorized to accept a grant in the amount of up to \$274,405 from the Minnesota state transportation fund for the rehabilitation of Bridge No. L6122 over Chester Creek on Superior Street, S.P. 118-147-018, affirm that any rehabilitation costs which qualify for Minnesota state transportation funds in excess of the grant will be appropriated from funds available to the city of Duluth, and affirm that any grant monies appropriated for the rehabilitation costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

RESOLVED FURTHER, grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Object 5530; Project Number 0164TR.

Resolution 05-0593 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Rice Lake Construction Group be and hereby is awarded a contract for construction of one pump station and one 300,000 gallon cast-in-place concrete sanitary sewer overflow (SSO) including related piping and controls at 60th Avenue East for the engineering division in accordance with specifications on its low specification bid of \$1,839,000, terms net 30, FOB job sites, payable out of Sewer Construction Bond Fund 0531, Department/Agency 500, Object 5532, City Project #0431SN.

Resolution 05-0596 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to accept the donation of an easement for right-of-way and utility purposes substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0912-30 from Lynne Sapp, Jon and Kathleen Randa, Eric and Nichole Lange and Benjamin and Janelle Starstead (donors), at no cost to the city.

Resolution 05-0609 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC, be and hereby is awarded a contract for construction of Helberg Drive from Garfield Avenue to Port Terminal Drive for the engineering division in accordance with specifications on its low specification bid of \$2,945,496.49, terms net 30, FOB job site, payable out of Permanent Improvement Program Fund 0411, Department/Agency 035, Object 5530, Project PI0103TR.

Resolution 05-0612 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Apex Mechanical be and hereby is awarded a contract for construction of Fourth Street culvert repairs (Oregon Creek emergency storm repair) for the engineering division in accordance with specifications for \$180,094, terms net 30, FOB job site, payable out of Stormwater Fund 0535, Department/Agency 500, Object 5533, Project

#0510ST, Organization 1905.

Resolution 05-0619 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

It appears that it may be necessary to construct a watermain in Lawn Street from Portal Avenue to approximately 383 feet east of the center line of Portal Avenue.

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 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 05-0620 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

By resolution of intent numbered 05-0586, the council did request the administration to prepare plans and specifications for the construction of a watermain within Osage Avenue from Page Street to 410 feet north of the center line of Page Street, at an estimated cost of \$57,000.

Said plans and specifications have been prepared and filed with the secretary of the special assessment board.

All persons affected by the proposed improvement or assessment have executed waiver agreements waiving their rights to a public hearing before the special assessment board and mailed notice thereof, to the report of said board to the Council recommending the improvement and their right to file a remonstrance petition against the project, all under Section 62 of the Duluth City Charter and Sections 45-79 and 45-80 of the Duluth City Code, 1959, as amended and have requested that the Council immediately determine to make the subject improvements.

That said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$57,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0527WA, and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted; 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.

BE IT 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 05-0621 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to enter into an agreement with St. Louis County, Minnesota, communications department, providing for 911 information management in accordance with national crime information center rules and regulations; said agreement to be substantially in the form of Public Document No. 05-0912-31 on file in the office of the city clerk.

Resolution 05-0595 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the city council having authorized the city to apply for a grant

from the Minnesota department of public safety by Resolution 05-0314, now authorizes the proper city officials to execute any documents required to be executed to accept such grant in the amount of \$200,000; such funds to be deposited in Fund 215, Agency 2000, Organization 2266, Revenue Source 4220-02.

Resolution 05-0602 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 on both sides of the following street: Anderson Road between Chambersburg Avenue and Trinity Road.

Resolution 05-0618 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a contract, containing substantially the provisions of that one on file with the city clerk as Public Document No. 05-0912-32, between the city and the law firm of Reyelts, Leighton, Bateman, Hylden and Sturdevant, Ltd., for services in the case of *Roger J. Waller v. City of Duluth, Minnesota, State Farm Mutual Automobile Insurance Company*; not to exceed \$10,000; payment from Self Insurance Fund 605-036-1651-5304.

Resolution 05-0622 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, the Charter commission has recommended to the city council that it adopt an ordinance amending Section 102 of the City Charter; and

WHEREAS, said Section 410.12, subd. 7, requires that before the council, upon recommendation of the Charter commission, may adopt an ordinance amending the Charter, it must first hold a public hearing on the matter upon two weeks published notice of the text of the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that a public hearing on the proposed amendment to the City Charter is hereby called for September 26, 2005, at 7:30 p.m., in the council chamber at the Duluth City Hall, and the city clerk is hereby authorized and directed to cause to be published in the Duluth News Tribune a notice of such hearing, as required by law, and the full text of the proposed ordinance, said notice of hearing to be in the following form:

NOTICE OF HEARING

Pursuant to Minnesota Statutes Annotated, Section 410.12, subd. 7, notice is hereby given by the city of Duluth that on September 26, 2005, at 7:30 p.m., in the city council chamber 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 Section 102 of the City Charter in the manner hereinafter set forth:

[text of proposed Ordinance No. 05-039-O]

Resolution 05-0591 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

WHEREAS, the city has applied, on behalf of the Sweetwater Alliance, for a coastal

program grant to be used solely for design activities as part of the living water garden project at Bayfront Park; and

WHEREAS, the Minnesota coastal program has approved a matching grant in the amount of \$58,179.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officers are authorized and directed to execute the grant agreement filed as Public Document No. 05-0912-33, between the city of Duluth and the state of Minnesota, which awards the city a matching grant in the amount of \$58,179 to be used for the design of the living water garden project, said grant funds to be deposited into Fund 0210-030-3159-4210-02.

Resolution 05-0601 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

Resolution 05-0604, setting a proposed budget for the fiscal year 2006; and Resolution 05-0605, proposing the sum to be raised by taxation for general purposes for the year 2006, by Councilor Stauber, were introduced for discussion.

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

David Ross, representing the Duluth Area Chamber of Commerce, stated that this is a difficult time for the city's budget, and the city needs to look for additional revenue and ways for more efficiency in government. He continued by saying that the 2006 budget document was only distributed to department heads and councilors last Thursday and that there has not been enough time for others to go through the document. Mr. Ross requested the council not to vote on the levy tonight to allow the community to review the document and allow feedback from the business community along with other organizations.

City Attorney Brown reviewed the deadline to have the maximum levy delivered to the St. Louis County auditor's office is September 15.

Bob Hanson expressed concern about the retiree health care budget as a line item in the budget, worried about the overtime and urged the council to eliminate nonessential spending. He requested to know what was cut from the budget this year.

Councilor Gilbert stated that there has not been enough time for the councilors to review the budget levy and expressed concern about funding public safety. He continued by saying that the city needs to be proactive and increase the levy to cover an increase of staffing for the fire department, which will reduce the overtime. Councilor Gilbert stated he wanted to increase the budget by \$150,000 so there would be a total of 11.5 percent levy increase.

Councilor Stauber voiced concern about the hiring freeze and the amount of overtime that the city has to pay, which the state auditor considers to be out of control.

Councilor Johnson stated she has received lots of communications from the public requesting funds to provide services to Duluthians, such as the need for more police officers on the street. She continued by saying that the city needs a responsible levy that will maintain and retain quality employees, and also increase the level of employees as overtime has become a critical problem because the city is down so many employees.

Councilor Stewart stated that the council needs to make a stand and be willing to say public safety in the community is a priority, and also be willing to fund that priority by finding new revenue sources and/or cutting other services.

Councilor Little stated that the city needs to raise the tax base by creating more jobs, promote Duluth's job market and use revenue for public safety. He continued by saying that it is a huge burden for seniors on fixed incomes to have a tax increase and the city needs to start taking some responsibility before raising taxes.

To reflect the 11.5 percent proposed increase for public safety, Councilor Gilbert moved to amend Resolution 05-0605 as follows:

(a) In the second paragraph, delete the amount of "\$11,638,200" and replace it with "\$11,964,396";

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

(b) In the third paragraph, delete the amount of "\$7,243,300" and replace it with "\$7,569,496,"

which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Little and Stauber -- 3

To reflect the 11.5 percent proposed increase for public safety, Councilor Johnson moved to amend Resolution 05-0604 as follows:

(a) In the fifth line of the table, total fire, delete the amount of "\$15,941,700" and replace it with "\$16,104,798";

(b) In the sixth line of the table, total police, delete the amount of "\$15,006,800" and replace it with "\$15,169,898";

(c) In the 11th line of the table, general fund total, delete the amount of "\$75,189,500" and replace it with "\$75,515,696,"

which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Little and Stauber -- 3

Resolution 05-0604, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

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, 2006.

GENERAL		
010	Total legislative and executive	2,222,500
015	Total administrative services	7,537,000
020	Total planning and development	587,500
030	Total finance	2,802,900
100	Total fire	16,104,798
200	Total police	15,169,898
300	Total library	4,063,500
400	Total parks and recreation	2,564,200
500	Total public works	9,645,700
700	Total transfers	14,817,700
100	General fund total	75,515,696
PUBLIC ENTERPRISE		
503	Golf fund - total	2,098,700
510	Water fund - total	12,992,300
520	Gas fund - total	54,529,000
530	Sewer fund - total	17,185,200
535	Stormwater fund - total	4,561,400

540	Steam fund - total	4,492,600
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Resolution 05-0604, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 06-0605, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2006 for general operations is hereby determined to be the sum of \$11,964,396 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$7,569,496.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$3,899,900.

Section 4. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$495,000.

Resolution 05-0605, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

Approved September 12, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0607, by Councilor Stauber, proposing the sum to be raised by taxation for the special taxing district, Seaway Port authority, for the year 2006, was introduced for discussion.

Resolution 05-0607 failed upon the following vote (Public Document No. 05-0912-34):

Yeas: Councilors Gilbert, Johnson, Stover and President Ness -- 4

Nays: Councilors Atkins, Little, Reinert, Stewart and Stauber -- 5

[Editor's Note: This resolution was reconsidered and adopted at the September 26, 2005, council meeting.]

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Resolution 05-0608, by Councilor Stauber, resolution proposing the sum to be raised by taxation for the special taxing district, housing and redevelopment authority, for the year 2006., was introduced for discussion.

Resolution 05-0608 failed upon the following vote (Public Document No. 05-0912-35):

Yeas: Councilors Gilbert, Johnson, Stover and President Ness -- 4

Nays: Councilors Atkins, Little, Reinert, Stewart and Stauber -- 5

[Editor's Note: This resolution was reconsidered and adopted at the September 26, 2005, council meeting.]

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The rules were suspended upon a unanimous vote to hear from a speaker on Resolution 05-0608.

Rick Ball, representing the housing and redevelopment authority (HRA), stated that this would be the same tax as the previous year and that this levy amount is needed for critical resources.

President Ness asked the councilors on the prevailing side if any of them would like to

reconsider the resolution. No one responded and the regular order of business was continued.

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At this time, 8:30 p.m., President Ness called the public hearing regarding the UMD resident permit parking zone amendment to order.

Administrative Assistant Winson reviewed the reason for the public hearing.

No one appeared who wished to be heard and the regular order of business was resumed at 8:32 p.m.

- - -

Resolutions 05-0582 and 05-0583, by Council Gilbert, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a variance to reduce the minimum front yard setback from 25 feet to 20 feet and to exceed the allowance for projections into a front yard with a stairway at five feet from the property line for the construction of a two family dwelling on property located at 3129 Minnesota Avenue (Marick Development, Inc., by Daniel Maddy), were introduced for discussion.

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

Dan Maddy, representing the applicant, reviewed that this application meets the requirements of the variance.

Rick Heid reviewed that surrounding houses already have the setbacks that the applicant is requesting.

Councilor Stewart urged the council to affirm the decision of the board of zoning appeals (BZA) to deny this variance, as this is not a hardship, and it will help prevent a continual increase in dwelling size on Park Point as the neighborhood is already dense with the cumulative effect of one change at a time.

Councilor Stauber moved to amend the first paragraph of Resolution 05-0583, by deleting the remainder of the paragraph after the phrase "variance request and that the city council" and adding the language "makes the following findings:

(a) The owner's proposed use of the property is reasonable. Two-family dwellings are specifically permitted in the one-family dwelling district;

(b) The rules relating to the development of two-family dwellings specifically include design protections unique to two-family dwellings for the specific purpose of assuring that their character will be consistent with the surrounding neighborhood;

(c) These restrictions include a requirement that a two-family dwelling must be at least 300 feet from any other two-family dwelling in the same block and that there may only be one two-family dwelling within a block containing an area of 120,000 square feet or less;

(d) In addition, the property is subject to the Water Resource Management Ordinance (WRMO). The WRMO also imposes design protections limiting the scale of improvements. These include a restriction setting the maximum amount of area that may be covered by impervious surface at 30 percent - thereby limiting the size and scale of improvements;

(e) The requested variances will not result in development that is inconsistent with other properties in the neighborhood. The size and scope of the two-family dwelling are in line with many new developments on Park Point. Park Point is also replete with homes lying well within the front yard setback. The best example is the property's neighbor at 3123, which projects 23.5 feet into the 25 feet front yard setback. In fact, the proposed use is more in character with the surrounding neighborhood and more in compliance with applicable zoning requirements than the existing house and garage;

(f) The owner has a substantial property right to develop the property for a use permitted by the zoning code in a reasonable fashion which does not negatively impact the surrounding neighborhood;

(g) The property is subject to unique circumstances;

(h) Variances relating to the front yard are necessary to accommodate the need for the two-family dwelling to be set back at least 50 feet from the ordinary high water mark;

(i) The 50 feet requirement applies to the property even though owner's lots extend substantially beyond the ordinary high water mark;

(j) The property lies in an area where the Duluth harbor line moves in and out dramatically;

(k) 3123 is not nearly as deep as the property and the property immediately southeast along Minnesota Avenue narrows significantly to the property;

(l) The property northeast of 3123 juts significantly farther in to the Duluth Harbor. Although the result is a setback line from the high water mark which varies greatly within this immediate vicinity, owner desires to meet the high water mark setback of 50 feet;

(m) The owner's proposed two-family dwelling will not alter the essential character of the neighborhood;

(n) The proposed use will not result in problems of fire safety, street congestion, loss of view or otherwise reduce the value of nearby properties;

(o) As noted above, the development of two-family dwellings in the one-family dwelling district is subject to special design protections intended to protect the character of the neighborhood;

(p) The design will result in one additional dwelling and does not present any fire safety issues;

(q) The proposed use will not result in any material increase in traffic or street congestion along Minnesota Avenue;

(r) The proposed use will not result in any loss of view that would not occur with the development of any other structure centered within the property;

(s) The proposed development will replace buildings that are in somewhat disrepair with a new building, and this reinvestment in the property should enhance and not detract from the value of nearby properties," which motion was seconded and unanimously carried.

Resolution 05-0583, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, the city council has heard the appeal of Marick Development, Inc., of the decision of the board of zoning appeals denying applicants' variance request and that the city council makes the following findings:

(a) The owner's proposed use of the property is reasonable. Two-family dwellings are specifically permitted in the one-family dwelling district;

(b) The rules relating to the development of two-family dwellings specifically include design protections unique to two-family dwellings for the specific purpose of assuring that their character will be consistent with the surrounding neighborhood;

(c) These restrictions include a requirement that a two-family dwelling must be at least 300 feet from any other two-family dwelling in the same block and that there may only be one two-family dwelling within a block containing an area of 120,000 square feet or less;

(d) In addition, the property is subject to the Water Resource Management Ordinance (WRMO). The WRMO also imposes design protections limiting the scale of improvements. These include a restriction setting the maximum amount of area that may be covered by impervious surface at 30 percent - thereby limiting the size and scale of improvements;

(e) The requested variances will not result in development that is inconsistent with other properties in the neighborhood. The size and scope of the two-family dwelling are in line with many new developments on Park Point. Park Point is also replete with homes lying well within the front yard setback. The best example is the property's neighbor at 3123, which projects 23.5 feet into the 25 feet front yard setback. In fact, the proposed use is more in character with the surrounding neighborhood and more in compliance with applicable zoning requirements than the existing house and garage;

(f) The owner has a substantial property right to develop the property for a use permitted by the zoning code in a reasonable fashion which does not negatively impact the surrounding neighborhood;

(g) The property is subject to unique circumstances;

(h) Variances relating to the front yard are necessary to accommodate the need for the two-family dwelling to be set back at least 50 feet from the ordinary high water mark;

(i) The 50 feet requirement applies to the property even though owner's lots extend substantially beyond the ordinary high water mark;

(j) The property lies in an area where the Duluth harbor line moves in and out dramatically;

(k) 3123 is not nearly as deep as the property and the property immediately southeast along Minnesota Avenue narrows significantly to the property;

(l) The property northeast of 3123 juts significantly farther in to the Duluth Harbor. Although the result is a setback line from the high water mark which varies greatly within this immediate vicinity, owner desires to meet the high water mark setback of 50 feet;

(m) The owner's proposed two-family dwelling will not alter the essential character of the neighborhood;

(n) The proposed use will not result in problems of fire safety, street congestion, loss of view or otherwise reduce the value of nearby properties;

(o) As noted above, the development of two-family dwellings in the one-family dwelling district is subject to special design protections intended to protect the character of the neighborhood;

(p) The design will result in one additional dwelling and does not present any fire safety issues;

(q) The proposed use will not result in any material increase in traffic or street congestion along Minnesota Avenue;

(r) The proposed use will not result in any loss of view that would not occur with the development of any other structure centered within the property;

(s) The proposed development will replace buildings that are in somewhat disrepair with a new building, and this reinvestment in the property should enhance and not detract from the value of nearby properties.

BE IT FURTHER RESOLVED, by the city of Duluth that the board of zoning appeals' decision of July 26, 2005, is hereby reversed by the city council and the variance request is granted.

Resolution 05-0583, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Little, Stauber and President Ness -- 5

Nays: Councilors Gilbert, Reinert, Stewart and Stover -- 4

Approved September 12, 2005

HERB W. BERGSON, Mayor

Resolution 05-0582 failed upon the following vote (Public Document No. 05-0912-36):

Yeas: Councilors Gilbert, Reinert, Stewart and Stover -- 4

Nays: Councilors Atkins, Johnson, Little, Stauber and President Ness -- 5

At this time, 8:50 p.m., Councilor Gilbert left his seat.

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to pay to Gordon Ramsay the sum of \$12,473.21 in full and final settlement of the claim which arose out of a sewer backup due to a break in the municipal sanitary sewer line; payment to be made from Self Insurance Fund 610, Agency 036, Organization 1653, Object 5841.

Resolution 05-0590 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

Resolution 05-0597, by Councilor Stover, authorizing request to discontinue operation of foghorn as a private aid to navigation, was introduced for discussion.

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

Betty Gordon urged support of the resolution as the sound of the foghorn is very disruptive and causes stress to her health.

John Ringsred reviewed how Duluth got the foghorn and stated that it is the only one in the country. He continued by saying that it is very important to have the foghorn here and there has not been any breakdown in the equipment.

Ken Steil stated that the decibel level is too high on the foghorn and it would be a cost savings to the city to get rid of the horn.

Councilor Atkins moved to table the resolution, which motion failed for lack of a second.

Resolution 05-0597 failed upon the following vote (Public Document No. 05-0912-37):

Yeas: Councilors Little and Stover -- 2

Nays: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stewart and President Ness -- 7

BY COUNCILOR LITTLE:

The city council makes the following findings:

By Resolution 89-0885, adopted on October 30, 1989, the city council designated portions of certain streets in the vicinity of the University of Minnesota-Duluth as resident permit parking zones pursuant to Section 33-125 of the Duluth City Code; and

The residents of adjoining streets (Buffalo Street between Brainerd Avenue and Mississippi Avenue, and Mississippi Avenue between College Street and Brainerd Avenue) have submitted a petition requesting to be included in this zone; and

After review of the matter, the city of Duluth parking commission has determined that the addition of such street segment to the resident permit parking zone is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that Resolution 89-0885 is hereby amended by designating the parking areas on both sides of Buffalo Street between Brainerd Avenue and Mississippi Avenue and on both sides of Mississippi Avenue between College Street and Brainerd Avenue as part of the resident permit parking zone be established by such resolution.

Resolution 05-0617 was unanimously adopted.

Approved September 12, 2005

HERB W. BERGSON, Mayor

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY PRESIDENT NESS

05-040 - AN ORDINANCE AMENDING SECTIONS 2, 3, 5, 7, 18, 19, 21, 25, 36 AND 60(A) OF THE CITY CHARTER TO CHANGE THE TITLE OF THE ADMINISTRATIVE ASSISTANT TO CHIEF ADMINISTRATIVE OFFICER AND CHANGE THE RESIDENCY TO BE CONSISTENT WITH STATE LAW.

BY COUNCILOR REINERT

05-039 - AN ORDINANCE AMENDING THE CITY CHARTER TO COMPLY WITH STATE LAW PERTAINING TO ALCOHOLIC BEVERAGES.

The following entitled ordinances were read for the second time:

BY COUNCILOR STEWART

05-038 - AN ORDINANCE REGULATING ALIENATION OF REAL PROPERTY BY THE CITY.

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

BY COUNCILOR GILBERT

05-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAPS NO. 11, 13 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-A, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED ABOVE WEST SKYLINE PARKWAY, SOUTH OF WEST ARBUTUS DRIVE AND APPROXIMATELY 1,600 FEET EAST OF US HIGHWAY 2 (SUGARLOAF).

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

Nancy Nelson, representing Skyline Planning and Preservation Alliance, stated they do not support the proposed development for the reasons of: density would be too high for the land; there is only one access into this property from Skyline Parkway; connected actions as a result of the development such as building new streets and an additional housing development which would change the character of Skyline Parkway which is a tourist attraction.

Brian Fredrickson, Janet Draper, Renee Lindberg, Christine Penny, Amelie Lindberg-Livingston, Wendy Grethen and Terry Brown requested the council oppose the development for the following reasons: the development would destroy a small creek that flows into the lake; would create urban sprawl; the intersection of Skyline Parkway and Highway 2 is a dangerous intersection already without adding additional traffic from a new development; zoning should reflect planning and the future of Duluth; the city should wait for the comprehensive plan to finish; there will be a negative impact on the quality of life in the area; the city tree commission voted unanimously against the project; this project is too dense of a development for that scenic area and the proposed new taxes do not necessarily mean that city services can be supported and maintained with the new development.

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

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BY COUNCILOR ATKINS

05-041 (9743) - AN ORDINANCE AMENDING SECTION 5-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED; LICENSING OF ADULT BOOK STORES.

Councilor Atkins moved to amend the ordinance as follows:

(a) Add the following paragraph at the end of Section 1 of the ordinance:

"A licensee is in compliance with this Section 5-21, or its successor, if, on September 1, 2005, the licensee was in compliance with Section 5-21 as it existed at that time, and the licensee is the same person, and the business operating under the license has the same ownership and organization, as they were on September 1, 2005, and the licensed business has been in continuous operation, having regular hours of business and no interruptions in operation caused by license suspension, code violations, casualty or any other reason";

(b) In the current last paragraph of the ordinance, delete the word "building" and insert the word "thing," which motion was seconded for discussion.

Councilors Reinert and Stewart stated they could not support the amendment because First Street needs to be cleaned up and this would grandfather in existing problems.

Councilor Stewart moved to split the amendment into two parts.

Amendment (a), dealing with grandfathering in current licensees, failed upon the following vote:

Yeas: Councilors Atkins, Stover and President Ness -- 3

Nays: Councilors Johnson, Little, Reinert, Stauber and Stewart -- 5

Absent: Councilor Gilbert -- 1

Amendment (b), changing the word "building" to "thing," was approved upon a unanimous vote.

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

Yeas: Councilors Atkins, Johnson, Reinert, Stauber, Stewart and Stover -- 6

Nays: Councilor Little and President Ness -- 2

Absent: Councilor Gilbert -- 1

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BY COUNCILOR STOVER

05-036 (9744) - AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN PROPERTY IN CENTRAL HILLSIDE TO THE WOMEN'S TRANSITIONAL HOUSING COALITION, INC.

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

Alan Kehr stated it is not fair to give away valuable property that belongs to all of the citizens and this organization should pay for the land and let the free market determine the fair market price.

Maria Danz, Anna Defoe, Kim Nordin, Katie Piasecki and Michelle LeBeau urged the council to support the ordinance as the land is vacant and is full of litter from parties; the project will provide housing for low income residents; free conveyance of the property will allow the developer to keep the cost down and make it affordable housing for low income people and the council should be committed to keeping young professionals in the city.

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

Yeas: Councilors Atkins, Johnson, Reinert, Stover and President Ness -- 5

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilor Gilbert -- 1

BY COUNCILOR REINERT

05-028 (9745) - AN ORDINANCE PERTAINING TO THE PARKS AND RECREATION COMMISSION; AMENDING SECTION 2-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

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

ORDINANCE NO. 9743

BY COUNCILOR ATKINS:

AN ORDINANCE AMENDING SECTION 5-21 OF THE DULUTH CITY CODE, 1959, AS AMENDED; LICENSING OF ADULT BOOK STORES.

The city of Duluth does ordain:

Section 1. That Section 5-21 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 5-21. Licenses not to be issued in certain places.

No license for the ownership or operation of an adult book store shall be issued within the following areas:

(a) Within 600 feet of a church, school, public park or building in which programmed, scheduled or supervised educational activity, recreational activity, religious training, behavioral guidance/correction activity or personal guidance counseling is regularly provided to children 12 years of age or younger;

(b) Within 600 feet of a residential zone;

(c) In an area that is within or fronts on public skywalk;

(d) Within 400 feet of a pedestrian plaza.

For purposes of this Section, distance shall be measured from the center of the closest doorway giving ingress or egress to the adult book store along a straight line to the closest boundary of the property upon which is located the thing to which the measurement is made.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 23, 2005)

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

Yeas: Councilors Atkins, Johnson, Reinert, Stauber, Stewart and Stover -- 6

Nays: Councilor Little and President Ness -- 2
Absent: Councilor Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 12, 2005
Approved September 12, 2005
HERB W. BERGSON, Mayor

ORDINANCE NO. 9744

BY COUNCILOR STOVER:

AN ORDINANCE AUTHORIZING CONVEYANCE OF CERTAIN
PROPERTY IN CENTRAL HILLSIDE TO THE WOMEN'S
TRANSITIONAL HOUSING COALITION, INC.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey by quit claim deed the below-described property in St. Louis County, Minnesota, to Women's Transitional Housing Coalition, Inc., who will develop the property for low and moderate income housing, a public purpose, and to execute all documents necessary with regard to said conveyance:

Lot 8, West Fifth Street, Duluth Proper First Division.

Section 2. If, for any reason, Women's Transitional Housing Coalition, Inc., fails to develop the above described property for the public purpose, aforesaid stated, not later than September 30, 2007, title to said property shall revert back to the city.

Section 3. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: October 23, 2005)

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

Yeas: Councilors Atkins, Johnson, Reinert, Stover and President Ness -- 5

Nays: Councilors Little, Stauber and Stewart -- 3

Absent: Councilor Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 12, 2005
Approved September 12, 2005
HERB W. BERGSON, Mayor

ORDINANCE NO. 9745

BY COUNCILOR REINERT:

AN ORDINANCE PERTAINING TO THE PARKS AND
RECREATION COMMISSION; AMENDING SECTION 2-44 OF
THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-44 of the Duluth City Code, 1959, as amended, be 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, one member with formal education in recreation who is employed in that field, one member who is a member of, or recommended by, the commission on disabilities, 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 30 days after its passage and publication. (Effective date: October 23, 2005)

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

Yeas: Councilors Atkins, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: None -- 0

Absent: Councilor Gilbert -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 12, 2005
Approved September 12, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 19, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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MOTIONS AND RESOLUTIONS

BY COUNCILOR STEWART:

WHEREAS, on September 13, 2005, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election districts in the city have made their returns of said election and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 05-0919-01) at 7:00 p.m., September 19, 2005, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 2,333 cast votes, said votes having been cast in the following manner:

Councilor - Second District	
Greg Gilbert	480
Carinda Horton	295
Andrew "Drew" Sandquist	107
Councilor - Fourth District	
Neill A. Atkins	461
Jon L. Donahue	139
Garry Krause	849

NOW, THEREFORE, BE IT RESOLVED, that Greg Gilbert and Carinda Horton, having the two largest numbers of the votes cast at said election for councilor - second district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Neill A. Atkins and Garry Krause, having the two largest numbers of the votes cast at said election for councilor - fourth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 05-0630 was unanimously adopted.

Approved September 19, 2005

HERB W. BERGSON, Mayor

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The meeting was adjourned at 7:01 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 22, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Little, Reinert, Stauber, Stover and President Ness -- 6

Absent: Councilors Gilbert, Johnson and Stewart -- 3

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0922-01 The PFM Group submitting the following documents regarding sale of \$4,260,000 G.O. street improvement bonds, Series 2005D, and \$310,000 G.O. tax abatement bonds, Series 2005E:

- (a) Official statement;
- (b) Presale analysis. -- Received

- - -

MOTIONS AND RESOLUTIONS

Resolution 05-0633, providing for the issuance, sale and delivery of \$4,260,000 general obligation street improvement bonds, Series 2005D, of the city of Duluth, Minnesota; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof; and Resolution 05-0634, providing for the issuance, sale and delivery of \$310,000 general obligation tax abatement bonds, Series 2005E; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, by Councilor Stauber, were introduced for discussion.

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

Kathy Kardell, representing the PFM Group, explained the bids and recommended approval of the low bidders.

Resolutions 05-0633 and 05-0634 were adopted as follows:

BY COUNCILOR STAUBER:

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 Minnesota Statutes and the home rule charter of the City, the City is authorized to issue its general obligation street improvement 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 street improvements to certain streets, avenues and parkways set forth below (the "2005 Street Improvement Program"), as more fully described in reports filed with the city clerk by the special assessment board pursuant to and in accordance with Section 61(b) of the City Charter, and the council has determined to defray one-fourth or less of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost/CDBG Funds	Project Description
04-0192 04-0678	3/22/04 10/25/04	\$153,700	Duluth Heights Southeast 3
		163,715	Hunters Park
		319,655	Lincoln Park Central East
		158,025	Morgan Park 2
		248,438	Woodland South 2

C. The city council hereby determines to finance \$4,260,000, through the issuance of general obligation street improvement bonds, for payment of costs of the 2005 Street Improvement Program.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

1.02 Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$4,260,000 General Obligation Street Improvement Bonds, Series 2005D, to be dated as of the date of delivery as the date of original issue (the "Bonds") for financing the 2005 Street Improvement Program.

1.03 Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.04 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Cronin & Co., Inc. of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$4,253,400.60, 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 bid. 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 the date of delivery, 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 and shall bear interest as follows:

Year	Amount	Interest Rate
2007	\$200,000	3.500%
2008	225,000	3.500%
2009	230,000	3.500%
2010	235,000	3.500%
2011	250,000	3.750%
2012	255,000	3.750%
2013	270,000	4.000%
2014	280,000	4.000%
2015	290,000	4.000%
2016	305,000	4.000%
2017	315,000	4.000%
2018	330,000	4.000%
2019	345,000	4.100%
2020	355,000	4.125%
2021	375,000	4.250%

2.02 A. The Bonds maturing in the years 2007 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than

60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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

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the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

B. All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

C. Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION STREET IMPROVEMENT BOND, SERIES 2005D

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	_____, 2005	

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 the date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$4,260,000, 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 September 22, 2005 (the "Resolution"). The Bonds are issued for the purposes of financing a portion of the cost of local public improvements and are issued pursuant to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of Minnesota statutes, which obligations and interest thereon will be 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, as described in the Resolution.

The Bonds of this series maturing in the years 2007 through 2014 are not subject to redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, 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 Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be

given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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 manual or facsimile signatures of the mayor and the city clerk.

Attest:

(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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 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 \$4,209,855.71 into the 2005 street improvement account (the "2005 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 2005 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 for the Bonds shall be paid from the 2005 Street Account.

3.02 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 2005 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

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and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.03 A separate account within the special assessment debt service fund maintained by the City is hereby created and is designated the "2005 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 2005 Improvement Bond Account shall be paid from the proceeds of the Bonds capitalized interest in the amount of \$43,544.89, plus the amount of accrued interest on the Bonds, if any, all special assessments levied for the projects listed in Section 1.01 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 follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Special Assessment Revenue	Net Tax Levy
2005	2006	\$ 384,735	\$ 238,420	\$ 146,315
2006	2007	403,635	76,420	327,215
2007	2008	400,616	74,845	325,771
2008	2009	397,414	73,270	324,144
2009	2010	404,527	76,695	327,832
2010	2011	399,934	74,820	325,114
2011	2012	405,643	77,945	327,698
2012	2013	404,803	75,745	329,058
2013	2014	403,543	73,545	329,998
2014	2015	407,113	76,345	330,768
2015	2016	404,803	73,945	330,858
2016	2017	407,323	76,545	330,778
2017	2018	409,213	78,945	330,268
2018	2019	404,861	76,075	328,786
2019	2020	410,485	78,188	332,297

Said levies and the capitalized interest 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 shall 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 principal and interest payable in the ensuing year and shall 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 1.01 hereof and said taxes are hereby appropriated and shall be paid when collected into the 2005 Improvement Bond Account within the special assessment debt service fund. If the balance in the 2005 Improvement Bond Account is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from

any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the 2005 Improvement Bond Account when the balance therein is sufficient.

3.05 Proceeds of the Bonds on deposit in the 2005 Street Account and 2005 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 1996, 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 as Public Document No. 04-0219-02.

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 05-0633 was unanimously adopted.

Approved September 22, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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

Section 1. Bond Purpose and Authorization.

1.01 A. The City entered into a "Property Acquisition & Sales Agreement, Lakewalk Town Homes Development, Lakewalk Townhomes L.L.C." (the "Development Agreement") dated December 7, 2004, with the Duluth Economic Development Authority and Lakewalk Townhomes, L.L.C. (the "Developer"). Among the terms provided in the Development Agreement, the Developer agreed to grant the City an option to purchase land to extend the lakewalk near 23rd Avenue East to 25th Avenue East adjacent to Lake Superior. The land subject to such option is referred to as the "Developer Lakewalk Property" in the Development Agreement (the "Developer Lakewalk Property"). The Developer has granted the City an option to purchase the Developer Lakewalk Property pursuant to a "Lakewalk Property Option Agreement, Lakewalk Town Homes Development, Lakewalk Townhomes L.L.C.," dated December 21, 2004, between the Developer and the City.

B. The City desires to acquire the Developer Lakewalk Property for the extension of the City's lakewalk (the "Project").

C. Pursuant to Minnesota Statutes, Section 469.1812 through 469.1815 (the "Act"), the Council may grant an abatement of the taxes imposed by the City on parcels of property, subject to certain conditions set forth in the Act.

D. The City Council, pursuant to Resolution 05-0533R adopted August 8, 2005 (the "Abatement Resolution"), determined to utilize tax abatement from parcels described in the Abatement Resolution (the "Tax Abatement") to pay the debt service on the City's general obligation tax abatement bonds in the amount of \$310,000 to be issued pursuant to Minnesota Statutes, Section 469.1814 and Minnesota Statutes, Chapter 475, to pay for the acquisition of the Developer Lakewalk Property, capitalized interest and costs of issuance of the bonds (the "Bonds").

1.02 Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be

prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Bernardi Securities, Inc. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$306,280, 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 bid. 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 the date of delivery 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 and shall bear interest as follows:

Year	Amount	Interest Rate
2011	\$25,000	3.60%
2012	25,000	3.60%
2013	25,000	3.60%
2014	25,000	3.70%
2015	25,000	3.80%
2016	30,000	3.90%
2017	30,000	4.00%
2019	60,000	4.15%
2021	65,000	4.30%

B. The Bonds maturing on February 1 in the years 2019 and 2021 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, 2019 (the "2019 Term Bonds"):

Year	Principal Amount
2018	\$30,000

The remaining \$30,000 stated principal amount of the 2019 Term Bond shall be paid at maturity on February 1, 2019.

(2) For Bonds maturing on February 1, 2021 (the "2021 Term Bonds"):

Year	Principal Amount
2020	\$30,000

The remaining \$35,000 stated principal amount of the 2021 Term Bond shall be paid at maturity on February 1, 2021.

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.

C. For purposes of complying with the provisions of Section 475.54 of the Act, the principal maturities of the Bonds are combined with the principal maturities of the City's \$4,260,000 General Obligation Street Improvement Bonds, Series 2005D.

2.02 A. The Bonds maturing in the years 2011 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01B, in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

B. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

C. If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing February 1, 2006. 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 3, 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the City clerk as Public Document No. 04-0219-02. 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 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.

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

R-_____ \$_____

CITY OF DULUTH
GENERAL OBLIGATION TAX ABATEMENT BOND, SERIES 2005E

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____		

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 the date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on February 1, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$310,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Section 469.1814, and all other laws and home rule charter provisions of the City thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on September 22, 2005 (the "Resolution"), for the purpose of financing acquisition of property for the extension of the City's lakewalk and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable in part from property taxes

which have been abated, as set forth in City Council Resolution No. 05-0533R adopted August 8, 2005, and pursuant to the Resolution, to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds maturing in the years 2019 and 2021 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 2011 through 2014 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, 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 Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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 manual or facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date

Registered Owner

Signature of
Bond Registrar

9/___/05 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

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers
u n t o

(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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its

agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Revenues, Accounts and Covenants.

4.01 The City hereby creates a separate bond proceeds acquisition account in Fund 450, the Capital Improvement Fund, to which there shall be credited \$310,000 of 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, including capitalized interest provided for in Section 4.02C. The funds from this account shall be used solely to pay the purchase price of the Developer Lakewalk Property, costs associated with such purchase and the costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 A. Until the Bonds are fully paid or duly called for redemption or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the City's debt service fund created by Section 54(a) of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable on the Bonds.

B. There is hereby pledged to the Debt Service Fund the Tax Abatements pursuant to the Abatement Resolution as received by the City.

C. The Treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$310,000, amounts used to pay a part of the interest cost of the issue as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest paid by the Purchaser, capitalized interest from the proceeds of the Bonds in the amount of \$18,747.99, all Tax Abatement payable pursuant to the Abatement Resolution and the ad valorem taxes levied, if any, pursuant to Section 4.03 hereof.

4.03 If the balance in the Debt Service Fund to pay the Bonds is ever insufficient to pay all principal and interest then due on the Bonds, the Treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balance therein is sufficient. It is estimated that the Tax Abatement herein pledged and appropriated to said fund, together with the capitalized interest, will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds 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 Tax Abatement so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to 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 City clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 04-0219-02.

Section 6. Tax Covenants; Miscellaneous.

6.01 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 limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

6.02 A. No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except 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 1996, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.03 A. The gross proceeds of the Bonds will be totally expended for the Project and for paying the costs of issuance of the Bonds within six months of the date of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Code pursuant to Section 148(f)(4)(i)(B) of the Code.

B. The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this Section.

Section 7. Certificates of Proceedings.

7.01 The city clerk is directed to file 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.

7.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City 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.

7.03 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 05-0634 was unanimously adopted.

Approved September 22, 2005

HERB W. BERGSON, Mayor

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

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 26, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-0926-01 Easy Housing of Duluth, Inc., petition to improve Spear Avenue from Silcox Avenue to Livingston Avenue. -- Assessor

05-0926-02 Minnesota state auditor audit report for Duluth/North Shore Sanitary District for the year ended December 31, 2004. -- Received

05-0926-03 The following communications regarding the proposed Sugarloaf Enterprises, LLC, reclassification of property (05-037-O): (a) Century 21 Gilderman and Associates; (b) Alison Clarke; (c) Lita and Brian Doesken; (d) Duluth Area Chamber of Commerce; (e) Duane Forbort; (f) Alan Gonia; (g) George Hanson; (h) Dave Holappa; (i) Bob James; (j) Christopher James; (k) Rob Marohn; (l) Rod Radich; (m) Craig Samborski; (n) Robert and Margaret Seitz; (o) Shelly St. Germaine; (p) Sugarloaf Enterprises, LLC; (q) Tree commission (2); (r) Karen Young. -- Received

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REPORTS OF OFFICERS

05-0926-04 Assessor letters of sufficiency of:

(a) Petition to construct a watermain in Lawn Street from Portal Avenue to approximately 383 feet east of center line of Portal Avenue;

(b) Petition to vacate Boone Street from 79th Avenue East to Highway 61 right-of-way;

(c) Remonstrance petition opposing construction of 1,360 lineal feet of low pressure sanitary sewer in West Morgan Street beginning at the intersection of Joshua Avenue and extending westerly. -- Received

05-0926-05 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license from Rotary Club of Duluth on March 2, 2006 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-0926-06 Commission on disabilities minutes of August 3, 2005, meeting. -- Received

05-0926-07 Duluth housing commission minutes of August 11, 2006, meeting. -- Received

05-0926-08 Duluth human rights commission minutes of August 10, 2005, meeting. -- Received

05-0926-09 Housing and redevelopment authority minutes of: (a) March 29; (b) April 26; (c) May 31; (d) June 28, 2005, meetings. -- Received

05-0926-10 Parks and Recreation commission minutes of: (a) July 13; (b) August 10, 2005, meetings. -- Received

- - -

At this time, 7:04 p.m., the public hearing on the Miller Trunk Highway improvement project was declared open.

City Engineer Metso reviewed that the public hearing was relative to Resolution 05-0581 and that prior to the council meeting the Minnesota department of transportation (Mn/DOT) representative and their consultant gave a detailed presentation on the project.

Robert Dwyer, Mn/DOT project manager, gave a brief overview of the project, pointing out that this has been worked on for over four years and summarized the significant changes.

Garry Krause expressed concerns from residents who would be affected by the north circulatory road, in that: Joshua Avenue will become an extension of Trinity Road; there will be an increase in noise and light pollution associated with the project; there will be a spread of

commercial development into the neighborhood and there will be increased traffic flow to and from the eastern section of the city.

At this time, 7:23 p.m., the public hearing was declared closed and the regular order of business was resumed.

- - -

Councilor Stover moved to suspend the rules to consider Resolution 05-0581 at this time, which motion was seconded and unanimously carried.

Resolution 05-0581, by Councilor Stover, approving the final layout and project report for the reconstruction of a part of Trunk Highway Number 53 (Miller Trunk Highway), Joshua Avenue, Cottonwood Avenue, Burning Tree Drive, Sundby Road, Page Street, Mall Drive, Maple Grove Road and Frontage Road within the corporate limits of the city of Duluth, was introduced for discussion.

Resolution 05-0581 was adopted as follows:

BY COUNCILOR STOVER:

WHEREAS, the commissioner of the department of transportation has prepared a final layout and project report for the reconstruction of part of Trunk Highway 53 (Miller Trunk Highway), Joshua Avenue, Cottonwood Avenue, Burning Tree Drive, Sundby Road, Page Street, Mall Drive, Maple Grove Road and Frontage Road within the corporate limits of the city of Duluth and seeks the approval thereof; and

WHEREAS, said final layout and project report are on file in the office of the department of transportation, St. Paul, Minnesota, being marked, labeled and identified as S.P. 6915-129, T.H. 53 Layout 2.

NOW, THEREFORE, BE IT RESOLVED, that said final layout and project report for the improvement of said trunk highway within the corporate limits of Duluth are hereby approved.

Resolution 05-0581 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Katie Krikorian commented on her concerns of: preserving the natural beauty when developments are being proposed; that variances are being granted for property on Park Point without easy access for the citizens and that there should be concern for small businesses - not just the big businesses which come here and then leave.

- - -

Kay L. Lewis commented on: the need for a disaster plan that is up to date and accessible to all; opposing the proposed reclassification for the Sugarloaf Development because of the density and what happens further down the hill from the development.

- - -

Bill Burns, attorney for Sugarloaf Development, commented that there has been discussion between his clients and those who have concerns and that his client agrees to the tabling of this issue so possible consensus could be reached by all.

- - -

RESOLUTIONS RECONSIDERED

Councilor Stewart moved to reconsider Resolution 05-0607, proposing the sum to be raised by taxation for the special taxing district, Seaway Port authority, for the year 2006, by Councilor Stauber, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

Nays: Councilors Atkins, Little, Reinert and Stauber -- 4

To councilor questioning, City Attorney Brown stated that at this moment, there is a zero levy for the port authority.

Councilors discussed the option of amending this resolution to reflect the amount levied last year by the council.

Councilor Stewart moved to amend the resolution to reflect the sum of \$775,400, which was the sum raised by taxation for the year 2005, which motion was seconded for discussion.

Councilor Little felt that regardless of the amount to be voted upon, their budget should be presented and reviewed first.

Administrative Assistant Winson noted that the amount currently in the resolution is the maximum amount allowed by statute and that the authority earlier this year presented their budget for their current fiscal year and will be presenting their budget for their next fiscal year in a few months.

Councilor Stewart's amendment carried unanimously.

Resolution 05-0607, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 469.053, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2006 for Seaway Port authority taxing district's operations is hereby determined to be the sum of \$775,400 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 485.15, there will be levied for the purpose of providing for the Seaway Port authority special taxing district the sum of \$775,400.

Resolution 05-0607, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Little -- 1

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

At this time, 7:41 p.m., the public hearing on the Charter amendments regarding the administrative assistant title change began.

President Ness reported that this is only a change in title from "administrative assistant" to "chief administrative officer," noting that the term "administrative assistant" is now commonly associated in the business world to reflect on a clerical position. He further noted that removal of a residency requirement has also been made to comply with state statute.

At this time, 7:45 p.m., the public hearing was declared closed the regular order of business resumed.

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At this time, 7:45 p.m., the public hearing on the Charter amendment regarding the licensed sale of alcoholic beverages at Enger Park Golf Course began.

Mr. Brown reviewed that this is a housekeeping change in that the state legislature this past year approved the issuance of this license and this is to make the Charter consistent with state statute.

At this time, 7:49 p.m., the public hearing was declared closed the regular order of business resumed.

- - -

Councilor Stewart moved to reconsider Resolution 05-0608, proposing the sum to be raised by taxation for the special taxing district, housing and redevelopment authority, for the year 2006, by Councilor Stauber, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

Nays: Councilors Atkins, Little, Reinert and Stauber -- 4

Councilor Stewart moved to amend the resolution to reflect the sum of \$615,900, which was the sum raised by taxation for the year 2005, which motion was seconded and carried and discussed.

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

Rick Ball, executive director of the housing and redevelopment authority (HRA), commented on his August 30th letter, which provided a budget for their proposed levy. He

noted that his board requested an increase of approximately two percent, not the maximum that is allowed by law and stated in the resolution.

Mr. Winson explained how the resolution was calculated based on a lower maximum taxable value that was incorrect and has since been corrected as seen in this resolution.

Councilor Gilbert and President Ness spoke in opposition to the amendment citing that the HRA has come forth with a budget as requested and supported the level they requested.

Councilor Stewart's amendment was carried as follows:

Yeas: Councilors Atkins, Little, Reinert, Stauber and Stewart -- 5

Nays: Councilors Gilbert, Johnson, Stover and President Ness -- 4

Resolution 05-0608, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2006 for the housing and redevelopment authority taxing district's operations is hereby determined to be the sum of \$615,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$615,900.

Resolution 05-0608, as amended, was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

President Ness moved to reconsider Resolution 05-0597, authorizing request to discontinue operation of foghorn as a private aid to navigation, by Councilor Stover, which motion was seconded for discussion.

Councilor Stauber commented that he was disappointed that this was being proposed for reconsideration, in that he felt no new information has come forward.

Mr. Winson reviewed the status of this issue, options, the consequences of each option to council and encouraged their reconsideration.

Councilor Stover supported the motion and the resolution because: this is the business that the Coast Guard is in; that for years both the city and Coast Guard have been doing it and now is the time for the Coast Guard to take it over completely.

President Ness withdrew his motion for reconsideration.

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MOTIONS AND RESOLUTIONS CONSENT AGENDA

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0926-11 with The Valuation Group, Inc., for appraisal services related to the tax court proceeding involving the Sears store property at Miller Hill Mall in the amount of not to exceed \$3,000; payable from Fund 100-700-1407-5441.

Resolution 05-0626 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

No. 05-0926-12 with The Valuation Group, Inc., for appraisal services related to the tax court proceeding involving the Kohls store property near Miller Hill Mall in the amount of not to exceed \$6,000; payable from Fund 100-700-1407-5441.

Resolution 05-0627 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0926-13 with The Valuation Group, Inc., for appraisal services related to the tax court proceeding involving the Younkers store property at Miller Hill Mall in the amount of not to exceed \$3,000, payable from Fund 100-700-1407-5441.

Resolution 05-0628 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that J.R. Jensen and Son, Inc., be and hereby is awarded a contract for construction of a sand and salt storage facility for the architect division in accordance with specifications on its low specification bid of \$276,400, terms net 30, FOB job site, payable out of Capital Improvements Fund 0450, Department/Agency 030, Object 5520.

Resolution 05-0654 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Northland Vietnam Veterans Association, Bayfront Park, for October 8, 2005, with Kathy Camps, manager.

Resolution 05-0656 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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, 2006, subject to departmental approvals and the payment of sales and property taxes,

S&D Enterprises, Inc. (Gopher Restaurant & Lounge), 402 North Central Avenue, with Steven LaPlante, president and 50 percent stockholder and Darrin Goad, vice president and 50 percent stockholder, transferred from MF Enterprises, Inc. (Gopher Restaurant & Lounge), same address.

Resolution 05-0657 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Duluth Central Sports Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a

copy of this resolution to the Minnesota gambling control board immediately after its passage.
Resolution 05-0658 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that pay for the job classification of library technician be amended and assigned to Pay Range 124 of the city's collective agreement with its basic unit employees. The pay range will change from 123 pay rate of \$2,718 per month to Pay Range 124, Pay Rate \$2,825 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0639 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, on August 10, 2005, a sufficient petition was filed with the city clerk requesting the vacation of 46th Avenue East from Otsego Street to Otsego Alley, adjacent to Lot 8, Block 15, and Lot 1, Block 16, Loeb's Addition to Lakeside; and

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

WHEREAS, the city planning commission (FN05085) unanimously approved the street vacation at its September 13, 2005, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the above-described portion of 46th Avenue East and as more particularly described on Public Document No. 05-0926-14.

RESOLVED FURTHER, that the city of Duluth retain a utility easement five feet on each side of the centerline of the vacated portion.

RESOLVED FURTHER, 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 05-0645 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the approvals of those skywalk agreements (Public Document No. 05-0926-15) approved pursuant to Resolution Nos. 05-0599 and 05-0600 pertaining to the Greysolon Plaza property and to the Sherman/Sheraton Hotel project respectively are hereby ratified and affirmed.

Resolution 05-0647 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that an alteration to the special use permit approved on April 17, 1972, for a 450 foot tall tower on property located at 1306 Windsor Avenue in the tower farm is hereby granted to allow for the placement of an additional equipment building and the elimination of the expiration date for the permit, subject to the following condition:

That the project be limited to, constructed and maintained in accordance with

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

plans submitted by the applicant entitled "Nextel Partners, Inc., Central Entrance MN440P," drafted by Edwards and Kelcey, Minneapolis, Minnesota, dated August 11, 2005.

Resolution 05-0650 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 05-0926-16, with Job Service for the provision of dislocated worker services pursuant to the Workforce Investment Act and Minnesota Statutes, Chapter 268, for the period of July 1, 2005, through June 30, 2006, at costs not to exceed \$91,000 for the federal program and \$169,626 for the state program which shall be payable from Fund 268.

Resolution 05-0623 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the city of Duluth ratifies and hereby authorizes the execution of the grant agreement filed as Public Document No. 05-0926-17 for the state fiscal year 2006 with the Minnesota department of public safety, office of justice programs, crime victim services, for a \$3,000 grant for a program entitled "emergency fund for crime victims."

RESOLVED FURTHER, that funds received by the city under such grant agreement shall be deposited in Fund 210, Agency 030, Organization 3126, Revenue Source 4220.

Resolution 05-0642 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY PRESIDENT NESS:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the November 8, 2005, municipal and school board general election, as listed in Public Document No. 05-0926-18.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$7 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 \$.485 per mile; payable from General Fund 015-1512-5441.

RESOLVED FURTHER, if any person who is name on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 05-0637 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Hydro Metering Technology be and hereby is awarded a contract for furnishing and delivering complete water meters with remote register as needed during year 2005 for the utility operations division in accordance with specifications on its low specification bid at an estimated amount of \$51,013.50, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1940, Object 5227.

Resolution 05-0640 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Luther Eggebrecht Chevrolet be and hereby is awarded a contract for furnishing and delivering one Chevrolet cab and chassis for the fleet services division in accordance with specifications on its low specification bid of \$42,228.27, terms net 30, FOB destination, payable out of Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0646 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Nels Nelson & Sons, Inc., be and hereby is awarded a contract for construction of 44th Avenue West from Grand Avenue to 398 feet southerly for the engineering division in accordance with specifications on its low specification bid of \$136,911.01, terms net 30, FOB job site, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530, and Stormwater Fund 0535, Department/Agency 500, Organization 1905, Object 5535, Project SA2005-0493TR.

Resolution 05-0648 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Monroe Truck Equipment be and hereby is awarded a contract for furnishing and delivering two utility bodies for the utility operations division in accordance with specifications on its low specification bid of \$68,500.80, terms net 30, FOB destination, \$14,385.00 payable out of Water Fund 0510, Department/Agency 500, Organization 1905, Object 5580; \$21,920.00 payable out of Gas Fund 0520, Department/Agency 500, Organization 1905, Object 5580; \$32,195.80 payable out of Storm Water Utility Fund 0535, Department/Agency 500, Organization 1905, Object 5580.

Resolution 05-0649 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Frontier Pipeline, LLC, be and hereby is awarded a contract for construction of an eight inch high density polyethylene watermain in 90th Avenue East and Superior Street for the public works and utilities division in accordance with specifications on its low specification bid of \$183,688.50, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530.

Resolution 05-0651 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to accept the donation of an easement for the reconstruction and maintenance of Chester Creek over the following-described property substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0926-19 from Walgreen Company at no cost to the city:

Lots 1, 2, 3, 4 and 5, Block 12, BANNING AND RAY'S SUBDIVISION OF DULUTH.

Resolution 05-0652 was unanimously adopted.
Approved September 26, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, effective with the natural gas readings after November 1, 2005, all customers of the natural gas utility of the public works and utilities department of the city of Duluth, whose natural gas supply is measured by meter, shall be charged for such natural gas in accordance with the schedule of rates established by this resolution as follows:

CUSTOMER RATE SCHEDULE BASED UPON MONTHLY METERED VOLUME				
		Fixed monthly charge (no change) effective November 1, 2005, rate	Per 100 cubic feet	
			Effective November 1, 2005, rate	Effective August 1, 2003 rate
Firm sales service	Residential	\$6	\$0.548	\$0.538
	Residential heating	N/A	N/A	N/A
	Commercial/industrial heating	N/A	N/A	N/A
	Commercial/industrial small volume	\$25	\$0.453	\$0.443
	Commercial/industrial large volume	\$250	\$0.395	\$0.385
Interruptible sales service	Commercial/industrial small volume	\$100	\$0.330	\$0.320
	Commercial/industrial large volume	\$275	\$0.304	\$0.294
Firm transport service	Commercial/industrial small volume	\$50	\$0.095	\$0.095
	Commercial/industrial large volume	\$275	\$0.057	\$0.057
Interruptible transport service	Commercial/industrial small volume	\$125	\$0.060	\$0.060
	Commercial/industrial large volume	\$300	\$0.046	\$0.046
Purchased gas adjustment (PGA)	If the wholesale price of gas purchased by the city of Duluth is increased or decreased as compared to 1995 base gas costs, and any such change results in an average unit cost of gas in excess, or less than the 1995 base gas costs, the unit commodity charge (\$ per CCF) for gas sold under the applicable rate schedule shall be increased or decreased on the customer's monthly bill in the same amount as the unit cost of gas has been increased or decreased.			

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

Resolution 05-0653 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-99.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zones are hereby established:

Front of 512 North 79th Avenue West;
Front of 108 East Second Street;
Front of 607 North 14th Avenue East;
Front of 115 East Fifth Street.

Resolution 05-0625 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement a grant amendment between the city of Duluth and state of Minnesota, department of public safety, office of justice programs, a copy of which is on file in the office of the city clerk as Public Document No. 05-0926-20, for reimbursement of clerical salary and benefits and other operating expenses to expand local capacity to combat gangs to extend the term of the grant period to December 31, 2005, and to increase the grant funding to the city by \$53,400; said money to be deposited in Fund 215, Agency 200, Organization 2263, Revenue Source 4220-02.

Resolution 05-0643 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that, pursuant to the requirements of Laws of Minnesota, 1973, Chapter 327, Section 5(f), the city council does hereby approve the first amendment (Public Document No. 05-0926-21) to that certain lease agreement between the Spirit Mountain recreation area authority and Mountain Villas Owners' Association dated November 19, 1979, filed of record in the office of the registrar of titles for St. Louis County, Minnesota, on December 11, 1981, as Document No. 426992, amending the legal description of the property leased to Mountain Villas Owners' Association to reflect the actual description of the property which the villas occupy.

Resolution 05-0638 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized to execute a grant agreement with the Minnesota department of natural resources, which agreement is on file in the office of the city clerk as Public Document No. 05-0926-22, under which agreement the city will receive up to \$5,000 to reimburse it for costs incurred in maintaining cross country ski trails in the city of Duluth during the 2005-2006 ski season. The reimbursement should be deposited in General Fund 100, Agency 500, Organization 1920, Revenue Source 4225.

Resolution 05-0644 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0641, by Councilor Gilbert, authorizing housing investment fund (HIF) loan agreements with appropriate agencies, was introduced for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Councilors Little and Stauber expressed the concerns: as to what agencies will be paying back the loans and that this is allocating dollars from 2006, where the funds may not be available.

Mr. Winson stated that they are loans that can be forgivable.

Resolution 05-0641 was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to enter into HIF loan agreements substantially in the form of those on file in the office of the city clerk as Public Document No. 05-0926-23, with the agencies set forth below in the corresponding funding levels set forth below, payable from Fund 266:

AMOUNT	PROJECT	ORGANIZATION
\$ 50,000	gap funding for new houses	Northern Communities Land Trust (NCLT)
\$100,000	Alicia's Place	Women's Community Development Organization, Inc. (WCDO)
\$ 50,000	new San Marco	Center City Housing Corporation (CCHC)
\$100,000	exterior preservation	Neighborhood Housing Services (NHS) loan program

BE IT FURTHER RESOLVED, that the city of Duluth hereby commits to fund the following agency set forth below in the corresponding funding level set forth below in the 2006 funding round:

AMOUNT	PROJECT	ORGANIZATION
\$150,000	Village at Matterhorn	The Communities Group

Resolution 05-0641 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

Approved September 26, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0636, by President Ness, authorizing second amendment to agreement with Carlson Media, Inc., for development and production of an Aerial Lift Bridge documentary in the amount of \$25,000, and Resolution 05-0635, by Councilor Stover, authorizing grant agreement with Duluth-Superior Area Community Foundation in the amount of \$25,000 for Aerial Lift Bridge documentary, were introduced for discussion.

Councilor Stauber moved to table both resolutions so that councilors' questions that were raised could be answered, which motion was seconded and unanimously carried.

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Resolution 05-0631 and 05-0632, by Councilor Gilbert, affirming and reversing, respectively, affirming the decision of the board of zoning appeals to deny a variance to reduce the minimum corner side yard setback requirement from 20 feet to 12 feet, four inches and to allow an accessory structure to exceed the maximum area allowed in a required rear yard area from 30 percent to 39 percent for the construction of a 14 feet by 35 feet detached garage on property located at 4101 East Superior Street (Travis and Melissa Bumgardner), were introduced for discussion.

Councilor Gilbert moved to return both resolutions to the administration, which motion was seconded and unanimously carried.

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Resolution 05-0660, by President Ness, authorizing execution of an agreement with Visit Duluth to provide advertising and promotion services to the city of Duluth for the years 2006-2008 at a cost to the city to be determined annually, was introduced for discussion.

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

Will Munger and Mark Emmel expressed support for the resolution, citing reasons of: a three year contract will allow the operations to run more efficiently; taxes paid by a business comes back to them in great benefits; a dedicated commitment to tourism is needed on an on-going basis; this allows for long range planning; with this there will not be cash flow gaps, as has been in the past; the same formula that has been used in the past, with no additional dollars, will be used and this benefits all residents of Duluth.

Resolution 05-0660 was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Visit Duluth (formerly the Duluth Convention and Visitors Bureau), which agreement is on file in the office of the city clerk as Public Document No. 05-0926-24 and under which agreement Visit Duluth will provide advertising and promotion services to the city during the years 2006 through 2008 at a cost to the city not to exceed an amount to be appropriated annually by the city council; payable from Fund 258, Agency 030, Object 5436-02.

Resolution 05-0660 was unanimously adopted.

Approved September 26, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCES TABLED

BY COUNCILOR STEWART

05-038 (9746) - AN ORDINANCE REGULATING ALIENATION OF REAL PROPERTY BY THE CITY.

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

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

Jeff Corey, Northern Communities Land Trust, Vicki Sanville, Affordable Housing Coalition, Rick Ball, housing and redevelopment authority executive director, and Pam Kramer, Local Initiatives Support Corporation program director, expressed concerns for the ordinance, citing reasons of: land is a resource that should be stewarded in a manner to benefit the community, not as a commodity; land controlled by a community should be used for the highest and best use, not the highest bidder; this ordinance should follow the comprehensive plan, not precede it; all people in Duluth should have access to housing that they can afford; in needing a 7/9's vote to give land to other than the lowest bidder, there is another disadvantage to those trying to bring affordable housing to those who need it; a wide variety of public purposes might be present where there would be reason to modify the sale price of public property, instead of maximizing it; this ordinance could be more of a barrier to development, than promoting it and as written now, the ordinance does not require the use of the land for specific purpose, possibly a public purpose.

President Ness moved to amend the ordinance by changing the word "seven" in sections 2-177 and 2-178 to "five," which motion was seconded and discussed.

Councilors Stewart and Stauber opposed the amendment for reasons of: other uses of a super majority are not uncommon; taking land out of the public trust, and turning it over to a private interest, is an important issue that should require the 7/9's vote and if land is not going to be sold to the highest bidder or market value, there should be a process to differentiate that.

President Ness and Councilors Atkins and Gilbert expressed support for the amendment because: a majority of five councilors should be able to decide; with a super

majority, a minority can put up roadblocks; five votes are still required, even if all councilors are not present when it is being voted on and the council, by vetoing a mayor's approval has further authority.

President Ness' amendment carried as follows:

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stover and President Ness -- 6

Nays: Councilors Little, Stauber and Stewart -- 3

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

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BY COUNCILOR GILBERT

05-037 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAPS NO. 11, 13 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-A, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED ABOVE WEST SKYLINE PARKWAY, SOUTH OF WEST ARBUTUS DRIVE AND APPROXIMATELY 1,600 FEET EAST OF US HIGHWAY 2 (SUGARLOAF).

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

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

Ron Miller opposed the ordinance for reasons of: it does not take into consideration recent efforts to place Duluth on a more ecologically sustainable path; there is a need for "natural capitalism" that respects the environment and the mayor is a supporter of ecology.

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

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The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

05-042 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$7,600,000 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.

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BY COUNCILOR GILBERT

05-043 - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SHELTON PROPERTIES, LLC, FOR THREE ELECTRICAL CONDUITS IN THE RIGHT-OF-WAY OF DICKSON STREET LOCATED BETWEEN 1331 AND 1405 COMMONWEALTH AVENUE.

- - -

The following entitled ordinances were read for the second time:

BY PRESIDENT NESS

05-040 (9747) - AN ORDINANCE AMENDING SECTIONS 2, 3, 5, 7, 18, 19, 21, 25, 36 AND 60(A) OF THE CITY CHARTER TO CHANGE THE TITLE OF THE ADMINISTRATIVE ASSISTANT TO CHIEF ADMINISTRATIVE OFFICER AND CHANGE THE RESIDENCY TO BE CONSISTENT WITH STATE LAW.

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

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BY COUNCILOR REINERT

05-039 (9748) - AN ORDINANCE AMENDING THE CITY CHARTER TO COMPLY WITH STATE LAW PERTAINING TO ALCOHOLIC BEVERAGES.

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

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The meeting was adjourned at 9:35 p.m.

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ORDINANCE NO. 9746

BY COUNCILOR STEWART:

AN ORDINANCE REGULATING ALIENATION OF REAL
PROPERTY BY THE CITY.

The city of Duluth does ordain:

Section 1. That Chapter 2 of the Duluth City Code, 1959, as amended, be amended by adding a new Article XXXIII to read as follows:

Article XXXIII. Alienation of Land.

Sec. 2-175. Sale of land, price.

The city may alienate its real property, or any interest therein, and shall do so in compliance with law, the Charter and this ordinance [Article]. It is the policy of the city to sell or lease its land for fair market value. The lowest price for which land can be sold is \$50.

Vacation of public highways shall be done as set out in Section 100 of the Charter, or its successor, and the City Code.

Sec. 2-176. Sale by bidding.

Alienation of other interests in land, including fee interests and leasehold interests of 20 years or longer and leasing land for more than 20 years, but excluding the granting of utility and road easements, shall be accomplished by the following procedure:

(a) The mayor or his/her designee, by notice filed with the clerk, or the council, by resolution, shall designate a specifically described parcel to be surplus to the city's needs and available for disposal;

(b) The city assessor shall furnish a written opinion, and the basis for it, of the fair market value of the property at the time of the designation;

(c) Should the city propose to exchange the property for property held by another government unit, the mayor or his/her designee shall provide to the council a written description of the transaction, including the value of the property to be acquired;

(d) If the property is not to be exchanged for property held by another government unit, then it shall be sold. The sale shall be initiated by the city council, by resolution of the city council, or by the mayor or his/her designee, by notice filed with the clerk. The resolution or notice, as the case may be, shall identify the parcel or parcels offered and the assessor's opinion of value and the minimum acceptable bid;

(e) After sale is initiated, unless the council has determined to proceed without bids, as allowed under Section 2-177, the city administration shall advertise for sealed bids for the property, specifying a minimum acceptable bid, payment terms, property description and requirements for bidders. There shall be a minimum period of at least 20 days to respond to the bid advertisement;

(f) The property shall be sold to the highest responsible bidder. The bid shall be accepted by either resolution or ordinance and the transfer of property shall be done by ordinance, using the type of deed determined by the city attorney. The city has the right to reject all bids, deficient bids and nonconforming bids.

Sec. 2-177. Alternative price.

At the time sale is initiated, or later, the council may, by vote of at least five members, and for reasons stated in a resolution so passed, determine to sell the property for an amount less than the highest bid, or to a bidder other than the highest responsible bidder, or without bids. All resolutions and ordinances are subject to the veto procedure set out in the Charter.

Sec. 2-178. Adjacent owner exemption.

If, due to existing laws or regulations, no building can be legally constructed on a parcel, the city may sell such a parcel to an adjacent owner without using the procedure set out in Section 2-176, above. However, the sale must be for fair market value as determined by the council, after advice from the city assessor, and stated in a resolution or ordinance duly passed. If more than one adjacent owner requests the property, the council may divide the parcel and sell part to one or more adjacent owners. An adjacent owner is one who owns property that is contiguous with the parcel being sold and is not separated from it by a street, alley, railroad or similar improvement. A sale under this Section requires the affirmative vote of at least five members of the council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 6, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 26, 2005
Approved September 26, 2005
HERB W. BERGSON, Mayor

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ORDINANCE NO. 9747

BY PRESIDENT NESS:

AN ORDINANCE AMENDING SECTIONS 2, 3, 5, 7, 18, 19, 21, 25, 36 AND 60(A) OF THE CITY CHARTER TO CHANGE THE TITLE OF THE ADMINISTRATIVE ASSISTANT TO CHIEF ADMINISTRATIVE OFFICER AND CHANGE THE RESIDENCY TO BE CONSISTENT WITH STATE LAW.

The city of Duluth does ordain:

Section 1. That Section 2 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 2. Form of government; chief administrative officer; membership of council; council districts.

This government provided for by this Charter shall be known as the mayor-council form of government. The mayor shall be aided by an chief administrative officer who, in the performance of the duties of such office, shall be responsible to the mayor. The council shall have nine members, four elected from the city at large and five from geographical districts.

The city is hereby divided into five council districts numbered from one to five consecutively.

After the state legislative redistricting, based on a new federal census, the city council shall determine whether or not the population of each council district is substantially the same and, if not, the council shall by ordinance establish election precincts to the council districts so as to equalize, as nearly as practical, the number of people in each council district. Each council district shall consist of contiguous territory. If, in any such redistricting, the residence of any district councilor is placed outside of the enumerated district from which such councilor was elected, the office shall not be deemed vacant on that account and such councilor shall continue to serve out the term for which elected.

The council districts are established herein solely for the purposes of electing district councilors. The administration of the city shall never be divided, nor any facility ever provided, nor any appropriation ever made upon a council district basis.

The terms of office of the mayor and councilors shall be for four years and until their successors are elected and qualified.

Section 2. That Section 3 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 3. Mayor and council subject to initiative, referendum and recall; officers not to hold other public offices.

The mayor and councilors shall be subject to the control and direction of the people at all times by the initiative, referendum and recall provided for in this Charter. The mayor, chief administrative officer and councilors shall not hold any other public office, notary public excepted, during their tenure as mayor, chief administrative officer or councilors. The chief administrative officer shall be a full time officer of the city. The mayor shall not engage in any other occupation during business hours.

Section 3. That Section 5 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 5. Salaries.

The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed chief administrative officer shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent chief administrative officer, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee of eight hundred thirty-three dollars (\$833) per month for service as a member of the council. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid.

Section 4. That Section 7 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 7. Regular and special meetings; quorum; records; investigations by council; employment of counsel.

(A). All meetings of the council shall be public. It shall keep minutes of its proceedings which shall be a public record. The council shall hold at least one regular meeting semi-monthly and shall fix the date of all regular meetings. Special meetings of the council may be called by the president of the council, or the mayor, and shall be called by the president upon petition of a majority of all members of the council. At any meeting of the council six members shall constitute a quorum, but a less number may adjourn from time to time. The council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. All councilors including the president, shall be entitled to vote in the council at all times. Administrative officers of the city, in matters relating to the functions of their offices, and the mayor at any time, shall have the right to attend any meeting of the council, or any of its committees, and may express their views on matters pending before the council, but they shall have no right to introduce any motion, resolution or ordinance, or amendments thereto, nor to vote thereon. The manner in which each member of the council votes upon all propositions shall be entered upon the minutes of the proceedings;

(B). The council may, by ordinance, establish a procedure not inconsistent with law for the holding of investigations of the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting such investigations, the city council, or any

member thereof, acting under authority of a resolution adopted by a majority of all members of the council, shall have the right to apply to any court of competent jurisdiction for subpoenas to compel the attendance of witnesses, the production of their books and papers, and the giving of testimony by such witnesses, whenever such attendance, production of books and papers, or the giving of testimony shall be in connection with a subject within the jurisdiction of the city council.

For the purpose of conducting inquiries and investigations the council may employ and fix the compensation of counsel, experts, and employees, and authorize such other expenditures as it deems necessary;

(C). All appointments to municipal office by the mayor, except the mayor's choice of chief administrative officer, and all appointments of the chief administrative officer shall be submitted to the council for approval, and no appointment shall be effective until such approval is granted.

Section 5. That Section 18 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 18. Powers and duties of mayor; council to deal with administrative service solely through mayor.

All executive and administrative powers of the city shall be vested in and exercised by the mayor, the chief administrative officer and such other officers as may be established by or pursuant to the provisions of this Charter. The mayor shall be the chief executive officer of the city. The mayor shall:

(a) Exercise directly, or with the assistance of the chief administrative officer, supervision of all of the executive and administrative work of the city and provide for the coordination of administrative activities;

(b) See that the provisions of this Charter, the ordinances of the city and all laws are enforced;

(c) Appoint the chief administrative officer;

(d) Appoint, with the approval of the council, the members of all non-salaried boards and commissions established by ordinance pursuant to the provisions of this Charter. When such boards and commissions are specifically declared by the council to be advisory to the mayor, no council approval shall be required;

(e) Have the power to remove, without restriction and without council confirmation, all officers appointed by the mayor except members of non-salaried boards who have been appointed for a definite term;

(f) Submit annually to the council for its consideration and approval an operating budget;

(g) Recommend to the council a pay plan for all officers and employees;

(h) Sign contracts, bonds or other instruments requiring the assent of the city, except those which other officers are authorized to sign;

(i) See that the terms and conditions of all contracts are faithfully executed;

(j) Upon receiving service of notice, summons or process, in any action or proceeding against the city, notify the city attorney and forthwith inform the council thereof in writing;

(k) Exercise such other powers and perform such other duties as may be prescribed by this Charter, by ordinance or by applicable state law.

The mayor may present to the council messages or information, attend council meetings, have a voice in the proceedings, veto ordinances and resolutions.

Neither the council, nor any of its members, shall direct or request the appointment of any person to, or the removal of any person from office by the mayor or by any of the mayor's subordinates, or in any manner take part in the

appointment or removal of officers and employees in the administrative service of the city, except as otherwise provided in this Charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the mayor, and neither the council, nor any member thereof, shall give orders to any subordinate of the mayor either publicly or privately. Any councilor violating the provisions of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilor.

Section 6. That Section 19 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 19. Chief administrative officer.

There is hereby established the office of chief administrative officer, who shall be appointed by the mayor for an indefinite term and may be removed at the pleasure of the mayor. The chief administrative officer shall be the mayor's principal assistant. Such assistant shall be appointed solely on the ability to perform the duties and functions of the office, as set forth in this Charter, and shall have had, during the ten years immediately preceding appointment, at least five years of successful experience as an executive or administrator such as would qualify a person for the performance of these duties. Should the mayor fail to appoint an chief administrative officer within ninety days of the effective date of this amendment, or within ninety days of the occurrence of any vacancy in the position, the council shall make the appointment of an individual meeting the qualifications set forth in this Charter. The mayor may assign any other officer or employee of the city to perform the duties of the chief administrative officer during the vacancy of that office or absence or disability of that officer. The chief administrative officer, under the supervision of the mayor and subject to direction by the mayor, shall supervise the heads of all departments except the city attorney; appoint, with the approval of the mayor and the council, and remove, with the approval of the mayor, the heads of all departments; keep informed and keep the mayor advised concerning the activities of all offices, departments and boards and make, or cause to be made, investigations and studies of the internal organization and procedure of any office or department, and may require such reports from any of them which such assistant deems necessary; prescribe accepted standards of administrative practice to be followed by all offices and departments; prepare the annual operating and capital budgets and supervise the execution of budget ordinances; make information available to the mayor, the council and the public concerning the current status of the financial affairs of the city and all offices, departments and boards receiving appropriations from the city; attend meetings of the council at its request, and make available such information as it may require; perform all other duties required of such officer by this Charter, or by ordinance or assigned to such officer in writing by the mayor.

The mayor, by prior written notice directed to the chief administrative officer, may relieve the chief administrative officer of any duties, powers or responsibilities granted the chief administrative officer by the terms of this Charter. Such written notice, signed by the mayor, shall be filed with the city clerk as a document of public record.

The chief administrative officer is forbidden to use official authority or influence for the purpose of affecting or interfering with a nomination or election to municipal office; or directly or indirectly to coerce, attempt to coerce, command or advise any municipal officer or servant or employee to pay, lend or contribute any part of such person's salary or compensation or anything else of value to any party, committee, organization, agency or person for municipal political purposes. The chief administrative officer is forbidden to make any contributions for municipal political purposes, but shall have full right to hold personal political beliefs and to speak on municipal issues.

The sole ground for removal of the chief administrative officer by the council shall be the finding by the council, based on due proof submitted to the council upon a hearing held upon notice for that purpose, that the chief administrative officer has violated the terms of the Charter restricting the political activity of such officer.

Section 7. That Section 21 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 21. Department heads.

At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the chief administrative officer. The head of each department shall, with the approval of the chief administrative officer, have the power to appoint and remove all officers and employees of the department subject to the civil service provisions of this Charter; provided, that the equal opportunity representative shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. Two or more departments may be headed by the same individual and the chief administrative officer may head one or more departments, and heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the mayor. The authority herein conferred upon the chief administrative officer is granted subject to the limitations contained in Section 19 of this Charter.

Each department head shall possess the necessary qualifications to insure efficient administration of such department. The council by ordinance shall establish appropriate minimum qualifications for department heads, the deputy fire chief, the deputy chief of police and the equal opportunity representative.

A municipal employee who wishes to run for political office shall, before commencing the campaign for such office, apply for and obtain a leave of absence from such employee's municipal position. Except in the case of municipal emergency leave of absence shall be granted by the appropriate authority to every municipal employee desiring such leave for the purpose of running for political office. For the purposes of this Section, the term "political office" shall not be deemed to include a position on the board of education of the city of Duluth.

All city employees shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

Section 8. That Section 25 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 25. City treasurer.

The treasurer shall be the custodian of the funds of the city, and shall perform such duties as shall be required by the mayor, the chief administrative officer, or by ordinance.

Section 9. That Section 36 of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 36. Same--Powers and duties; exceptions for those persons entitled to worker's compensation benefits.

(A). The board, with the approval of the council, shall make rules and regulations for the proper conduct of its business, and shall provide: for the classification of all employees, except (1) the officers mentioned in Chapter IV (sections 18 through 34, inclusive) of this Charter; (2) two deputy chiefs of police, who at the time of appointment as such must be a sworn law enforcement officer in the classified service of the city; (3) a deputy fire chief, who at the time of appointment as such must be employed in the fire department of the city; (4) an equal opportunity representative; and (5) day laborers, officers of election

boards, special police officers, special detectives and other temporary employees; for open competitive and free examination as to fitness, provided that when the board certifies a position as an entry level position which requires only basic manual skills, open and free random selection may be used in lieu of or in connection with a competitive examination; for an eligibility list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. Employees within the scope of this Chapter, who are in office at the time of the adoption of this Charter, shall retain their positions, unless removed for cause. The council may, by ordinance, confer upon the board such further rights and duties as may be deemed necessary to enforce and carry out the principles of this Chapter;

(B). Notwithstanding anything to the contrary in paragraph (A) above, the board, with the approval of the council, may establish noncompetitive or other alternative evaluation procedures for the employment of persons with disabilities when because of such disabilities the procedures prescribed by paragraph (a) would not provide such disabled applicants with equal employment opportunity. The board may authorize the appointment of any such person to a position in the classified service if it determines that such person has so demonstrated the ability to perform the duties of the position;

(C). Notwithstanding anything to the contrary in paragraph (A) above or in any ordinance of the city, any person who is employed or has been employed by the city in any classified or unclassified position, who has sustained personal injury arising out of and in the course of such person's employment with the city within the meaning of the state worker's compensation law so that such person may be entitled to receive worker's compensation benefits as a result of such personal injury, or has sustained personal injury or developed a disease or debilitating condition such that the person may qualify for disability benefits pursuant to a long term disability insurance program provided by the city by collective bargaining agreement or otherwise, may be employed in any classified position deemed appropriate by the chief administrative officer without having to comply with the ordinary classified service procedures regarding application for employment, testing, and certification from an eligible list. Any person employed in a classified position pursuant to this paragraph shall not be compensated for employment in such position at a rate which is greater than that currently prescribed for the city position or classification which such person occupied when the above-mentioned personal injury was sustained, or the above-mentioned disability occurred. The implementation of this Subsection (c) shall be subject to the provisions of any pertinent collective bargaining agreement to which the city is a party.

Section 10. That Section 60(A) of the 1912 Charter of the city of Duluth, as amended, be amended to read as follows:

Sec. 60(A). Special assessment board established; membership; meetings.

A special assessment board is hereby established, consisting of the chief administrative officer, who shall be board chairman, the city engineer, the city assessor, the director of public works and utilities and the director of planning and development. During the period of any vacancy in one of these positions, the mayor shall fill the vacant position on the board by appointment of a supervisory employee from the department or office that is temporarily not represented on the board. For purposes of this Section, the offices of director of public works and utilities and director of planning and development shall be deemed vacant whenever the chief administrative officer is serving in those capacities.

Three members of this board shall at all times constitute a quorum thereof.

This board shall keep minutes of all hearings conducted by the board and of all meetings held by this board, which minutes shall be signed by the secretary elected by this board, who may or may not be a member of this board, and by the presiding officer, and filed in the Official Proceedings of the Duluth City Council as a permanent record.

Section 11. That the 1912 Charter be amended so that in any place that the term "administrative assistant" or "administrative assistant to the mayor" is used the term "chief administrative officer" shall be substituted for it.

Section 12. That this ordinance shall take effect, and the Charter shall be amended, after passage or publication as required by the Charter and by Minnesota Laws Section 410.12, subd. 7. (Effective date: January 5, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness --

Passed September 26, 2005
Approved September 26, 2005
HERB W. BERGSON, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9748

BY COUNCILOR REINERT:

AN ORDINANCE AMENDING THE CITY CHARTER TO COMPLY WITH STATE LAW PERTAINING TO ALCOHOLIC BEVERAGES.

The city of Duluth does ordain:

Section 1. That Section 102 of the Duluth City Charter be amended to read as follows:

Sec. 102. Sale of intoxicating liquors within 400 feet of parks or parkways belonging to city prohibited.

Except for the park and premises known as Enger Park Golf Course, it shall be unlawful to license or permit the sale of intoxicating liquors within 400 feet of any park or parkway belonging to the city. Nothing in this Charter shall be so construed as to repeal or modify in any manner whatsoever any provisions of law which now prohibit vending, dealing in or disposing of spirituous, vinous, fermented or malt liquors or the granting of license to vend, deal in or dispose of such liquors within any specifically defined territory within the city of Duluth.

Section 2. That this ordinance shall take effect, and the Charter shall be amended, after passage or publication as required by the Charter and by Minnesota Laws Section 410.12, subd. 7. (Effective date: January 5, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed September 26, 2005
Approved September 26, 2005
HERB W. BERGSON, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, October 11, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1011-01 Gregory A. and Kimberly K. Crawford petitioning to vacate a utility easement in the northerly five feet of Lot 1 and southerly five feet of Lot 2, except the easterly 40 feet, Block 1, Central Baptist Division of Duluth. -- Assessor

05-1011-02 David Sackette:

(a) Petition to construct a permanent residential design street in Sackette Addition in Denim Drive from Denim Street to 780 feet south of Denim Street to include sanitary sewer, storm sewer, gas main, watermain and storm water retention pond. -- Assessor

(b) Waiver agreement to construct a permanent residential design street in Sackette Addition in Denim Drive from Denim Street to 780 feet south of Denim Street to include sanitary sewer, storm sewer, gas main, watermain and storm water retention pond. -- Engineer

05-1011-03 St. Luke's Hospital, et al. (three signatures), petitioning to construct a permanent alley in First Alley from 377 feet to 470 feet easterly of Tenth Avenue East to serve Lots 15 and 16 of Block 19, and Lots 15 and 16 of Block 16, Portland Division. -- Assessor

05-1011-04 Minnesota state auditor management and compliance report for the city of Duluth for the year ended December 31, 2004. -- Received

05-1011-15 John and Linda Atella communications regarding the proposed special use permit for Hovland-Donovan Properties, Inc., for a residential care facility (05-0681R). -- Received

05-1011-17 Duluth Shipping News communication regarding Aerial Lift Bridge documentary development and production agreement amendment (05-0636R). -- Received

05-1011-16 Joseph Kleiman communication regarding appeal of planning commission action to grant a water resources management ordinance variance for property located at 422 South 19th Avenue East (05-0670R and 05-0671R). -- Received

05-1011-05 The following communications regarding the proposed Sugarloaf Enterprises, LLC, reclassification of property (05-037-O): (a) Kathleen Abel; (b) John Adams; (c) Robert and Barbara Bennett; (d) Janet Draper; (e) Anita Gille; (f) Wendy Grethen; (g) Douglas W. Happy; (h) Rick Heimbach; (i) Dave Holappa; (j) Erik Holmstrom; (k) Warren Howe; (l) Chris James; (m) Sally Ann Keyes; (n) Donn Larson; (o) Michael Laughlin; (p) Melissa Mundwiler, Sarah Sederski and Jeremy Nelson; (q) Judith Munson; (r) Gary Olson; (s) Rod Radich; (t) Allen Richardson; (u) James Schulzetenberg; (v) Sugarloaf Enterprises, LLC, by William Burns, attorney; (w) Sugarloaf Enterprises, LLC, by SAS + Associates; (x) Larry Varhalla; (y) Kaija Webster; (z) Beth Wentzlaff; (aa) Karen Young. -- Received

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REPORTS OF OFFICERS

05-1011-06 Assessor:

(a) Affidavit of mailing of notice of public hearing by the special assessment board on Tuesday, October 11, 2005, at 3:30 p.m. in Room 106A, City Hall, regarding the proposed construction of a watermain in Lawn Street from Portal Avenue to 383 feet east of centerline of Portal Avenue. -- Clerk

(b) Letters of sufficiency of petitions to construct:

(1) Curb and gutter street with water, sewer and gas utilities from Spear Avenue from Silcox Avenue to Livingston Avenue;

(2) Permanent residential street on Denim Drive from Denim Street to 780 feet south of Denim Street to include sanitary sewer, storm sewer, gas main, watermain and a storm water retention pond. -- Received

05-1011-07 Building official appeal to reverse the board of zoning appeals' denial of a request to relax the minimum side yard setback on a corner lot from 20 feet to ten feet for the construction of a 904 square foot addition to an existing 576 square foot detached garage on property located at 322 North 80th Avenue West (David Mark Ridgewell). -- Committee 2 (Planning and economic development)

05-1011-08 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling license from: (a) Duluth Area Chamber of Commerce on October 12, 2005 (raffle); (b) Rotary Club of Duluth on March 2, 2006 (raffle). -- Received

05-1011-09 Parks and recreation department director Lake Superior zoological society: (a) Financial statements for period January through August, 2005; (b) Minutes of: (1) July 20; (2) September 21, 2005, meetings. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-1011-10 Board of zoning appeals minutes of August 23, 2005, meeting. -- Received

05-1011-11 Duluth airport authority minutes of: (a) August 16; (b) August 26; (c) September 15, 2005, meetings. -- Received

05-1011-12 Library board minutes of August 23, 2005, meeting. -- Received

05-1011-13 Environmental advisory council minutes of August 3, 2005, meeting. -- Received

05-1011-14 Heritage preservation commission minutes of July 26, 2005, meeting. -- Received

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Mayor Bergson introduced Julio Almanza as the interim administrative assistant. Mr. Almanza stated he looks forward to the opportunity to serve the city.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf reviewed that he has been asking for two years for the city to check out the mess left from a contractor on the 100 block of West Central Entrance and requested that the council pass a no parking resolution in the alley of this block.

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RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 05-0636, authorizing second amendment to agreement with Carlson Media, Inc., for development and production of an Aerial Lift Bridge documentary in the amount of \$25,000, by President Ness; and Resolution 05-0635, authorizing grant agreement with Duluth-Superior Area Community Foundation in the amount of \$25,000 for Aerial Lift Bridge documentary, by Councilor Stover, from the table, which motion was seconded and unanimously carried.

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

Kenneth Newhams stated that he is not in competition with Carlson Media and his DVD is not the same as what is being put together by Carlson Media.

Resolution 05-0636 was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, that the proper city officers are hereby authorized to enter into a second amendment to agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1011-18, with Carlson Media, Inc., for the provision of professional services related to the development and production of an Aerial Lift Bridge documentary increasing the amount payable thereunder by not to exceed \$25,000; payable from Fund 100, Agency 700, Organization 1410, Object 5441.

Resolution 05-0636 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0635 was adopted as follows:

BY COUNCILOR STOVER:

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. 05-1011-19, with the Duluth-Superior Area Community Foundation to accept an additional grant, over and above those previously received, in the amount of not to exceed \$25,000, payable to the Fund 100, Agency 700, Organization 1410, Revenue Source 4660, to defray a portion of the cost of producing a DVD entitled, *Gateway to the World: Duluth-Superior's Aerial Lift Bridge*.

Resolution 05-0635 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

Councilor Reinert moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STAUBER:

RESOLVED, that the city council hereby authorizes the transfer of \$28,084 from the city's Stormwater Improvement Fund 535-500-1905-5700-80 into DEDA Fund 860 relating to stormwater improvement work performed in Gary-New Duluth pursuant to DEDA's contract with Viele Contracting, Inc.

Resolution 05-0663 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing lawful gambling exemptions to Duluth Amateur Hockey Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 05-0684 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson to the building appeal board of James P. Berry (commercial building construction), Jon Helstrom (registered architect) and Howard Jacobs (registered engineer), for terms expiring on February 1, 2008, are confirmed.

Resolution 05-0673 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson to the tree commission of Louise Levy and John T. Moir, for terms expiring on August 31, 2008, are confirmed.

Resolution 05-0674 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson to the water and gas service hearing board of Richard J. Andree, Peter S. Downs and Edwin S. Levey, for terms expiring on

September 1, 2008, are confirmed.
Resolution 05-0675 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointments by Mayor Bergson to the parking commission of Margarethe Ferguson Korman (District 3) for a term expiring on July 1, 2008, replacing Valerie Ouellette who resigned, and Jamie A. Kumbera-Tupper (at large), for a term expiring on July 1, 2007, replacing Terry Fawcett, are confirmed.
Resolution 05-0676 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson to the Duluth public arts commission of Tomasz Majewski and Penny Perry, for terms expiring on September 30, 2008, are confirmed.
Resolution 05-0678 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson to the parks and recreation commission of Charles "Tim" Caines (District 2) for a term expiring on February 13, 2007, replacing Joanne Carroll who resigned, is confirmed.
Resolution 05-0683 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed specifications for the new civil service classification of employee benefits specialist, which were approved by the civil service board on June 7, 2005, and which are filed with the city clerk as Public Document No. 05-1011-20, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 131. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.
Resolution 05-0686 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed specifications for the new civil service classification of water lab technician, which were approved by the civil service board on July 5, 2005, and which are filed with the city clerk as Public Document No. 05-1011-21, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 27. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.
Resolution 05-0687 was unanimously adopted.
Approved October 11, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an agreement, containing substantially the terms of that contract on file with the city clerk as Public Document No. 05-1011-22, between the city of Duluth and University of Minnesota for identification of ecologically significant areas as part of comprehensive planning, in an amount not to exceed \$5,550; payment from Fund 100-020-1202-5319.

Resolution 05-0669 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, on September 15, 2005, a sufficient petition was filed with the city clerk requesting the vacation of Boone Street located between 79th Avenue East and Highway 61 right-of-way, located in Norton's Lakewood Gardens, adjacent to Lots 1 and 18, Block 13, and Lots 12 and 13, Block 10, in Duluth, MN; 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 (FN05099) unanimously approved the street vacation at its September 28, 2005, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the above-described portion of Boone Street and as more particularly described on Public Document No. 05-1011-23, retaining a utility easement five feet on each side of the centerline of the vacated portion.

RESOLVED FURTHER, 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 05-0682 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

WHEREAS, Matterhorn Apartments, LLC, has submitted to the city council a request for a special use permit for townhouse-group dwellings (reference Section 50-38) on property described as the E $\frac{1}{2}$, E $\frac{1}{2}$, N $\frac{1}{2}$, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ and the westerly 235.83 feet of the N $\frac{1}{2}$, N $\frac{1}{2}$, SE $\frac{1}{4}$, NW $\frac{1}{4}$, Section 19, T50, R14 and located south of Village Mall West, on Matterhorn Circle; 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 Matterhorn Apartments, LLC, to allow for the development of townhouse-group dwellings on Matterhorn Circle, on the condition that the project be developed consistent with the plans submitted by 413 Group and Bocht Engineering entitled *Matterhorn Apartments LLC*, dated 9/7/05 and 9/19/05 (FN05100) as identified as Public Document No. 05-1011-24 subject to the following terms and conditions:

(a) That prior to the issuance of building permits, said plans be amended to provide connection to Matterhorn Circle and the east property line;

(b) That the project secure the necessary Minnesota pollution control agency permits for site development and stormwater management.

Resolution 05-0688 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to annually close those portions of Skyline Parkway specified below between the dates specified with regard thereto:

ROAD SEGMENTS CLOSED	CLOSURE DATES
Skyline Parkway from 0.4 miles east of Glenwood Street to Maxwell Road.	December 1 through April 15 of the following year.
Seven Bridges Road from Lakeview Chalet to Maxwell Road.	December 1 through April 15 of the following year.
Maxwell Road from Skyline Parkway to Oak Street.	December 1 through April 15 of the following year.
Skyline Parkway from 0.3 miles south of 100th Avenue West southwest to the city limits.	November 1 through April 15 of the following year.

Resolution 05-0624 was unanimously adopted.
 Approved October 11, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0436 to Salo Engineering for engineering services for year 2005 street improvement project Duluth Heights Southeast 3 (City Project No. 0341TR) be amended to increase the amount as follows:

\$39,527 for changes in the scope of the project by extending road reconstruction, adding a new roadway, constructing new turn lanes, and adding a sanitary sewer and watermain.

FURTHER RESOLVED, that the increase of \$39,527 will be payable from Street Improvement Fund 440, Agency 038, Object 5530.

Resolution 05-0655 was unanimously adopted.
 Approved October 11, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Midwest Region Gas Task Force Association be and hereby is awarded a contract for membership for year 2005 for the utility operation division in accordance with the fee of \$20,582.56, payable out of Gas Fund 520, Department/Agency 500, Organization 1960, Object 5433.

Resolution 05-0659 was unanimously adopted.
 Approved October 11, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

It appears that it may be necessary to construct a residential design street in Denim Drive from Denim Street to 780 feet south of Denim Street (City Job No. 0500TR).

Project will also construct utilities (sanitary sewer, storm sewer, gas main, watermain) and storm water retention pond all pursuant to plans and specifications prepared by SEH Engineering and approved by the city of Duluth in order to serve all the lots in Sackette Addition.

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.

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 05-0664 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that by resolution of intent number 05-0664, the council did request the administration to prepare plans and specifications for the construction of a permanent residential design street in Sackette Addition in Denim Drive from Denim Street to 780 feet south of Denim Street including sanitary and storm sewers, gas main, watermain and storm water retention pond at an estimated cost of \$265,000 payable from the Special Assessment Fund 0410 and \$25,000 payable from the Storm Sewer Utility Fund 535 for an estimated total of \$300,000 (City Job No. 0500TR).

RESOLVED, that said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting 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.

RESOLVED, that said improvement as described above be made; that the estimated total cost of said improvement as estimated by the city engineer is \$300,000 of which \$265,000 is payable from the Special Assessment Fund 410, Agency 038, Object 5530, by special assessment against the land and premises specially benefitted and \$25,000 to be paid from the Storm Sewer Utility Fund 535; 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.

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 05-0665 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 05-0388 to Northland Bituminous, Inc., for the year 2005 fine mix paving program be amended as follows:

Increase attributable to the resurfacing of 97th Avenue West from Gary Street to House Street and the resurfacing of the upbound lane of 21st Avenue East from Superior Street to East Fifth Street is \$17,800, payable out of the Permanent Improvement Fund 0411, Department/Agency 035, Object 5403, City Project Number 0118TR.

Resolution 05-0672 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that A.W. Kuettel & Sons, Inc., be and hereby is awarded a contract for installation of hot water heating supply and return lines along with chilled water supply and return lines for the public works and utilities department in accordance with specifications on its low specification bid of \$926,800, payable out of Steam Fund 0540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 05-0677 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Davies Northern Water Works Supply, Inc., be and hereby is awarded a contract for high density polyethylene pipe and fittings for the public works and utility division in accordance with specifications on its low specification bid of \$60,765.36, terms net 30, FOB destination, payable out of Steam Fund 0540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 05-0679 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for construction of approximately 1,200 linear feet of Chinook Drive, consisting of clearing and grubbing, grading, aggregate base, watermain, sanitary and storm sewers, water and sewer services, concrete curb and gutter, bituminous surfacing and a stormwater pond for the engineering division in accordance with specifications on its low specification bid of \$439,628.59, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530.

Resolution 05-0680 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Frontier Pipeline, LLC, be and hereby is awarded a contract for construction of an eight inch watermain in Osage Avenue from Page Street to 410 feet north of centerline for the public works and utilities division in accordance with specifications on its low specification bid of \$47,674.90, terms net 30, FOB job sites, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530, Project #SA2005-0527WA.

Resolution 05-0692 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to solicit bids for the demolition of structures condemned for demolition at the following locations:

(a) 1601 West Superior Street, legally described as Lot 257, Block 58, Duluth Proper Second Division; Demolition Order #2171;

(b) 4 Piedmont Avenue, legally described as the westerly 1/2 of Lot 259 and all of Lot 261, Block 58, Duluth Proper Second Division; Demolition Order #2172.

Resolution 05-0667 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR REINERT:

WHEREAS, the city has received notification from the Arrowhead Regional Development Commission of the decrease in federal NSIP funds available for the operation of the senior dining program during the year 2005. Some of this decrease will be offset by an increase in federal funds, thus the new maximum amount available will be \$269,209.

FURTHER, said reduction in funds of \$2,446 will result in a reduction (-584) in the maximum number of meals that can receive reimbursement in 2005 (new maximum of 71,219) while leaving the per meal reimbursement at its current rate of \$3.78 for each eligible congregate meal served.

RESOLVED, that the proper city officers execute the contract addendum (Public Document No. 05-1011-25) and upon receipt of the funds from the Arrowhead Regional

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Development Commission that such NSIP funds be deposited into Fund Account 272, Agency 031, Revenue Source 4215 and such federal funds be deposited into Fund Account 272, Agency 031, Revenue Source 4214.

Resolution 05-0661 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

BE IT RESOLVED, that the proper city officials are authorized to accept a local trail connections grant in the amount of \$14,000 from the state of Minnesota, department of natural resources, Project Number R013-05-2C. Matching funds for the project will be the responsibility of the Lake Superior Hiking Trail Association. Funds to be deposited in Fund 210, Agency 030, Organization 3102, Revenue Source 4220-02, Expense Account 5441.

BE IT FURTHER RESOLVED, that the fiscal agent shall be the city's finance director, that individual currently being Genie Stark, 411 West First Street, Room 107, Duluth, Minnesota 55802.

BE IT FURTHER RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-1011-26, with the Lake Superior Hiking Trail Association outlining the services and obligations of the city and the association relating to the city's status as fiscal agent.

Resolution 05-0662 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0685, by Councilor Stewart, awarding contract to Cellular One Duluth/Superior for cellular air time service and hardware in the total amount of approximately \$70,668, was introduced for discussion.

President Ness moved to table the resolution, which motion was seconded and unanimously carried.

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Resolutions 05-0670 and 05-0671, by Councilor Gilbert, reaffirming and overturning, respectively, a planning commission action granting a water resources management ordinance variance to Joe Kleiman for property located at 422 South 19th Avenue East, were introduced for discussion.

Councilor Stewart reviewed that the developer can meet all of the impervious surface requirements and has received a building permit to do so, which negates the claim of hardship and urged the councilors to vote to overturn the planning commission's decision.

President Ness stated that the developer has taken extra means in order to achieve the impervious surface and by voting to overturn the planning commission, it would be penalizing him for taking the step. He suggested that the council send the resolutions back to the administration and let the planning commission's decision stand.

Resolution 05-0670, reaffirming the planning commission action, failed upon the following vote (Public Document No. 05-1011-29):

Yeas: Councilors Atkins, Little, Stauber and President Ness -- 4

Nays: Councilors Gilbert, Johnson, Reinert, Stewart and Stover -- 5

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Resolution 05-0671, overturning the planning commission action, was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, an appeal has been submitted to the city council of the planning commission granting of a Water Resources Management Ordinance variance allowing a 60 percent impervious surface on 63.2 percent of the area of property described as southerly 58 feet of Lots 15 and 16 and all of Lot 14, Block 23, Endion Division of Duluth and located at 422 South 19th Avenue East; and

WHEREAS, the city council conducted a planning committee hearing on September 19, 2005, and finds that permits have been issued for redevelopment of the property with an impervious surface coverage of 23 percent, that the planning commission's findings granting the variance were not consistent with the intent and purposes of the Water Resources Management Ordinance, that denying this variance does not cause an undue hardship because permits have been issued for the land in compliance with Section 51-29 of the Code, that allowing 62.3 percent impervious surface is contrary to the purpose and intent of Chapter 51 of the City Code.

NOW, THEREFORE, BE IT RESOLVED, that the city council overturns the action of the city planning commission of August 9, 2005, and denies the Water Resources Management Ordinance variance which would have permitted a 63.2 percent impervious surface for the property described as southerly 58 feet of Lots 15 and 16 and all of Lot 14, Block 23, Endion Division of Duluth and located at 422 South 19th Avenue East.

Resolution 05-0671 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart and Stover -- 5

Nays: Councilors Atkins, Little, Stauber and President Ness -- 4

Approved October 11, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0681, by Councilor Gilbert, granting a special use permit to Hovland-Donovan Properties, Inc., for a residential care facility, Section 50-56(e) assisted living facility, for property located on the south side of Middle Road, was introduced for discussion.

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

Greg Crowley spoke on behalf of landowners who were unable to be at the meeting. He stated this project would endanger the wetlands of current property owners, and although the easement has been agreed to by neighbors, they did not realize how it will change the character of the neighborhood and requested that restrictions be put on this development.

Councilor Little moved to table the resolution, which motion was seconded and unanimously carried.

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Resolution 05-0689, by Councilor Reinert, supporting dog park sites, was introduced for discussion.

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

Jean Brozic, member of the parks and recreation commission, reviewed the process used to decide on the two sites and urged the council to support the resolution as it will be good for the community. She continued by saying that these dog parks are in response to complaints by people using city trails and being annoyed by dogs.

Jeff Urbaniak explained that they have met with the neighborhood planning district at Keene Creek who supports this. He also stated that the other site is in Rice Lake Township and they need to get Rice Lake Township's zoning approval for the park. Mr. Urbaniak reviewed that they will be raising money for the park so as not to use citizens' tax dollars and will also be running an education program on how to use the dog parks.

Ann and Alissa Urbaniak urged support of the dog parks because their dogs would be able to run around unleashed and make new friends.

Resolution 05-0689 was adopted as follows:

BY COUNCILOR REINERT:

BE IT RESOLVED, that the city council accepts and supports the two sites, Keene Creek and Riley Road, that the staff and parks and recreation commission have selected as appropriate for dog parks. They are described on the site diagrams on file with the clerk as Public Document No. 05-1011-27.

Resolution 05-0689 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0694, by Councilor Reinert, of intent to establish the Bayview School Forest and to enter into a joint management program therefore with the Proctor Schools, was introduced for discussion.

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

Rob Marohn and Gavin Johnson urged support for the resolution as they use the forest as a living learning laboratory for the school, two creeks flow through property and they hope to create a trail system and use it for an outdoor classroom and a camp site.

Resolution 05-0694 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the Duluth City Council does hereby express its intent to join with the board of Independent School District No. 704 to establish the Bayview School Forest on that property generally shown on those documents on file in the office of the city clerk as Public Document No. 05-1011-28 and to enter into a management program therefore in substantial conformance with the provisions contained in said public document.

Resolution 05-0694 was unanimously adopted.

Approved October 11, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES ORDINANCE TABLED

BY COUNCILOR GILBERT

05-037 (9749) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAPS NO. 11, 13 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-A, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED ABOVE WEST SKYLINE PARKWAY, SOUTH OF WEST ARBUTUS DRIVE AND APPROXIMATELY 1,600 FEET EAST OF US HIGHWAY 2 (SUGARLOAF).

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

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

Allen Richardson, Peter Martin, Joel Sipress, Janet Draper, Nancy Nelson, representing Skyline Preservation Alliance, Brian Fredrickson, Margi Preus, Anita Gille, Terry Brown, Wendy Grethen and Peggy Marrin urged the council to deny the rezoning for the following reasons: questioned if the property is protected as it is a scenic highway; Duluth is not lacking in high end housing; preserving green space will appeal to new citizens in the long run; this will set a precedent on changing the zoning for other developers; wait for the comprehensive plan to take shape; tourism is the major industry for Duluth and the scenic highway is a part of that; this is a large benefit to the developer without any benefit to the city; wear and tear to the roads; more area for the police to cover as sprawl does not pay for itself; too high of a housing density for this site; questioned if the infrastructure will be impacted by this development; a lower density housing project would protect more of the trees and the developers should not have bought the land if they did not know if the land would be rezoned.

Todd Fedora, Luke Sydow, Andy Peterson, representing the Chamber of Commerce, Bill Burns, Scott Smith and Bob Hanson spoke in favor of the development for the following reasons: reviewed that the same arguments against this development were used against the development of the Home Depot/Olive Garden site that have since brought in large dollars to the city with real estate taxes, food and beverage and retail sales tax; the developers are willing to modify their project to make this a better project; the cost of services are going up and adding to the tax base will help reduce the taxpayer's burden; this project is moving Duluth forward with responsible development; the chamber has supported good housing projects in Duluth as there is a need for housing for all economic ranges in Duluth; it will bring in families to the area; this project meets the chamber's housing criteria; the lots have been plotted in

accordance with the contour of the land; there is a building envelope for each lot where the house can be built; every effort will be made to keep as many trees as possible; the planning department and the planning commission have reviewed this project for several months before voting on the rezoning; the developers have worked to meet the concerns of the public and have resolved several concerns; developers are not asking for any public money for infrastructure; prospering cities rezone when needed and the city needs to be seen as a friendly place for developers.

Councilor Gilbert questioned if it would be better to have the comprehensive plan in place before this project is approved, the plan is too far away from being done and developers have changed the plan to make it environmentally friendly and have worked hard to make the lots better for the environment.

Councilor Stewart stated that Duluth needs housing at all levels as not everyone wants to live on a 50 foot lot and Duluth can not afford to turn away people who want bigger lots. He reviewed that the developers have exhibited a willingness to be sensitive to the needs of the public, the rezoning is going from one type of residential zone to another type of residential zone and is not taking away from the greenbelt.

Councilor Stover voiced concern on the Skyline Parkway entrance into the project where Highway 2 intersects with Skyline Parkway and that the density of the project is too high for the 65 acres.

Councilor Johnson expressed concern that this project seems to be passing too hastily and whether a S-2 zoning would be a better fit for the land with less density.

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

Yeas: Councilors Atkins, Gilbert, Little, Reinert, Stauber, Stewart and President Ness -- 7

Nays: Councilors Johnson and Stover -- 2

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-044 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED AT 117 WEST CENTRAL ENTRANCE (OSTRANDER).

BY COUNCILOR GILBERT

05-046 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION."

BY PRESIDENT NESS

05-045 - AN ORDINANCE PERTAINING TO CABLE TELEVISION FRANCHISE.

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

05-042 (9750) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$7,600,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

BY COUNCILOR GILBERT

05-043 (9751) - AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SHELTON PROPERTIES, LLC, FOR THREE ELECTRICAL CONDUITS IN THE RIGHT-OF-WAY OF DICKSON STREET LOCATED BETWEEN 1331 AND 1405 COMMONWEALTH AVENUE.

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

The meeting was adjourned at 9:35 p.m.

MARTA A. OSWALD, Assistant City Clerk, for
JEFFREY J. COX, City Clerk

ORDINANCE NO. 9749

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ZONING DISTRICT MAPS NO. 11, 13 AND 14, AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-A, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED ABOVE WEST SKYLINE PARKWAY, SOUTH OF WEST ARBUTUS DRIVE AND APPROXIMATELY 1,600 FEET EAST OF US HIGHWAY 2 (SUGARLOAF).

The city of Duluth does ordain:

Section 1. That Plates No. 11, 13 and 14 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAPS)

(Reference File No. 05024)

[see Map Nos. 11, 13 and 14 at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 20, 2005)

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

Yeas: Councilors Atkins, Gilbert, Little, Reinert, Stauber, Stewart and President Ness -- 7

Nays: Councilors Johnson and Stover -- 2

Passed October 11, 2005

ATTEST:

JEFFREY J. COX, City Clerk

Approved October 11, 2005

HERB W. BERGSON, Mayor

ORDINANCE NO. 9750

BY COUNCILOR STAUBER:

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$7,600,000 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 has requested and the state of Minnesota has approved a \$4,950,000 grant to the city for design and construction of sanitary sewer overflow storage facilities at selected sites within the city. This grant from the state will be available when matched by \$1 of money secured or provided by the city for each \$1 of state money. The city intends to provide its matching funds for such grant through the issuance of general obligation sewer utility revenue bonds in an approximate amount of \$5,080,000, to be sold in two or more series.

1.03 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 maximum amount of \$7,600,000 for the purposes of paying costs of the improvement program, including (i) a portion of the Morgan Park sanitary sewer projects, Phase I; (ii) the Morgan Park sanitary sewer projects, Phases II and III; and (iii) sanitary sewer overflow storage facilities, and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.04 The city has heretofore issued and sold the following: general obligation water and sewer refunding bonds dated May 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$220,000; general obligation sewer and steam utility revenue bonds dated December 1, 1998, the sewer utility portion of such bonds now outstanding in the amount of \$490,000; general obligation sewer utility revenue bonds dated December 1, 1999, now outstanding in the amount of \$1,305,000; general obligation water and sewer utilities revenue bonds dated December 1, 2000, the sewer utility portion of such bonds now outstanding in the amount of \$460,000; general obligation gas and sewer utilities revenue bonds dated December 1, 2001, the sewer utility portion of such bonds now outstanding in the amount of \$1,125,000; general obligation improvement note dated August 8, 2002, authorized in the amount of \$364,195; general obligation utilities facility bonds dated September 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,794,000; general obligation utilities revenue bonds dated December 1, 2002, the sewer utility portion of such bonds now outstanding in the amount of \$1,640,000; general obligation water and sewer utilities revenue refunding bonds dated March 1, 2003, the sewer utility portion of such bonds now outstanding in the amount of \$915,000; general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; and general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$4,045,000. 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 and notes dated May 1, 1998, December 1, 1998, December 1, 1999, December 1, 2000, December 1, 2001, August 8, 2002, September 1, 2002, December 1, 2002, March 1, 2003, December 12, 2003, and December 1, 2004.

1.05 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds, in one or more series, of the city of Duluth in the maximum amount of \$7,600,000 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 public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.06 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 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 20, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 11, 2005
Approved October 11, 2005
HERB W. BERGSON, Mayor

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ORDINANCE NO. 9751

BY COUNCILOR GILBERT:

AN ORDINANCE GRANTING A CONCURRENT USE PERMIT TO SHELTON PROPERTIES, LLC, FOR THREE ELECTRICAL CONDUITS IN THE RIGHT-OF-WAY OF DICKSON STREET LOCATED BETWEEN 1331 AND 1405 COMMONWEALTH AVENUE.

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 Shelton Properties, LLC (FN 05093), their successors and interests, referred to herein as the permittees, to occupy, erect and maintain three conduits each conduit not to exceed one inch in size in that part of Dickson Street adjoining Lots 31, Block 15, and Lot 12, Block 26, as the same was dedicated to the use of the public and the plat of Gary First Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk; a duly executed and acknowledged written acceptance of the terms of this ordinance; a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks, streets or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said conduits and all fixtures and appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such conduits shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said Dickson Street and agree that the city of Duluth shall not be liable for damage caused to such conduits 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, watermains, pipes, conduits or other public utilities made necessary by the presence of such conduits in said Dickson Street.

Section 6. That the permittee shall further observe the following conditions:

- (a) The entrance and exit of the conduits are to be located on permittees property;
- (b) Written approval must be secured from city engineering prior to construction.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: November 13, 2005)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 11, 2005
Approved October 11, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, October 20, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 7

Absent: Councilors Atkins and Stover -- 2

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MOTIONS AND RESOLUTIONS

Resolution 05-0726, by Councilor Stauber, authorizing employment contract with the administrative assistant-chief administrative officer, was introduced for discussion.

Councilor Little stated that his concerns are not with the individual selected but that he has some issues with the salary, health care benefits and that another existing employee with the city could be performing these duties in the interim, and thus save the city some additional expenses.

Resolution 05-0726 was adopted as follows:

BY COUNCILOR STAUBER:

BE IT RESOLVED, that the proper city officials are authorized to execute and implement an employment contract with Julio Almanza for the position of administrative assistant-chief administrative officer, which contract is on file with the city clerk as Public Document No. 05-1020-01.

Resolution 05-0726 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Reinert, Stauber, Stewart and President Ness -- 6

Nays: Councilor Little -- 1

Absent: Councilors Atkins and Stover -- 2

Approved October 20, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the proper city officials are authorized to enter into an agreement with the United States environmental protection agency providing for a Brownfield assessment program cooperative agreement for fiscal year 2006; said agreement to be substantially in the form of Public Document No. 05-1020-02 on file in the office of the city clerk; funds to be deposited in Fund 210, Agency 030, Organization 3106, Revenue Source 4209-02; no matching funds are required.

Resolution 05-0727 was unanimously adopted.

Approved October 20, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-047 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY IN CENTRAL HILLSIDE TO WOMEN IN CONSTRUCTION COMPANY, LLC, FOR \$18,400.

- - -

The meeting was adjourned at 5:12 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 24, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1024-01 St. Mary's/Duluth Clinic Health System, by Neal Hessen, attorney, application for concurrent use permit to use a portion over the right-of-way of East First Street and Fourth Avenue East for the construction and maintenance of decorative streetlights, data conduits and snow-melt heating system. -- Planning commission

05-1024-02 Seaway Port authority, et al. (four signatures) petition to vacate streets and alleys in Rice's Point. -- Assessor

05-0124-28 Women in Construction communication regarding sale of property in Central Hillside (05-047-O). -- Received

05-1024-27 The following communications regarding the proposed special use permit for Hovland-Donovan Properties, Inc., for a residential care facility (05-0681R): (a) Kent Adams, for John Atella; (b) John and Linda Atella; (c) Bayfront Builders, Inc.; (d) Virginia Blais; (e) DSGW Architects, Inc.; (f) Doug McCorison. -- Received

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REPORTS OF OFFICERS

05-1024-03 Assessor:

(a) Confirmation of assessment roll levied to defray the assessable portion of 87th Avenue West sanitary sewer extension (assessable amount: \$20,412.51);

(b) Letters of sufficiency of petitions to:

(1) Construct a permanent alley in First Alley from 377 feet to 470 feet easterly of Tenth Avenue East to serve Lots 15 and 16 of Block 19, and Lots 15 and 16 of Block 16, Portland Division;

(2) Vacate a utility easement in the northerly five feet of Lot 1 and southerly five feet of Lot 2, except the easterly 40 feet, Block 1, Central Baptist Division of Duluth. -- Received

05-1024-04 Clerk applications to the Minnesota gambling control board for exemption from lawful gambling license from: (a) Regents of the University of Minnesota on February 16, 2006 (raffle); (b) St. Louis and Carlton County Chapter of Pheasants Forever on March 31, 2006 (raffle). -- Received

05-1024-05 Purchasing agent submitting emergency purchase orders awarding contracts to:

(a) Green Jacket for impermeable turf protection system for greens protection in the winter months;

(b) Thermacor Process, L.P., for Duluth Entertainment Convention Center water heating loop piping. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-1024-06 Commission on disabilities minutes of September 7, 2005, meeting. -- Received

05-1024-07 Duluth state convention center administrative board minutes of August 30, 2005, meeting. -- Received

05-1024-08 Parking commission minutes of: (a) September 13; (b) September 27, 2005, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf expressed concern that: he lives on top of the hill and that banks are requiring flood insurance for him to get an equity loan; that there is a ditch in his backyard

where there is continuous wildlife growth and that his blacktop alley is all torn up by a contractor.

- - -

Kay L. Lewis expressed concern that: the code does not require chain locks or peep holes on rental units for the safety of the renter and that traffic cameras at busy intersections would produce far greater safety when you know that you are being watched.

- - -

RESOLUTIONS TABLED

Councilor Stewart moved to remove Resolution 05-0685, awarding contract to Cellular One Duluth/Superior for cellular air time service and hardware in the total amount of approximately \$70,668, from the table, which motion was seconded and unanimously carried.

Resolution 05-0685 was adopted as follows:

BY COUNCILOR STEWART:

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 various departments/divisions in accordance with specifications on its low specification bids for an approximate amount of \$70,668, terms net 30, FOB job sites, various funds, departments/agencies, organizations and objects.

Resolution 05-0685 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Gilbert moved to remove Resolution 05-0681, granting a special use permit to Hovland-Donovan Properties, Inc., for a residential care facility, Section 50-56(e) assisted living facility, for property located on the south side of Middle Road, from the table, which motion was seconded and unanimously carried.

Resolution 05-0681 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, Hovland-Donovan Properties, Inc., has submitted to the city council a request for a special use permit for a residential care facility, Section 50-56(e) assisted living facility, on property described as northerly 150 feet of Lots 95, 96 and 97, Norton's Acre Outlots of Duluth and located on the south side of Middle Road, 500 feet west of Howard Gnesen Road; and said permit application was duly referred to the city planning commission for a study, report and public hearing, and the city planning commission has subsequently reported its approval to the city council; and

WHEREAS, the approval was made because of the city planning commission's findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

NOW, THEREFORE, BE IT RESOLVED, that a special use permit is hereby granted to Hovland-Donovan Properties, Inc., to allow for the operation of a assisted living facility on the south side of Middle Road, on the condition that the project be developed consistent with the plans submitted by DSGW entitled "Greenbriar Assisted Living Facility, dated September 22, 2005," as identified as Public Document No. 05-1024-09 and the following conditions:

(a) That prior to the issuance of building permits, all necessary wetland permits be secured; and

(b) That the project secure the necessary SWPP permits for site development and stormwater management.

Resolution 05-0681 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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

BY COUNCILOR STAUBER:

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following: sanitary sewer extension at 87th Avenue West (Contract #5391; assessable amount - \$20,412.51), are hereby confirmed.

Resolution 05-0716 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby makes the finding of facts as set forth in Public Document No. 05-1024-10 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Duluth Entertainment Convention Center, 350 Harbor Drive.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council impose no penalty as a result of the violations of law occurring on the licensee's premises on January 13 and 14, 2005.

Resolution 05-0690 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 alcohol, gambling and tobacco commission; and

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

NOW, THEREFORE, BY 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.

Licensee	Gambling site
Multiple Sclerosis Society	Lake Avenue Pub, 109 West Superior Street
	All American Club, 1931 West Michigan Street
Duluth Softball Players Association	Players Sports Bar, 4024 Grand Avenue
American Red Cross	Great American Bar & Grill, 1600 Miller Trunk Highway
Northland Vietnam Veterans	Kom On Inn, 332 North 57th Avenue West

Resolution 05-0691 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

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 Cash Station LLC, dba MoneyXchange.

Resolution 05-0697 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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 339 East Central Entrance to Pawn America Minnesota, LLC.

Resolution 05-0698 was unanimously adopted.

Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling bingo exemption to the Lincoln Park Business Group 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 05-0707 was unanimously adopted.

Approved October 24, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that A.W. Kuettel & Sons, Inc., be and hereby is awarded a contract for re-roofing the following city buildings: skywalk in the alley above 300 West First Street (\$11,550); Harrison Recreation Center at 3002 West Third Street (\$45,820); and the primate building at the Duluth Zoo, 72nd Avenue West and Grand Avenue (\$57,420) for the architect's division in accordance with specifications on its low specification bid of \$114,790, payable out of: Capital Fund 100, Department/Agency 700, Organization 1420, Object 5530 (\$36,279.15), Project Number CM-100-I422, and Capital Fund 100, Department/Agency 700, Organization 1420, Object 5530 (\$78,510.85), Project Number CM-100-I504.

Resolution 05-0720 was unanimously adopted.

Approved October 24, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the reappointments by Mayor Bergson to the animal humane board of Pat Castellano and Mary Wictor for terms expiring on October 31, 2010, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Bergson to the animal humane board of Janis Stern for a term expiring October 31, 2009, replacing Robert A. Berquist who resigned, is confirmed.

Resolution 05-0695 was unanimously adopted.

Approved October 24, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson to the parks and recreation commission of Nettie R. Bothwell (commission on disabilities) for a term expiring on February 13, 2008, is confirmed.

Resolution 05-0696 was unanimously adopted.

Approved October 24, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of housing inspector leadworker, which were approved by the civil service board on December 7, 2004, and which are filed with the city clerk as Public Document No. 05-1024-11, 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 31, pay rate of \$3,470 to \$4,127 per month to Pay Range 32, pay rate of \$3,626 to \$4,311. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0701 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed specifications for the new civil service classification of plans examiner leadworker, which were approved by the civil service board on February 8, 2005, and which are filed with the city clerk as Public Document No. 05-1024-12, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 32, \$3,626 to \$4,311 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0702 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed specifications for the new civil service classification of plans examiner, which were approved by the civil service board on February 8, 2005, and which are filed with the city clerk as Public Document No. 05-1024-13, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,190 to \$3,785 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0703 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of solid waste compliance officer, which were approved by the civil service board on May 4, 2004, and which are filed with the city clerk as Public Document No. 05-1024-14, 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 31, pay rate of \$3,470 to \$4,127 per month to Pay Range 25, pay rate of \$2,704 to \$3,190. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0704 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specification for the civil service classification of water and gas service leadworker, including a title change to customer service leadworker, which were approved by the civil service board on October 4, 2005, and which are filed with the city clerk as Public Document No. 05-1024-15, are approved. This classification

remains represented by the basic unit and compensated at Pay Range 32, \$3,626 to \$4,311 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 05-0705 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1024-16 to the 2004 community development program Northern Communities Land Trust: City HOMES Phase III-infrastructure agreement which extends the term of the agreement to September 30, 2006, with no change in compensation under the agreement.

Resolution 05-0714 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Utility Systems of America be and hereby is awarded a contract for construction of a precast reinforced concrete 18'x12'x7' special stormwater sedimentation chamber, modifications to existing storm culvert and manhole, construction of new 108 inch manhole, bypass culvert, connection, de-watering and ancillary work and restoration in and around Railroad Street for the engineering division in accordance with specifications on its low specification bid of \$192,064.90, terms net 30, FOB job site, payable out of Stormwater Fund 0535, Department/Agency 500, Organization 1905, Object 5533, City Job #0256ST.

Resolution 05-0666 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that proper city officers are hereby authorized to acquire temporary easements for roadway and utility purposes from Carrie Jean Stocker and Raymond Michael Kyllonen over property at 1723 Anderson Road for a total consideration of \$2,000, payable from Fund 411, Agency 035, Object 5530, which easements are described and shown on Public Document No. 05-1024-17 on file in the office of the city clerk.

Resolution 05-0708 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that proper city officers are hereby authorized to acquire temporary and permanent easements for roadway and utility purposes from Dale L. and Michelle J. Immerfall over property located at 1715 Anderson Road for a total consideration of \$10,700, payable from Fund 411, Agency 035, Object 5530, which easements are described and shown on Public Document No. 05-1024-18 on file in the office of the city clerk.

Resolution 05-0709 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that proper city officers are hereby authorized to acquire temporary easements for roadway and utility purposes from Linda D. Nelson and Randall D. Nelson and Dean H. and Olive Nelson over property located at 1738 Anderson Road for a total

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

consideration of \$3,300, payable from Fund 411, Agency 035, Object 5530, which easements are described and shown on Public Document No. 05-1024-19 on file in the office of the city clerk.

Resolution 05-0710 was unanimously adopted.
 Approved October 24, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that proper city officers are hereby authorized to acquire temporary and permanent easements for roadway and utility purposes from Alan Bruce Anderson and Elizabeth Anderson over property located at 1720 Anderson Road for a total consideration of \$5,900, payable from Fund 411, Agency 035, Object 5530, which easements are shown on Public Document No. 05-1024-20 on file in the office of the city clerk.

Resolution 05-0711 was unanimously adopted.
 Approved October 24, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that proper city officers are hereby authorized to acquire temporary and permanent easements for roadway and utility purposes from Richard W. and Lois J. Nordean over property located at 3733 Trinity Road for a total consideration of \$4,500, payable from Fund 411, Agency 035, Object 5530, which easements are described and shown on Public Document No. 05-1024-21 on file in the office of the city clerk.

Resolution 05-0712 was unanimously adopted.
 Approved October 24, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the following is the revised list of high priority bridges and the city of Duluth intends to replace, rehabilitate or remove these bridges as soon as possible when funds are available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
L6122	Superior Street	\$406,916	\$181,088		\$225,828	2005
L8479	Anderson Road	\$879,266	\$200,000		\$678,726	2005
88069	Arrowhead Road	\$100,000	\$83,334		\$16,666	2005
88231	Arrowhead Road	\$100,000	\$83,334		\$16,666	2005
89451	Skyline	\$160,000	\$120,000		\$40,000	2006
93402	Second Street	\$400,000	\$350,000		\$50,000	2006
L5833	Triggs Avenue	\$140,000	\$116,000		\$24,000	2009

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
L8496	Toledo Street	\$140,000	\$116,000		\$24,000	2009
L8501	7 Bridges Road	\$160,000	\$120,000		\$40,000	2006
L8511	Columbus Avenue	\$200,000	\$160,000		\$40,000	2010
91143	Third Street	\$680,000	\$544,000		\$136,000	2007
91294	Mall Drive	\$300,000	\$240,000		\$60,000	2009
L8485	Bristol Street	\$300,000	\$250,000		\$50,000	2010
L9419	Oxford Street	\$310,000	\$260,000		\$50,000	2007
L8477	Tenth Street	\$1,399,853	\$258,410	\$934,443	\$58,000	2006
L3140	63rd Avenue West	\$420,000	\$160,000		\$260,000	2007
69812	27th Avenue West	\$780,000	\$300,000		\$480,000	2008
L8491	38th Avenue West	\$135,000	\$85,000		\$50,000	2008
L8516	Fairmont Street	\$130,000	\$100,000		\$35,000	2009
88550	Central Avenue	\$200,000	\$75,000		\$125,000	2010

Resolution 05-0713 was unanimously adopted.
 Approved October 24, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

By resolution of intent numbered 05-0620 the council did request the administration to prepare plans and specifications for the construction of a watermain in Lawn Street from Portal Avenue approximately 383 feet east of centerline of Portal Avenue at an estimated cost of \$50,000.

Said plans and specifications have been prepared and filed with the secretary of the special assessment board; proper notice has been sent to the benefitting 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.

RESOLVED, that said improvement as described above be made, that the estimated total cost of said improvement as estimated by the city engineer is \$50,000, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project Number 0529WA and that all of the cost of said improvement be defrayed by special assessment against the land and premises specially benefitted, 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.

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 05-0715 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1024-22 with the St. Louis and Lake counties regional railroad authority for use of its right-of-way in conjunction with the city's eight inch watermain extension in 90th Avenue East and East Superior Street, at a cost not to exceed \$500, payable from Special Assessment Fund 0410, Agency 038, Object 5530, Project No. 0484WA.

Resolution 05-0718 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Northland Constructors of Duluth, LLC be and hereby is awarded a contract for reconstruction of Anderson Road from Trinity Road to Chambersburg Road including the replacement of box culvert Bridge L8479 over Miller Creek for the engineering division in accordance with specifications on its low specification bid of \$739,411.20, terms net 30, FOB job site, payable out of Permanent Improvement Program Fund 0411, Department/Agency 035, Object 5530, Project PI0530TR.

Resolution 05-0719 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Como Oil and Propane Company be and hereby is awarded a contract for furnishing and delivering 84,000 gallons of liquid propane for the utility operations division in accordance with specifications on its low specification bid of \$113,400, terms net, FOB destination, \$106,900 payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5390; \$1,300 payable out of Water Fund 0510, Department/Agency 500, Organization 1940-2410, Object 5212; and \$5,200 payable out of Natural Gas Fund 0520, Department/Agency 500, Organization 1940-2410, Object 5212.

Resolution 05-0721 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that United Electric Company be and hereby is awarded a contract for furnishing and delivering motor control equipment and switchgear for the utility operations division in accordance with specifications on its low specification of \$49,430, terms net 30, FOB destination, payable out of Water Fund 0510, Department/Agency 500, Organization 1955, Object 5404.

Resolution 05-0723 was unanimously adopted.
Approved October 24, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officers are hereby authorized to enter into a permit agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-1024-23, authorizing the city to construct and maintain a storm sewer facility on university property at 60th Avenue East between London Road and Lake Superior (City Job No. 0431SN), subject to conditions as set forth therein at a cost of \$450, payable from Fund 531, Agency 500, Object 5532.

Resolution 05-0728 was unanimously adopted.
Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

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 316 North Central Avenue;
Front of 10 East Sixth Street;
Behind 132 East Superior Street (on Michigan Street).

Resolution 05-0693 was unanimously adopted.
Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 05-1024-24, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2005-2006 season in the amount of \$20,000; said funds to be deposited in the General Fund 100-500-1920-4226.

Resolution 05-0724 was unanimously adopted.
Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

The city council makes the following findings:

(a) The Duluth airport authority (the authority) has determined to terminate the existing lease and FBO agreement with North Country Aviation, Inc., (NCA) relating to the Duluth International Airport, and to acquire the remaining leasehold interest of NCA by the issuance and delivery to NCA of its airport facility revenue note, Series 2005A (the note), in the principal amount of \$506,702.59; and

(b) On October 18, 2005, the authority adopted its resolution entitled *RESOLUTION AUTHORIZING THE ISSUANCE OF \$497,378.55 AIRPORT FACILITY REVENUE NOTE, SERIES 2005A; PROVIDING FOR THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND AUTHORIZING CERTAIN FURTHER ACTIONS* (the note resolution), which resolution authorizes the issuance of the note and the pledge of certain revenues designated therein to the payment of principal of and interest on the note, subject to action by this city council approving, confirming and ratifying such issuance and pledge, as required by the provisions of the Duluth Airport Authority Act of 1969, Laws of Minnesota 1969, Chapter 577.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, that the council hereby approves, confirms and ratifies the actions of the authority

providing for the issuance and sale of the note, and the pledge of revenues thereto, and all other actions of the authority as set forth in the note resolution.

Resolution 05-0725 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

The following resolutions were also considered:

BY COUNCILORS STEWART AND STAUBER:

The city council makes the following findings:

(a) St. Louis County and the city of Duluth recognize that revenues to support desired programs are becoming more difficult to secure and also recognize that the needs are exceeding the resources;

(b) St. Louis County and the city of Duluth believe that there are core essential services that government should be providing for all citizens;

(c) St. Louis County and the city of Duluth understand that there may be services where both the county and the city provide similar services;

(d) St. Louis County and the city of Duluth acknowledge there may be opportunities within these two governmental bodies where the consolidation of services or facilities would result in less costs to taxpayers.

NOW, THEREFORE, BE IT RESOLVED, that the St. Louis County Board of Commissioners and the Duluth City Council do jointly create a task force to review services provided by each entity; to prioritize and to recommend to the county board and city council opportunities to consolidate services or facilities. The task force will be a visionary group, made up of interested citizens of both Duluth and St. Louis County, who do not have special financial or political ties in the governance of either body. The task force will develop recommendations that will have a measurable positive impact on the budget of both governmental bodies.

RESOLVED FURTHER, that the task force shall be made up of 15 members; three city councilors, three county board members, three at large representatives appointed by the Duluth City Council and three at large members appointed by the St. Louis County board, one appointed by the Duluth Area Chamber of Commerce, one by the Laurentian Chamber of Commerce; and one by the Arrowhead Regional Development Commission. These officials will act in the capacity of information gatherers and providers. The 15 members will select a chair and vice chair.

RESOLVED FURTHER, that the task force will report its findings and recommendations to the commissioners and councilors, including its conclusions on the need for the creation of a joint powers board to implement any of its recommendations. The task force will complete its study and report no later than six months after the first meeting occurs.

Resolution 05-0706 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR JOHNSON:

The council finds:

That, consistent with the agreement approved by Resolution 04-0484, and Exhibit B thereof, the mayor has appointed the 11 members named herein to the Duluth legacy endowment fund project group; and

That the appointments require council approval.

NOW, THEREFORE, BE IT RESOLVED, that the council approves the appointment of the following individuals to the Duluth legacy endowment fund project group:

Terms ending July 12, 2007:

Brad Beckman; Ken Hogg; Melissa Kadlec.

Terms ending July 12, 2008:

Abbot Apter; Sandy Hoy; Althea McBurrows; Nancy Norr.

Terms ending July 12, 2009:

Greg Gilbert; George Goldfarb; Bob Powless; Peter Sneve.
Resolution 05-0616 was unanimously adopted.
Approved October 24, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth (the city) has approved the contamination clean-up grant applicant to be submitted by the city to the department of employment and economic development (DEED) on November 1, 2005, for the Cirrus expansion site.

BE IT FURTHER RESOLVED, that the city act as the legal sponsor for the project contained in the contamination clean-up grant program to be submitted on November 1, 2005, and that the mayor of the city is hereby authorized to apply to DEED for funding (505,969) of this project on behalf of the city.

BE IT FURTHER RESOLVED, that the city 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 a local match from the Duluth recovery loan program (DRLP) in the amount of 25 percent of the grant funds requested as identified in the application are committed to the project.

BE IT FURTHER RESOLVED, that the city has not violated any federal state or local laws pertaining to fraud, bribery, graft, kick-backs, collusion, conflicts of interest or other unlawful or corporate practice.

BE IT FURTHER RESOLVED, that upon approval of this 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 in all contract agreements.

BE IT FURTHER RESOLVED, that the city's mayor and the city clerk are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

BE IT FURTHER RESOLVED, that DEDA is hereby authorized to administer the contamination clean-up grant on behalf of the city.

Resolution 05-0717 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

Resolutions 05-0699 and 05-0700, by Councilor Gilbert, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a variance to reduce the minimum corner side yard setback requirement from 20 feet to ten feet for the construction of a 904 square foot addition to an existing 576 square foot detached garage on property located at 322 North 80th Avenue West (David Mark Ridgewell), were introduced for discussion.

Councilor Gilbert moved to table both resolutions until the applicant can review his options, which motion was seconded and unanimously carried.

- - -

Resolution 05-0730, by Councilor Gilbert, adopting governing principles for the comprehensive plan, was introduced for discussion.

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

Kay L. Lewis stated that with the completion of the comprehensive plan, other conflicting ordinances need to be reviewed and possibly changed.

President Ness moved to amend the resolution, by amending No. 9 of the "Governing Principles" document, by changing it to read "Support private actions that contribute to the public realm," which motion was seconded and unanimously carried.

Resolution 05-0730, as amended, was adopted as follows:

BY COUNCILOR GILBERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

WHEREAS, a foundational element of the comprehensive plan process is to formulate governing principles to guide plan development; and

WHEREAS, the comprehensive planning committee, in conjunction with the planning consultant and city planning staff, have developed 12 governing principles; and

WHEREAS, these principles have been reviewed by the comprehensive planning committee and approved by the planning commission;

RESOLVED, the principles set forth in Public Document No. 05-1024-25 are adopted for the purpose of guiding the city as it proceeds with the development of a comprehensive plan.

Resolution 05-0730, as amended, was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that, pursuant to the provisions of Minnesota Statutes, Section 469.176 Subd. 1(b), Duluth Tax Increment Financing District No. 6, is hereby decertified.

FURTHER RESOLVED, that the city clerk is hereby requested to transmit a copy of this resolution to the St. Louis County auditor.

Resolution 05-0733 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0734, by Councilor Gilbert, approving use of grant, tax abatement and tax increment proceeds by DEDA to fund costs of the 2005 Cirrus expansion project and/or repay loans made to deda by the Duluth 1200 Fund, Inc., and/or the Duluth recovery loan program and authorizing proper city officials to execute and deliver documents or agreements necessary to evidence such approvals, was introduced for discussion.

Councilor Stewart stated that he does not support the use of tax abatement or tax increment financing for this project.

Resolution 05-0734 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, the Duluth economic development authority (DEDA) has entered in a development agreement (development agreement) with Cirrus Design Corporation (Cirrus) to assist Cirrus in the construction of an expansion to its manufacturing facility in Duluth (2005 Cirrus expansion project); and

WHEREAS, the following funding sources (funding sources) have been identified to provide DEDA with the funds to provide such assistance to Cirrus:

(a) A grant loan (MIF grant/loan) in the amount of \$500,000 to be obtained from the Minnesota department of employment and economic development (DEED);

(b) An infrastructure grant (infrastructure grant) in the amount of \$500,000 to be obtained from DEED;

(c) A pollution grant in an undetermined amount (the amount is dependent upon the pollution cleanup required with respect to the 2005 Cirrus expansion project) to be obtained from DEED;

(d) A redevelopment grant in the estimated amount of \$300,000 to be obtained from DEED;

(e) Proceeds of tax abatement on the west expansion site and Site 102 (as those sites are defined in the development agreement);

(f) Proceeds of tax increment from the east expansion site (as that site is defined in the development agreement); and

WHEREAS, DEDA may be obligated to pay for certain costs of the 2005 Cirrus expansion project prior to the receipt of some or all of the funding sources; and

WHEREAS, in such event DEDA has available to it loans from the Duluth 1200 Fund, Inc., (the 1200 Fund loan) and the Duluth recovery loan program (DRLP loan); and

WHEREAS, the 1200 Fund loan and DRLP loan are to be repaid from the funding sources; and

WHEREAS, the DRLP loan and the 1200 Fund loan were also contemplated to be repaid by an assignment of the lessor's interest in the lease of the west expansion area, the lease of Site 102 area and an assignment of revenues from the parking lot; and

WHEREAS, in lieu of granting the assignments contemplated by the immediately preceding whereas clause the DAA has agreed to make the payments as and when they come due on the MIF grant/loan thereby freeing up the other funding sources to be available to repay the DRLP loan and 1200 Fund loan; and

WHEREAS, DEDA has been presented with the 1200 Fund note and DRLP note (Public Document No. 05-1024-26) to evidence the 1200 Fund note and DRLP note respectively; and

WHEREAS, the city has been requested to execute the joinder attached to the 1200 Fund note and DRLP note to evidence its agreement to make the funding sources available to DEDA to repay the 1200 Fund loan and DRLP loan; and

WHEREAS, some of the funding sources may become available before costs are incurred in connection with the 2005 Cirrus expansion project; and

WHEREAS, in such event DEDA desires to utilize the proceeds of such funding sources in lieu of borrowing funds under the DRLP note or the 1200 Fund note; and

WHEREAS, as the proceeds of the various funding sources are received such proceeds will need to be assigned to DEDA by appropriate documentation; and

WHEREAS, the city council of the city of Duluth has duly considered this matter and believes that it is in the best interest of the city of Duluth to proceed as provided herein.

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

(a) The use of funding sources by DEDA to fund costs of the 2005 Cirrus expansion project and/or to repay the 1200 Fund loan and/or the DRLP loan is hereby approved;

(b) The agreement by the DAA to make payments as and when they come due on the MIF grant/loan in lieu of granting an assignment of the lessor's interest in the lease of the west expansion area, the lease of the Site 102 area and an assignment of revenues from the parking lot is hereby approved;

(c) Proper city officials are hereby authorized to execute and deliver appropriate documents or agreements necessary to evidence the approval made by this resolution, including without limitation joinders to the 1200 Fund note and DRLP note.

Resolution 05-0734 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stover and President Ness -- 8

Nays: Councilor Stewart -- 1

Approved October 24, 2005

HERB W. BERGSON, Mayor

BY PRESIDENT NESS:

BE IT RESOLVED, that the council supports use of the following planning principles for development of Duluth's East Downtown, Hillside and Waterfront:

GUIDING PRINCIPLES FOR PLACE MAKING AND COMMUNITY BUILDING

Plans, regulations and projects are some of the means for implementing the vision of Duluth's East Downtown, Hillside and Waterfront charrette. These implementation tools will continue to evolve over time but they are guided by a broader, more holistic vision of place making and community building as represented in these Duluth principles generated by the citizen's of Duluth during the charrette.

(1) Boost Duluth.

Nurture a collaborative culture that maintains a positive dialogue focused on enhancing Duluth's quality of life.

(2) Evoke a sense of place.

Encourage all new development and public investment in the Downtown to say, "This is Duluth," reflecting the city's unique regional

geography, climate, history and character and rejecting "Anywhere USA" models that would erase everything that is special about Duluth.

(3) Foster public safety.

Pursue place making initiatives and programming to improve the attractiveness of existing public spaces to reinforce them as magnets for public activity. Increasing the number of people in the city's public spaces, along the lakefront and in the neighborhoods will enhance community livability while promoting public safety. Enhance focal points within the larger public parks and program them for regularly recurring events such as community "jam sessions" (open stage, bring your own instrument), flea markets, farmer's markets, and participatory arts, sports and cultural activities. Facilitate a continuous multi-cultural dialog that celebrates diversity through similar initiatives in the arts, sports, festivals and other community building initiatives.

(4) Preserve and enhance heritage resources.

Preserve historic buildings, public spaces and view corridors to the lake. Duluth's industrial history and historic architecture are key aspects of Duluth's quality of life, and contribute to its distinctive identity and attractiveness as a place to live, work, recreate, visit, and invest in the city's homes, businesses and institutions.

(5) Invest in the public realm.

Create a network of streets, sidewalks and parks that are safe, vibrant and pedestrian friendly. Replant boulevard trees and prevent exposed parking lots and garages, blank walls, "dead space," and poorly designed skywalks from eroding Duluth's walkable streets.

(6) Improve connectivity.

Start a program of street improvements to enhance bicycle and pedestrian movement and add pedestrian connections to Lake Park. Require new development and redevelopment of properties to reconnect pedestrian- and bike-friendly fragments of streets and blocks into a continuous walkable network.

(7) Establish and restore the unique ecology of the city's neighborhoods, districts, corridors and Downtown.

The highest quality of life is achieved where a full spectrum of places and experiences across a spectrum of natural and built landscapes is provided. Preserve the city's natural settings and enhance the urbanity of the Downtown and adjacent neighborhoods. Build dense, mixed-use in downtown with an urbanscape; infill medium and low-density housing in the surrounding neighborhoods with a greenscape. Continue a street tree planting program.

(8) Broaden the mix of uses.

Create a Downtown, Hillside and lakefront where people choose to live, work and play. Cluster and mix modest retail, dining and cafes with civic and institutional uses and resist "over-retailing" the downtown, particularly in skyways that can kill street-level shops. Reinforce concentrations of retail where it already exists and encourage concentrations of similar types of businesses (e.g., dining, antiques, home furnishings, arts-and-culture related) to magnify their power to attract visitors.

(9) Expand housing opportunities for people from all walks of life to live Downtown.

Tap the market demand for a variety of urban housing types (condominiums, town homes, live-work, urban apartment buildings, small lot single-family attached and detached), income levels and seasonal residences in and around the Downtown. Look for win-win development opportunities that accommodate new, profitable housing and mixed-use development while providing some units, funding, land or other resources to support workforce and low-income housing initiatives. Market Duluth's amenity package of natural

beauty, cultural heritage, and excellent health care facilities, low cost of living and high quality of life to attract new seasonal and permanent residents.

(10) Improve the regulatory framework.

Create a form-based code that provides citizens, decision-makers, and developers with a transparent, visual language to guide new development and redevelopment of properties within the study area. The form-based code should illustrate a predictable build-out that reflects the Duluth principles, and revalues rather than removes existing building stock. Simplify the process of review, permitting and approvals for development proposals consistent with the Duluth principles and form-based code.

Resolution 05-0736 was unanimously adopted.

Approved October 24, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

05-048 - AN ORDINANCE AMENDING CHAPTER 8, SECTIONS 13, 18, 24, 27, 32, 40, 41, 42, 44, 49, 50, 51, 52, 55, 56, 57, 59, 62 AND 67 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-044 (9752) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED AT 117 WEST CENTRAL ENTRANCE (OSTRANDER).

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

- - -

BY COUNCILOR GILBERT

05-046 (9753) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION."

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

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BY COUNCILOR GILBERT

05-047 (9754) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY IN CENTRAL HILLSIDE TO WOMEN IN CONSTRUCTION COMPANY, LLC, FOR \$18,400.

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

- - -

BY PRESIDENT NESS

05-045 (9755) - AN ORDINANCE PERTAINING TO CABLE TELEVISION FRANCHISE.

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

- - -

The meeting was adjourned at 7:55 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9752

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 28 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1-B, SINGLE FAMILY RESIDENTIAL, TO C-5, PLANNED COMMERCIAL, PROPERTY LOCATED AT 117 WEST CENTRAL ENTRANCE (OSTRANDER).

The city of Duluth does ordain:

Section 1. That Plate No. 28 of the zoning district map as contained in the Appendix to Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

(MAP)

(Reference File No. 05040)

[see Map No. 28 at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 4, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 24, 2005

Approved October 24, 2005

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

ORDINANCE NO. 9753

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, AMENDING PUBIC DOCUMENT NO. 03-0324-15 ENTITLED "RAMSEY VILLAGE NEIGHBORHOOD DOCUMENTS OF IMPLEMENTATION."

The city of Duluth does ordain:

Section 1. That development within the boundaries of TND No. 1 shall be governed by and regulated in accordance with Public Document No. 03-0324-15 entitled, "Ramsey Village Neighborhood Documents of Implementation," as amended by Ordinance No. 9594, be further amended to:

(a) Allow a change in Document No. 03-0324-15, to allow Type II housing (single family structures) in place of Type IV (townhomes) in the half block south of Wadena Street-West of 50th Avenue West;

(b) Allow placement of a permanent sign to be erected at the corner of Ramsey Street and 54th Avenue West, adjacent to the management office of the Ramsey Village Townhomes.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: December 4, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 24, 2005

Approved October 24, 2005

ATTEST:

JEFFREY J. COX, City Clerk

HERB W. BERGSON, Mayor

ORDINANCE NO. 9754

BY COUNCILOR GILBERT:

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY
IN CENTRAL HILLSIDE TO WOMEN IN CONSTRUCTION
COMPANY, LLC, FOR \$18,400.

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to convey the below-described property in St. Louis County, Minnesota, by quit claim deed to Women in Construction, LLC, for the sum of \$18,400; payable to the General Fund 100, Agency 700, Object 1420, Revenue Source 4640:

Lot 11, East Fifth Street, DULUTH PROPER First Division.

Section 2. This ordinance shall take effect 30 days from and after its passage and publication. (Effective date: December 4, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 24, 2005

Approved October 24, 2005

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9755

BY PRESIDENT NESS:

AN ORDINANCE PERTAINING TO CABLE TELEVISION
FRANCHISE.

The city of Duluth does ordain:

Section 1. The franchise granting Charter the right and privilege to operate a cable television system is hereby extended to December 31, 2005, or until a new franchise agreement is executed, whichever shall first occur.

Section 2. In granting this extension neither the city nor Charter waives any rights under the franchise or applicable law and both the city and Charter agree to comply with all terms and obligations of the franchise.

Section 3. This ordinance shall become effective upon the occurrence of both of the following conditions:

(a) Pursuant to Section 82 of the City Charter, this ordinance shall be published verbatim in the official paper of the city of Duluth once a week for four successive weeks after its passage, and shall take effect 30 days from and after its last publication; and

(b) Charter's acceptance of this ordinance and the franchise for the term specified in paragraph (1) above, provided Charter accepts and agrees to each and every term of this ordinance and the franchise within 14 days from the date this ordinance is adopted by the city council. (Effective date: December 25, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed October 24, 2005

Approved October 24, 2005

HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, November 7, 2005, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 8

Absent: Councilor Atkins -- 1

- - -

MOTIONS AND RESOLUTIONS

BY COUNCILOR STOVER:

RESOLVED, that Lakehead Constructors, Inc., be and hereby is awarded a contract for construction of Lift Station No. 7 improvements located at 528 Lake Avenue South for the engineering division in accordance with specifications on its low specification of \$171,500, terms net 30, FOB destination, payable out of Sanitary Sewer Fund 0530, Department/Agency 500, Organization 1905, Object 5533, Project 0169SN.

Resolution 05-0739 was unanimously adopted.

Approved November 7, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Northwoods Sand and Gravel, Inc., be and hereby is awarded a contract for construction of street and utility improvements in Denim Drive for the engineering division in accordance with specifications on its low specification of \$272,246.05, terms net 30, FOB destination, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530, Project 0500TR.

Resolution 05-0745 was unanimously adopted.

Approved November 7, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR LITTLE

05-051 - AN ORDINANCE AMENDING DULUTH CITY CODE SECTION 33-46; INCREASING PENALTY FOR OVERTIME PARKING.

To Councilor Little's concerns relative to the time frame for councilors receiving the ordinance for first reading, City Attorney Brown stated that the legal filing requirement is that it be filed at least 12 hours before the meeting with the city clerk, which was met.

There were other councilors concerned that the ordinance should have been received in a more timely manner.

As sponsor of the ordinance, Councilor Little's request that the ordinance be removed from this agenda and put on the next agenda was honored with no objections.

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The meeting was adjourned at 5:13 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 14, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

The minutes of council meetings held on August 5, 8, 15, 22 and 29, 2005, were approved upon a unanimous vote.

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1114-01 David W. and Nadine Burson petition to construct a watermain and sanitary sewer in Chester Way from Missouri Avenue to approximately 405 feet west of the centerline of Missouri Avenue. -- Assessor

05-1114-02 Eric and Deborah Ringsred concurrent use permit application to utilize the abandoned Duluth Transit Authority bus shelter at approximately 12 North Second Avenue East for use as a storage facility. -- Planning commission

05-1114-03 Rick J. and Mary J. Tourville petition to construct a watermain and sanitary sewer in Commonwealth Avenue from approximately 283 feet north of the centerline of vacated Lorain Avenue to approximately 333 feet south of the centerline of vacated Lorain Avenue. -- Assessor

REPORTS OF OFFICERS

05-1114-04 Assessor letter of sufficiency of petition to vacate streets and alleys in Rice's Point. -- Received

05-1114-05 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license from Minnesota Deer Hunters Association, Lake of the Woods Chapter, on March 4, 2006 (raffle). -- Received

REPORTS OF BOARDS AND COMMISSIONS

05-1114-06 Charter commission minutes of July 13, 2005, meeting. -- Received

05-1114-07 Commission on disabilities minutes of October 5, 2005, meeting. -- Received

05-1114-08 Duluth airport authority: (a) Balance sheets of: (1) July 31; (2) August 31, 2005; (b) Minutes of September 20, 2005, meeting. -- Received

05-1114-11 Duluth/North Shore Sanitary District board minutes of September 14, 2005, meeting. -- Received

05-1114-09 Duluth state convention center administrative board minutes of September 27, 2005, meeting. -- Received

05-1114-10 Duluth transit authority: (a) Income statement for July 2005; (b) Minutes of August 31, 2005, meeting. -- Received

05-1114-12 Housing and redevelopment authority of Duluth minutes of July 26, 2005, meeting. -- Received

05-1114-13 Parks and recreation commission minutes of: (a) September 14; (b) October 12, 2005, meetings. -- Received

05-1114-14 Planning commission minutes of September 28, 2005, meeting. -- Received

OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Barschdorf thanked the city for the work on his alley and urged the council to prohibit parking in alleys.

KL Lewis stated that the distance between exits from the skywalk is too long, which makes it inconvenient to get into businesses.

**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

Councilor Atkins moved passage of the consent agenda, which motion was seconded and unanimously carried.

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officers are hereby authorized to enter into a professional service agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1114-15 with Range Credit Bureau, Inc., (service provider) pursuant to which it will provide for the collection of past due, outstanding balances of certain nonperforming accounts in the portfolio of a revolving loan fund, said service provider to retain a 33 percent fee on amounts collected except for those accounts where:

- (a) Legal action is to be taken;
- (b) Accounts are sent from other agencies after an attempt to collect has been made; or
- (c) Outstanding balances are under \$50, in which event the service provider will retain a 50 percent fee; the balance of said amounts collected to be remitted to the city, payable into Fund 263.

Resolution 05-0762 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

(a) Authorization of bonds and certificates. 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 and general obligation equipment certificates of indebtedness for the following purposes:

(1) \$3,515,000 general obligation sewer utility revenue bonds, Series 2005F (the Series 2005F bonds), are hereby authorized and shall be issued pursuant to Ordinance No. 9750, adopted October 11, 2005, Minnesota Statutes, Chapter 475, and Section 115.46 and 444.075, and Section 55 of the Home Rule Charter of the city for the payment of the costs of improvements to the municipal sewer utility;

(2) Taxable general obligation tax increment bonds, Series 2005G (the Series 2005G bonds), in the approximate amount of \$12,525,000 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 the public development costs of a parking ramp and related project facilities to be constructed in connection with the St. Mary's/Duluth Clinic Health Systems Digestive Disease/Cancer Center project;

(3) \$1,110,000 general obligation equipment certificates of indebtedness, Series 2005H (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;

(4) General obligation improvement refunding bonds, Series 2005I (the Series 2005I bonds), in the approximate amount of \$3,070,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the city's general obligation improvement bonds, Series 1997A, dated September 1, 1997, maturing on and after February 1, 2007;

(5) General obligation zoo refunding bonds, Series 2005J (the Series 2005J bonds), in the approximate amount of \$1,490,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding

the City's general obligation zoo refunding bonds, Series 1997E, dated September 1, 1997, maturing on and after February 1, 2007; and

(6) General obligation refunding bonds, Series 2005K (the Series 2005K bonds), in the approximate amount of \$1,760,000 are hereby authorized and shall be issued, pursuant to Minnesota Statutes, Chapter 475 and the City Charter, for the purpose of refunding the city's general obligation bonds, Series 1996B, dated July 15, 1996, maturing on and after February 1, 2006.

(The Series 2005F bonds, the Series 2005G bonds, the Series 2005I bonds, the Series 2005J bonds and the Series 2005K bonds are collectively referred to as the bonds.)

(b) Issuance and sale of bonds and certificates. The terms and conditions of each series of the Bonds and the Certificates and the sales thereof are set forth in the official terms of offerings for each series on file with the city clerk as Public Document No. 05-1114-16. Each and all of the terms and provisions set forth in the official terms of offerings are adopted and confirmed as the terms and conditions of the Bonds and Certificates and the sales thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds and certificates;

(c) Competitive sale of bonds and certificates. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sales for each series of the bonds and the certificates in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering;

(d) Subsequent resolutions. The form, specifications and provisions for repayment of the bonds and certificates shall be set forth in subsequent resolutions of this city council.

Resolution 05-0773 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Custom Fire Apparatus be and hereby is awarded a contract for furnishing and delivering a triple combination pumper fire truck for the fire department in accordance with specifications on its low specification of \$292,028.75, terms net 30, FOB destination, payable out of Capital Equipment Fund 0250, Department/Agency 015, Organization 2005, Object 5580.

Resolution 05-0747 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that Duluth Superior Erection, Inc., be and hereby is awarded a contract for Phase II site improvements at the Harrison Recreation Center, including the construction of a paved basketball court, fencing and sidewalks for the architects division in accordance with specifications on its low specification bid of \$60,600, terms net 30, FOB job sites, payable out of Community Development Fund 0262, Department/Agency 020, Organization 5434.

Resolution 05-0748 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that C. Anderson be and hereby is awarded a contract for demolition of Peterson Arena for the architect division in accordance with specifications on its low specification of \$25,590, terms net 30, FOB destination, payable out of Capital Fund 0450, Department/Agency 030, Object 5453, City Project CP2005-OT0511.

Resolution 05-0751 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to enter into a consultant agreement with American Engineering Testing, Inc. (AET), for the sum of not to exceed \$99,450, from Fund 0435, Agency 030, Object 5530, Project 4351, for providing certain special inspection and quality control testing services to the city of Duluth in connection with the East First Street medical district parking 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. 05-1114-17.

Resolution 05-0759 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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.

Licensee

Gambling Site

Congdon Park Recreational Association Grandma's Sports Garden, 425 Lake Avenue South

Climb Theatre Country Lanes, 2327 Mountain Shadow Drive

Elk's Lodge #133 4250 Haines Road

Resolution 05-0767 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

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 November 1, 2005, and which are filed with the city clerk as Public Document No. 05-1114-18, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 228, \$4,355 per month.

Resolution 05-0770 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the proposed amendments to the specifications for the civil service classification of fire equipment operator, which were approved by the civil service board on November 1, 2005, and which are filed with the city clerk as Public Document No. 05-1114-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 227, \$4,148 per month.

Resolution 05-0771 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of a ten foot wide utility easement common to Lots 1 and 2, Block 1, Central Baptist Division, located at 3324 Decker Road, legally described as: easement located in the northerly five feet of Lot 1 and southerly five feet of Lot 2, Block 1, Central Baptist Division of Duluth (FN 05108); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 found that said easement is useless for the purpose for which it was intended, based on the following finding:

(a) All necessary public utilities are provided throughout the subdivision in other easements; and the commission did approve, unanimously, the easement vacation petition at its October 26, 2005, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth finds that the said easement has become useless for the purpose for which it was intended and therefore approves the vacation of the easement described above, and as more particularly described on Public Document No. 05-1114-20.

RESOLVED FURTHER, 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 05-0744 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officers 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. 05-1114-21 to the home program housing development projects purchase/rehabilitation/resale agreement with Neighborhood Housing Services (NHS) extending the time within which construction/rehabilitation must be completed to March 31, 2006.

Resolution 05-0763 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

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

File No.	Applicant	Legal Description	Location
05109	Terry Leonidas (Woodland Hills)	east 2/5 of east 1/2 of northwest 1/4 of southeast 1/4 of south- west 1/4 except east 33 feet of south 1/2 for road and except south 250 feet (2720-00140)	north of West Chisholm Street west of unbuilt Saint James Avenue (Woodland)
05114	Carol Schultz (HRA)	west 1/2 of Lot 6, Duluth Proper First Division, West Fifth Street (1020-00380)	lower side of West Fifth Street between Lake Avenue and First Avenue West (Central Hillside)

Resolution 05-0776 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are authorized to make the following transfer of funds between the Federal Fund 0262-020-5434, 2004 and 2005 HUD-funded community development accounts as set forth below:

Project #	Project	Budget amount	New amount	Amount of increase or decrease
2004 CDBG transfers				
CD-04-CD HOUS-2239	NHS affordable home-ownership services	\$151,000	\$113,550	(\$37,450)
2005 CDBG transfers				
CD-05-CD PFAC-PF02	Harrison basketball court	\$ 39,750	\$ 77,200	\$37,450

Resolution 05-0778 was unanimously adopted.
Approved November 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the city of Duluth hereby accepts the unencumbered title to 1989 Chevrolet "Hi Cube" van G30 (VIN No. 2GCH31KXK4155984) and a custom process 25x8.5x12 tent in settlement of the debt owed by OX Liners, LLP, to the revolving loan fund formerly operated by NSCDC and authorizing the city's manager of community development to execute a release substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1114-22.

Resolution 05-0780 was unanimously adopted.
Approved November 14, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, the proper city officers are hereby authorized and directed to execute an amendment to an agreement (Public Document No. 05-1114-33) 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 October 1, 2005, through December 31, 2005, to increase the payment for elderly waiver meals from \$5.81 to \$5.94. Said agreement is filed as No. 19777. Monies collected under said agreement shall be deposited in Federal Program Fund 272, Department 031, Revenue Source 4654-02.

Resolution 05-0746 was unanimously adopted.
Approved November 14, 2005
HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the city is hereby authorized to participate in the joint property tax advisory committee during 2006, including paying for the city's share of the consultant agreement with Jeff Van Wychen at a cost to the city of \$11,500 which shall be payable from the city council's budget, Fund 100, Agency 010, Organization 1101, Object 5319.

Resolution 05-0740 was unanimously adopted.
Approved November 14, 2005
HERB W. BERGSON, Mayor

- - -

BY PRESIDENT NESS:

RESOLVED, that the proper city officials are authorized to execute and implement a contract or modification of previous one between the city of Duluth and Rider Bennett, LLP, related to the Northwest Airlines bankruptcy, containing substantially the terms of that agreement on file with the city clerk as Public Document No. 05-1114-23, in a total amount not to exceed \$10,000; payment to be made from Fund 100, Agency 700, Organization 1407, Object 5304.

Resolution 05-0779 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

The city has received a petition from owners of 75 percent of the abutting property to construct a permanent alley in Central Avenue alley between Bristol Street and Ramsey Street; and

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.

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 05-0668 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of an easement for street and utility purposes over and across the below-described property from Charles K. and Peggy J. Bertel for the construction of Butte Avenue as part of the 2005 street improvement program, which easement is described and shown on Public Document No. 05-1114-24 on file in the office of the city clerk:

That portion of the vacated Butte Avenue right-of-way lying within 25 feet of the platted centerline thereof, adjacent to Lots 8, 9 and 10, and the north 1/2 of Lot 11, Block 2, and adjacent to Lots 7 and 13, and the east 1/2 of Lot 6, Block 4, all in Hunters Park First Division of Duluth.

Resolution 05-0731 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of an easement for street and utility purposes over and across the below-described property from Richard D. Stewart and Kathleen M. Collins for the construction of Butte Avenue as part of the 2005 street improvement program, which easement is described and shown on Public Document No. 05-1114-25 on file in the office of the city clerk:

That portion of the vacated Butte Avenue right-of-way lying within 25 feet of platted centerline thereof, adjacent to the south 1/2 of Lot 11, Block 2, Hunters Park First Division of Duluth.

Resolution 05-0732 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to execute and implement a contract, in the form of and containing substantially the same terms as that contract with S.R.F. Consulting Group, Inc., the contract amount being increased by an additional \$94,300, for a new total of \$265,690, for roadway and utility design of the city's component of the Trinity

Road (TH53) project, payment to be made from the Permanent Improvement Fund 0411, Agency 035, Object 5530 (City Project #0351TR).

Resolution 05-0737 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

The city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of Bridge No. 69J54 (old Bridge No. L8479) over Miller Creek on Anderson Road, SAP 118-198-02.

The grant has been approved and the amount of the grant has been determined to be \$200,000.

RESOLVED, that the city of Duluth does hereby accept said grant and affirms that any reconstruction costs qualifying for Minnesota state transportation funds in excess of the grants will be appropriated from funds available to the city of Duluth, and that any grant monies appropriated for the reconstruction costs but not required, based on the final audit, shall be returned to the Minnesota state transportation fund.

FURTHER RESOLVED, that grant monies received hereunder shall be deposited into the Permanent Improvement Fund 0411, Agency 035, Object 4220-01, Project No. 0351TR.

Resolution 05-0742 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 05-1114-26, to Grant No. A67966 with the state of Minnesota department of natural resources for services related to the investigation and design of sediment traps for Miller and Coffee creeks, extending the term thereof through June 30, 2006.

Resolution 05-0743 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that EPG Companies, Inc., be and hereby is awarded a contract for furnishing services to continue work started in 2004 to reset and improve natural gas flow control and reporting system for the engineering division in accordance with specifications on its low specification of \$11,305, terms net 30, FOB destination, payable out of Gas Fund 0520, Department/Agency 500, Organization 1960, Object 5404.

Resolution 05-0749 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute Mn/DOT Contract No. 87912 with the state of Minnesota and Short Elliot Hendrickson, Inc., (SEH) for a transportation study along London Road (T.H. 61) in Duluth; said contract filed as Public Document No. 05-1114-27. Under this contract, the city shall contribute a maximum of \$50,000 which shall be payable from the MSAS Account Fund 0411, Department/Agency 035, Object 5530, Project No. 0534TR.

Resolution 05-0750 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Short Elliott Hendrickson, Inc., be and hereby is awarded a contract for professional engineering services for construction administration and staking for completion of Bristolwood First Addition for the engineering division in accordance with specifications on its low specification of \$48,000, terms net 30, FOB destination, payable out of Special Assessment Fund 0410, Department/Agency 038, Object 5530, City Project SA2005-0465TR.

Resolution 05-0752 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

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 parcel under M.S. §282.01 (Subd. 1) for public street and drainage purposes:

Applicant	Legal Description
City of Duluth	Lot 21, Auditor's Plat of Trinity Road Acres, except the southerly 233 feet of the westerly 150 feet thereof and except that part of said Lot 21 as shown as Parcel 256 on Minnesota department of transportation right-of-way plat numbered 69-66.

Resolution 05-0755 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that 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. 05-1114-28; payment by the city will be made from the General Fund 0100, Agency 700, Organization 1407, Object 5407.

Resolution 05-0760 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

WHEREAS, the city desires to hire a consulting engineer to provide the engineering services required for structural inspection and painting and structural repair programming Phase II; and

WHEREAS, L.H.B. Architects and Engineers 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 \$14,445, will be payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5520, City Project 0079TR.

Resolution 05-0764 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 02-0652 awarding a contract to Short Elliot Hendrickson, Inc., for professional engineering services for Superior Street (26th Avenue East to 47th Avenue East) be amended to increase the amount by \$159,081 for a new total of \$398,808 payable from the Permanent Improvement Fund 0411, Department/Agency 035, Object 5530; to be reimbursed through municipal state aid (MSA)/turn back funds; PI0063TR; SAP 118-147-17MTB.

Resolution 05-0766 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 05-0619 awarding a contract to Apex Mechanical for construction of 14th Street culvert repairs (Oregon Creek emergency storm repair) be amended to increase the amount by \$67,205 for a new total of \$247,299, terms net 30, payable out of Stormwater Fund 0535, Department/Agency 500, Organization 1905, Object 5533, Project #0510ST.

Resolution 05-0772 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with BNSF Railway, a copy of which is on file in the office of the city clerk as Public Document No. 05-1114-29(a), for the realignment of certain railway yard tracks, the construction of a new public at-grade crossing, and the removal of three existing public at-grade crossings in conjunction with the construction of Helberg Drive from Garfield Avenue to Port Terminal Drive, the cost of which shall be paid pursuant to a pre-existing agreement with the Duluth Seaway Port authority.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Soo Line Railway (doing business as Canadian Pacific Railway), a copy of which is on file in the office of the City Clerk as Public Document No. 05-1114-29(b), for the realignment of certain railway yard tracks and the construction of a new public at-grade crossing in conjunction with the construction of Helberg Drive from Garfield Avenue to Port Terminal Drive, the cost of which shall be paid pursuant to a pre-existing agreement with the Duluth Seaway Port authority.

Resolution 05-0775 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of the below-described property in St. Louis County, Minnesota, from The Nature Conservancy, a nonprofit corporation under the laws of the District of Columbia, for the specific purpose of inclusion of said property into the Magney-Snively Natural Area and to execute all documents necessary with regard thereto:

The southeast quarter of the southwest quarter (SE1/4 of SW1/4) and the west 1/2 of southwest quarter of southeast quarter (W1/2 of SW1/4 of SE1/4), ALL IN Section 21, Township 49 North of Range 15 West of the Fourth Principal Meridian, except minerals and mineral rights.

FURTHER RESOLVED, that the city hereby expresses its appreciation for said donation from The Nature Conservancy.

Resolution 05-0781 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

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 on both sides of Palm Street between Blackman Avenue and Arlington Avenue:

South side of Palm Street between Blackman Avenue and Arlington Avenue;

North side of Palm Street between Blackman Avenue and Arlington Avenue.

Resolution 05-0738 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officers are authorized to enter into an agreement with The Omega Group, Inc., providing for GIS mapping software system supporting law enforcement data gathering, said agreement to be substantially in the form of Public Document No. 05-1114-30 on file in the office of the city clerk and providing for the payment of \$33,409.05; funds to be paid from Fund 215, Agency 200, Organization 2272.

Resolution 05-0754 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement, in the form and containing substantially the terms of that agreement on file with the city clerk as Public Document No. 05-1114-31, between the city and the United States Coast Guard for provision of emergency response services on board the ship Alder (WLB 216).

Resolution 05-0758 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 05-1114-32, to grant Contract No. 2000-9748 with the state of Minnesota department of public safety, division of homeland security and emergency management, for terrorism prevention exercise, equipment and training for police department, extending the term thereof through May 31, 2006.

Resolution 05-0769 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 1028 85th Avenue West.

Resolution 05-0777 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that the proper city officers are authorized to utilize a form of agreement to be substantially in the form of Public Document No. 05-1114-34 on file in the office of the city clerk providing for the services as game officials for youth and adult athletic league program activities. Payments for such officiating shall not exceed the amount budgeted and shall be paid from Fund 210, Agency 030, Organization 3190, Object 5319.

Resolution 05-0753 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of the document on file in the office of the city clerk as Public Document No. 05-1114-35 with Malara Broadcast Group of Duluth, LLC (CBS 3), and Premier Pyrotechnics for the fireworks display presented in conjunction with the *Warmer by the Lake* celebration on January 7, 2006; payment for said fireworks display to be made by Malara Broadcast Group of Duluth, LLC.

Resolution 05-0768 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR REINERT:

RESOLVED, that the city of Duluth nominates Tom Ryther to be appointed to the Minnesota governor's coastal council and supports his appointment.

Resolution 05-0782 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0756, authorizing an agreement with the Over the Hill Night Riders Snowmobile Club for grooming the cross country snowmobile trail-west for an amount not to exceed \$15,000, and Resolution 05-0757, authorizing an agreement with the Drift Toppers Snowmobile Club for grooming the cross country snowmobile trail-east for an amount not to exceed \$5,000, by Councilor Reinert, were introduced for discussion.

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

Paul Bergstrom stated that there is no city cross country snowmobile trail, and suggested the organizations need to show what trail they are talking about and all the leftover money should be given back to the city.

Councilor Reinert said there were questions about the trail and moved to table both resolutions for further information, which motion was seconded and unanimously carried.

- - -

Resolution 05-0741, by Councilor Stauber, approving a supplemental agreement with the city of Duluth Supervisory Association regarding active and retiree health insurance, was introduced for discussion.

Councilor Stauber moved to table the resolution until the November 28 council meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR STEWART:

WHEREAS, on November 8, 2005, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election precincts in the city have made their returns of said election, and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 05-1114-36) at 7:00 p.m., November 14, 2005, and ascertained the number of ballots cast at said election and thereby declared that at said election there were

cast 16,762 votes, said votes having been cast in the following manner:

THAT for the offices of councilor at large, Timothy A. Bearheart received 7,472 votes, Bob Hansen received 7,106 votes, Roger J. Reinert received 8,847 votes, James D. Stauber received 7,947 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, second district, Greg Gilbert received 1,845 votes, Carinda Horton received 1,428 votes and candidates receiving write-in votes as indicated on the canvassing board report;

THAT for the office of councilor, fourth district, Neill A. Atkins received 1,625 votes, Garry Krause received 2,299 votes and candidates receiving write-in votes as indicated on the canvassing board report;

NOW, THEREFORE, BE IT RESOLVED, that Roger J. Reinert and James D. Stauber, having received the highest numbers of the votes cast at said election for the offices of councilor at large, are hereby duly elected for a term of four years.

FURTHER RESOLVED, that Greg Gilbert, having received the majority of all votes cast at said election for the office of councilor, second district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Garry Krause, having received the majority of all votes cast at said election for the office of councilor, fourth district, is hereby duly elected for a term of four years.

Resolution 05-0735 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0761, by Councilor Gilbert, terminating a concurrent use permit to the Duluth transit authority for a bus shelter on Second Avenue East above Superior Street (Norshor Building), was introduced for discussion.

Councilor Stewart moved to table the resolution until the November 28 council meeting, which motion was seconded and unanimously carried.

- - -

BY COUNCILOR GILBERT:

RESOLVED, that pursuant to Sections 2-155(b) and 2-156(a) of the Duluth City Code, 1959, as amended, the lands identified in Exhibit A and on file in the office of the city clerk as Public Document No. 05-1114-37(a) shall be held in perpetuity for the benefit of the city's residents and any development or use of such lands shall be consistent with the management plan for the Magney-Snively Natural Area.

BE IT FURTHER RESOLVED, that the management plan attached as Exhibit B and on file in the office of the city clerk as Public Document No. 05-1114-37(b) is approved as the final management plan for the Magney-Snively Natural Area and the appropriate city officials are authorized to take all necessary action to implement the management plan.

Resolution 05-0774 was unanimously adopted.

Approved November 14, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0786, by President Ness, setting the city's priorities for bonding projects before the state legislature in 2006, was introduced for discussion.

President Ness explained that bonding projects could be included on a special legislative session this year and wants a clear statement sent to the governor from the city of Duluth what the priorities are for the city.

Councilor Reinert moved to amend the resolution to change the priorities as follows:

"(a) The city's first priority is the bonding request to construct a new arena at the Duluth Entertainment Convention Center [DECC]. This is necessary to facilitate the University of Minnesota-Duluth men's and women's hockey programs and to expand the opportunity to attract more and larger concerts and conventions to the region and state;

(b) Northeastern Minnesota rail initiative and St. Louis County Heritage and Arts Center improvements;

(c) Pre-design, design and construction of roadway improvements, signage and interpretive kiosks to the Skyline Parkway corridor;

(d) Pre-design and design development relating to Bayfront Slip #2 for public water access;

(e) Pre-design, design and construction costs to upgrade pumps, filters and rock work in the existing polar shores area of the zoo and for walkways and utilities to develop the Lake Superior Zoo master plan;

(f) Pre-design and design of a multi-purpose building for a Native American Heritage Center at the Spirit Mountain Recreation Area," which amendment was seconded for discussion.

Councilor Stauber urged councilors to stay with the DECC as the number one priority for bonding projects in Duluth.

President Ness explained that the other projects on the resolution can be saved for later in the year.

Councilor Reinert received a friendly amendment to remove items (c) through (f).

Councilor Stover stated that he cannot support the amendment as the Skyline Parkway corridor and Bayfront Slip #2 are very important and have been on the city's wish list for several years.

Councilor Reinert's amended amendment was carried upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

Resolution 05-0786, as amended, was adopted as follows:

BY PRESIDENT NESS:

The city finds:

The city administration and council wish to establish a clear set of priorities with respect to capital budget (bonding) projects which the city supports in the 2006 legislative session; and

The city administration and council have devoted meeting time and discussion to city bonding priorities; and

The city administration and council choose to support a number of projects which are of vital interest to the community.

NOW, THEREFORE, BE IT RESOLVED, that the bonding priorities for the city of Duluth for the 2006 session, in order of priority, are the following:

(a) The city's first priority is the bonding request to construct a new arena at the Duluth Entertainment Convention Center. This is necessary to facilitate the University of Minnesota-Duluth men's and women's hockey programs and to expand the opportunity to attract more and larger concerts and conventions to the region and state;

(b) Northeastern Minnesota rail initiative and St. Louis County Heritage and Arts Center improvements.

FURTHER RESOLVED, that the city staff and elected officials will take the lead role in advancing these initiatives during the 2006 legislative session.

Resolution 05-0786, as amended, was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

Nays: Councilor Stover -- 1

Approved November 14, 2005

HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GILBERT

05-049 - AN ORDINANCE PLACING CURRENT NONCONFORMING LOTS IN COMPLIANCE WITH SECTION 50-25 OF THE LEGISLATIVE CODE OF THE CITY OF DULUTH.

- - -

BY COUNCILOR GILBERT

05-050 - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN DECORATIVE STREET LIGHTING, DATA CONDUITS AND SNOW MELT SYSTEM WITHIN THE RIGHT-OF-WAY OF EAST FIRST STREET BETWEEN FOURTH AVENUE AND SIXTH AVENUE EAST.

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

KL Lewis requested that St. Mary's Medical Center keep the lighting around the hospital in moderation at night to allow people to see where they are going and for safety.

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At this time, 8:00 p.m., President Ness adjourned the council meeting and called to order the public hearing regarding amendment to Tax Increment Financing District No. 22.

No one appeared who wished to be heard and the public hearing was closed at 8:01 p.m.

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At this time, 8:01 p.m. President Ness and called to order the public hearing regarding amendment to Tax Increment Financing District No. 23.

No one appeared who wished to be heard and the public hearing was closed at 8:02 p.m. and the regular order of business was resumed.

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BY COUNCILOR STOVER

05-051 - AN ORDINANCE AMENDING DULUTH CITY CODE SECTION 33-46; INCREASING PENALTY FOR OVERTIME PARKING.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR STEWART

05-048 (9756) - AN ORDINANCE AMENDING CHAPTER 8, SECTIONS 13, 18, 24, 27, 32, 40, 41, 42, 44, 49, 50, 51, 52, 55, 56, 57, 59, 62 AND 67 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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The meeting was adjourned at 8:05 p.m.

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

- - -

ORDINANCE NO. 9756

BY COUNCILOR STEWART:

AN ORDINANCE AMENDING CHAPTER 8, SECTIONS 13, 18, 24, 27, 32, 40, 41, 42, 44, 49, 50, 51, 52, 55, 56, 57, 59, 62 AND 67 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 13, of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-13. Definitions.

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

Alcoholic beverages. Distilled, fermented, spirituous, vinous, and malt beverages containing .5 percent or more of ethyl alcohol by weight which are potable for consumption by human beings.

At retail. Such term means for use or consumption by the purchaser and not for resale.

Bed and breakfast establishment. Any bed and breakfast inn authorized by Section 50-35 of this Code or other residential, owner occupied, historically or architecturally unique, overnight lodging facility that serves meals to its guests and which is authorized or allowed by local law and is found by the alcoholic beverage board to be the functional equivalent of a bed and breakfast inn.

Club. Any corporation duly organized under the laws of the state for civic, fraternal, social or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization which shall have more than 50 members and which shall, for more than a year, have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, whose affairs and management are conducted by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees is paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Exclusive liquor store. An establishment used exclusively for the sale of intoxicating liquor for consumption off or away from the licensed premises where sold, and the sale of ice, soft drinks, and cigarettes.

Hotel. Any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains not less than 50 guest rooms with bedding and other suitable and necessary furnishings in each room, which is provided with a suitable lobby, desk and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and the usual service and which maintains, under the same management and control as the rest of the establishment and has as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time and where the general public is, in consideration of payment therefor, served with meals at tables.

Intoxicating liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Manufacturer. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces intoxicating liquors for sale.

Malt liquor. Any beer, ale or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

3.2 percent malt liquor. Any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Off sale. The sale of alcoholic beverages in original packages in retail stores for consumption off or away from the premises where sold.

On sale. The sale of alcoholic beverages by the glass for consumption on the premises only.

Package or original package. Any container or receptacle holding alcoholic beverages, which container or receptacle is corked or sealed.

Public place. Any place that the general public can occupy as a matter of right or any place that is open to the general public by invitation, either for business purposes or otherwise.

Restaurant. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals and for seating not less than 50 guests at one time and where, in consideration

of payment therefor, meals are regularly served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests and a principal part of the business of which is the serving of foods. One or more bowling alleys may be included in the licensed premises of a restaurant if table service is available throughout the licensed premises.

Sale, sell, dispense or sold. All barbers and all manners or means of furnishing alcoholic beverages for a consideration. Such term shall include all transactions, whether for cash, credit or other considerations and shall include transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a "donation" or used to purchase any ticket, token, or other object redeemable for alcoholic beverages.

Wholesaler. Any person engaged in the business of selling alcoholic beverages to retail dealers.

Wine. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined by Minnesota Statutes, Chapter 340A.101, Subd. 9.

Section 2. That Chapter 8, Section 18, of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 8-18. Same-- 3.2 percent malt liquor.

No sale of 3.2 percent malt liquor shall be made on any Sunday between the hours of 1:00 a.m. and 10:00 a.m. No sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive.

Sales can be made at other times that are authorized by Minnesota Laws 2003, Chapter 126 (M.S.A. Sec. 340A.504) or its amendments or successor, provided that the seller has first obtained each required state permit and has paid required fees, and has applied for and obtained a "late hours" permit from the office of the city clerk and paid any fee due.

No owner or proprietor of any premises for which an on sale intoxicating liquor license has been granted shall directly or indirectly permit upon such premises the sale, dispensing or furnishing of 3.2 percent malt liquor at any time during Sunday unless he has a valid special Sunday license as provided for in Section 8-46 of the Duluth City Code, 1959, as amended.

Section 3. That Chapter 8, Section 24, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-24. Gambling devices, prostitution, etc., prohibited.

(a) Except as provided below, no licensee shall keep, possess, operate or permit the keeping, possession or operation of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the premises or in any room adjoining the licensed premises controlled by him, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons;

(b) A charitable organization licensed by the state of Minnesota pursuant to Minnesota Statutes, Chapter 349, to conduct lawful gambling may conduct such gambling on premises for which an intoxicating or 3.2 malt liquor license has been issued. The operation of lawful gambling in establishments licensed to sell alcoholic beverages shall be subject to the regulations set forth herein and no licensee or other person shall violate any of said regulations. In addition to criminal penalties, the city council shall, pursuant to Minnesota

Statutes, Section 349.213, disapprove of the issuance of any lawful gambling license or premises permit by the Minnesota gambling control board if the issuance of such license or permit would violate these regulations. The regulations are as follows:

(1) No organization, including its auxiliaries and subdivisions, shall operate lawful gambling in more than six establishments in the city which are licensed to sell alcoholic beverages, and only three of the establishments may have pull-tabs sold by jar operators or pull-tab dispensing devices, with the remaining establishments served by pull-tab dispensing devices only;

(2) Only one organization may operate lawful gambling on each premises licensed to sell alcoholic beverages;

(3) No organization shall pay lease payments in excess of \$1,000 per month to any establishment in the city licensed to sell alcoholic beverages for leases entered into prior to May 31, 2003. For booth operation leases negotiated after May 31, 2003, no organization shall pay lease payments in excess of ten percent of gross profits or a maximum of \$1,750 per month. For booth operation leases negotiated after May 31, 2003, the maximum lease payment allowed for sites with less than \$4,000 gross profit per month shall be \$400 per month. For bar operation leases in an establishment that has no booth operation, which are negotiated after May 31, 2003, if the organization only operates pull-tab dispensing devices at an establishment where redemption is made by an employee of the lessor, the organization shall not pay lease payments in excess of 20 percent of gross profits or a maximum of \$2,000 per month, with a maximum of \$200 per month on the first \$1,000 of gross profits. For the purpose of this Section, any money or other thing of value given by an organization directly or indirectly to the liquor establishment or to any other entity in furtherance of the liquor establishment's interests shall be considered a lease payment, regardless of the stated purpose of the transaction. No liquor establishment shall accept lease payments in excess of any lawful limit;

(4) The area where pull-tabs are sold or other lawful gambling is operated shall be separate and away from the bar and liquor dispensing service areas of any establishment licensed to sell alcoholic beverages;

(5) No pull-tabs shall be sold by any employee of the establishment licensed to sell alcoholic beverages;

(c) The provisions of regulations (4) and (5) above shall not apply to any situation where the same organization holds both the alcoholic beverage license and the lawful gambling license;

(d) The provisions of regulation (2) shall not apply to the Duluth Entertainment Convention Center;

(e) Minnesota state lottery tickets authorized by Minnesota Statutes, Chapter 349A, may be sold on premises licensed to sell alcoholic beverages;

(f) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by:

(1) A tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497; or

(2) A tribal-state compact authorized under Minnesota Statutes, Section 3.9221.

Section 4. That Chapter 8, Section 27, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-27. Consumption by minors prohibited.

No person under 21 years of age shall:

(a) Consume any alcoholic beverage; or

(b) Have in his possession any alcoholic beverage for the purpose of consumption by him or by any other person under 21 years of age; or

(c) Have any alcoholic beverage present in his body as evidence by observable symptoms or chemical tests.

It shall be an affirmative defense to a charge of violating this Section if only 3.2 percent malt liquor was consumed or possessed for the purpose of consumption and such consumption or possession was in the presence of the parent, parents or legal guardian of the person so charged.

Section 5. That Chapter 8, Section 32, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-32. Spiking prohibited.

Except in establishments holding bottle club licenses, no person who is in charge of, or who has the control or management of any restaurant, hotel or club licensed to sell 3.2 percent malt liquor shall permit any patron, guest or person, while in or upon such premises, to increase the alcoholic content of any otherwise 3.2 percent malt liquor sold on such premises. The drinking or possession of any intoxicating liquor or beer containing an alcoholic content in excess of 3.2 percent by weight on such premises shall be grounds for the revocation of such restaurant, hotel or club on sale licenses.

Section 6. That Chapter 8, Section 40, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-40. Dancing and late hours entertainment licenses for liquor establishments.

(a) No person licensed to sell alcoholic beverages on sale shall allow any dancing participated in by the public on said premises unless such person has first received a license pursuant to this Section;

(b) A dancing license shall entitle the license holder to have dancing participated in by the public on the licensed premises. The annual fee for a dancing license shall be set in accordance with Section 31-6(a) of this Code. The fee shall be prorated in the same manner as liquor licenses;

(c) Notwithstanding any provision of this Section or Chapter to the contrary, clubs and congressionally chartered veterans organizations that are open only to members and bona fide guests of members may have dancing participated in by members and guests, without securing a dancing license;

(d) Notwithstanding any provision of this Section or Chapter to the contrary, seasonal dancing licenses covering the months of May through August, or a one day dance license, may be issued to any on sale licensee for a fee set in accordance with Section 31-6(a) of this Code;

(e) Notwithstanding any provision of this Section or Chapter to the contrary, late hours entertainment licenses may be issued to establishments holding on sale alcoholic beverage licenses if they meet the criteria set forth in this paragraph. Such license shall allow the establishment to have music and entertainment, including dancing by patrons, after the hours when sales of alcoholic beverages are required to cease. The fee for such license shall be set in accordance with Section 31-6(a) of this Code. Every application for such license shall be investigated by the police department and alcohol, gambling and tobacco commission. No license shall be issued in an area or under circumstances where the late hours entertainment would disturb adjoining properties or the surrounding neighborhood. In their investigation and recommendations, the police and alcohol, gambling and tobacco commission shall consider, without limitation:

(1) The proximity of the establishment to residences and residentially zoned property;

(2) The character of the neighborhood surrounding the establishment;

(3) Parking facilities at the establishment;

(4) The acoustic properties of the building housing the establishment;

(5) The past record of the establishment; and

(6) Any past complaints from adjoining property owners.

The license may contain conditions and limitations concerning types of entertainment and hours of entertainment. No entertainment shall be allowed after 3:00 a.m. All establishments allowing late hours dancing must have a dancing license as required by paragraphs (a) and (d) of this Section.

Section 7. That Chapter 8, Section 41, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-41. Types generally.

With respect to intoxicating liquor, there shall be six types of licenses: on sale, on sale club, on sale wine, temporary on sale, off sale and a brewery malt liquor off sale. On sale licenses shall permit the licensee to sell intoxicating liquor at retail for consumption on the licensed premises only. Temporary on sale licenses shall permit the licensee to sell intoxicating liquor on sale temporarily in connection with a social event sponsored by the licensee. Except as provided herein, off sale licenses shall permit the licensee to sell intoxicating liquor at retail in original packages for consumption off the licensed premises only. Brewery malt liquor off sale licenses shall permit breweries holding on sale licenses or a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b) and this Chapter. Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, subd. 1 and subd. 2.

With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. On sale licenses shall permit the licensee to sell 3.2 percent malt liquor at retail for consumption on the licensed premises only. Off sale licenses shall permit the licensee to sell 3.2 percent malt liquor at retail in original packages for consumption off the licensed premises only. A temporary on sale license shall permit the licensee to sell 3.2 percent malt liquor at retail for a limited period of time at a designated licensed premise only.

No alcoholic beverage license of any type shall be granted to any elective, executive or administrative officer of the city, nor to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department or as a fire marshal or assistant fire marshal, nor shall any such officer or employee engage in the business, except that employees in the classified service not working as a licensed peace officer in the police department or as a fire marshal or assistant fire marshal may work in any licensed establishment if they do not participate in the management of the business.

Section 8. That Chapter 8, Section 42, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-42. Issuance or transfer of an on sale license; application procedure; limitation on issuance of inactive licenses.

(a) Whenever there shall be filed with the city clerk an application for the issuance of an on sale alcoholic beverage license or for a transfer thereof, the fire marshal and the St. Louis County health department shall proceed to inspect and examine such premises and make a report to the alcohol, gambling and tobacco commission as to whether such premises show substantial compliance with the requirements of this Chapter and other applicable laws. The police department shall investigate the applicant and report whether the applicant

is a proper person to receive such license. In the event such reports and any supplementary assurances indicate the building will comply with the requirements of laws relating to on sale alcoholic beverage licenses, including building, fire and health codes, a license may be granted, which shall be held by the city clerk until completion of the proposed premises. Thereafter, a final inspection and report shall be made by each of such officers and if their reports indicate that the premises meet the requirements of all applicable laws and are otherwise suitable for the operation of the business permitted by such license, then the clerk shall physically deliver the license to the applicant. In the event that construction of the proposed premises is not prosecuted by the applicant with reasonable diligence, or in the event the building, when completed, does not comply with the requirements above set forth, the council may revoke such license as provided for in this Chapter;

(b) No alcoholic beverage license may be renewed if the licensee has not made sales authorized by the license at any time during the one-year period immediately prior to the date of renewal.

Section 9. That Chapter 8, Section 44, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-44. To whom licenses issued--intoxicating liquor.

On sale intoxicating liquor licenses shall be granted only to establishments which are used exclusively for the sale of intoxicating liquor, cigars, cigarettes, ice, all forms of tobacco, 3.2 percent malt liquor and soft drinks at retail and to hotels, clubs, restaurants and bowling alleys.

On sale club licenses shall be granted, subject to the approval of the commissioner of public safety, only to clubs or to congressionally chartered veterans organizations which have been in existence for three years or more. Such license shall authorize the sale of intoxicating liquors only to members of the licensed organization and their bona fide guests.

On sale wine licenses shall be granted only to restaurants or bed and breakfast establishments and shall authorize licensees on every day of the week to sell wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A bed and breakfast establishment may furnish wine only to registered guests of the establishment. Sunday hours of sale shall be from Noon to 1:00 a.m. Monday. No on sale wine license shall be in effect until it is approved by the liquor control commissioner of the state of Minnesota.

Temporary on sale liquor licenses shall be issued only to:

(a) Clubs, charitable organizations, religious organizations and other nonprofit organizations in existence for at least three years;

(b) A registered political committee;

(c) A state university; or

(d) A brewer who manufactures fewer than 3,500 barrels of malt liquor in a year,

in connection with a social event sponsored by the licensee. The license shall be issued for a limited length of time, not to exceed four consecutive days. Temporary on sale licenses to any one organization or for one location shall not exceed more than three four-day, four three-day, six two-day or 12 one-day licenses, in any combination not to exceed 12 days per year. No more than one license shall be issued to any one organization or for any one location within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the city. The city may authorize the temporary on sale liquor license on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on sale intoxicating liquor license used by the city.

Off sale intoxicating liquor licenses shall be granted only to exclusive liquor stores.

Brewery malt liquor off sale licenses shall be granted to:

(a) Breweries holding on sale licenses; or

(b) A brewer who manufactures fewer than 3,500 barrels of malt liquor in a year.

and shall be subject to all restrictions, terms and conditions contained in Minnesota Statutes, Section 340A.301, subd. 7(b).

Section 10. That Chapter 8, Section 49, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-49. Same--3.2 percent malt liquor.

On sale 3.2 percent malt liquor licenses shall be granted only to premises which have been approved by the city council upon advice from the alcohol, gambling and tobacco commission. The total number of on sale licenses to be granted under this Section shall not exceed the ratio of one on sale license for every 800 inhabitants of the city or fraction thereof, as determined by the last federal census; provided, that in determining such ratio, clubs shall not be included or limited in such number.

Section 11. That Chapter 8, Section 50, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-50. To whom licenses issued--temporary 3.2 percent malt liquor.

(a) For purposes of this Section, the following words and phrases shall have the following meanings:

Charitable organization. An organization which engages in solicitation of funds, on a permanent basis, for any charitable, benevolent, philanthropic, patriotic or eleemosynary purposes.

Religious organization. An organization which is affiliated with a national or regional religious denomination and which maintains an established church and congregation.

Nonprofit organization. An organization which is neither designed for nor results in any private pecuniary gain, either directly or indirectly, for any of its members;

(b) Notwithstanding any provisions of the Duluth City Code to the contrary, temporary on sale 3.2 percent malt liquor licenses may be issued to clubs, charitable organizations, religious organizations and other nonprofit organizations permitting such club or organization to sell 3.2 percent malt beverage on sale;

(c) Such license shall be issued for a limited length of time, not to exceed 14 days, and such license shall state on its face the specific dates on which it is valid. The application for such license and the license itself shall specifically state the precise premises where such 3.2 percent malt liquor is to be sold. The license application shall be accompanied by insurance if insurance is required under the provisions of Minnesota Statutes, Chapter 340A. The fee for such license shall be set in accordance with Section 31-6(a) of this Code. Said fee and cash deposit shall be paid to the city clerk at the time of application. All applications for such licenses shall be made to and filed with the city clerk on forms provided by the city clerk. Such license shall not be transferable. No license shall be issued under this Section if it appears that the issuance of such license will endanger the health, safety or morals of the public. Licensed premises outside of buildings shall be clearly indicated;

(d) The chief of police shall designate or approve one or more security personnel to police premises licensed pursuant to this Section at times when 3.2 percent malt liquor is sold on such premises. The fees and expenses for such personnel shall be paid by the licensee.

Section 12. That Chapter 8, Section 51, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-51. Beer sales by and entertainment in certain restaurants.

(a) Pursuant to Chapter 200, Laws of Minnesota, 1979, and notwithstanding any other law in the contrary, restaurants holding both an on sale wine license and an on sale 3.2 percent malt liquor license may make on sales of beer which is brewed and bottled outside the United States and which does not exceed seven percent alcohol by weight without an additional license;

(b) Pursuant to Minnesota Statutes, Section 340A.404, Subdivision 5(b), and notwithstanding any other law to the contrary, restaurants holding both an on sale wine license and an on sale 3.2 percent malt liquor license and whose gross receipts are at least 60 percent attributable to the sale of food, may sell all malt liquors not exceeding seven percent alcohol by weight without an additional license.

Section 13. That Chapter 8, Section 52, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-52. Terms and conditions of on sale licenses.

On sale intoxicating and 3.2 percent liquor licenses shall be issued subject to the following terms and conditions:

(a) No on sale license shall be granted to any applicant or for any premises if, in the judgment of the city council, the operations of the proposed establishment are likely to become a public nuisance or detrimental to public morals;

(b) No dancing shall be conducted on the licensed premises between the hours of 1:00 a.m. and 8:00 a.m. on any day, unless the establishment has been granted a late hours entertainment license under the provisions of Section 8-40 of this Chapter;

(c) The chief of police, under the direction of the administrative assistant, shall designate a suitable person to act as an officer of the law on the licensed premises during the hours when dancing is conducted on such premises. The fees of such person or officer shall be paid by the licensee. In case any person not a public officer shall be designated as such officer of the law, the person to whom such permit has been issued shall be responsible for the officer=s acts and conduct. There shall be no liability for the acts and conduct of the designated officer on the part of any city employee designating such officer under the provisions of this Division.

Section 14. That Chapter 8, Section 55, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-55. Duration; expiration date; prorating of certain licenses.

Except as herein otherwise expressly provided, all alcoholic beverage licenses shall be issued for a period of one year; except, that for the purpose of coordinating the time of expiration of licenses in general, such licenses may be issued for a shorter time, and when thus issued the fees therefor shall be prorated; provided, that fees for off sale 3.2 percent malt liquor licenses shall not be prorated. All licenses for intoxicating liquor shall expire on the 31st day of August each year next succeeding the issuance of such license; and all licenses for 3.2 percent malt liquor shall expire on the 30th day of April each year next succeeding the issuance of such license. This Section shall not apply to temporary on sale 3.2 percent malt liquor licenses.

Section 15. That Chapter 8, Section 56, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-56. Fees.

The license fee for off sale and on sale 3.2 percent malt liquor licenses shall be paid to the city clerk not later than March 15 of each year. The license fee for off sale intoxicating liquor licenses shall be paid to the city clerk not later

than July 15 of each year. The license fee for on sale intoxicating liquor licenses may, at the option of the licensed applicant, be paid to the city clerk either in one lump sum not later than July 15 in each year, or in four equal installments, which shall be paid not later than July 15, October 15, January 15 and April 15, respectively. In any case where any payment for any alcoholic beverage license is not made when due, a penalty fee, which shall be set in accordance with Section 31-6(a) of this Code, shall be added to the fee. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

Payment for license fees shall be made by certified check payable to the city treasurer of the city or in lawful money of the United States of America and when such fees are received by the city clerk they shall be transmitted to the city treasurer. Upon the granting of a license as provided in this Article the amount of fee for such license shall be paid into the general fund.

(a) The annual fees for on sale intoxicating liquor licenses shall be set in accordance with Section 31-6(a) of this Code.

Whenever any licensee holding an on sale intoxicating liquor license shall at any time for any purpose operate more than one permanent bar, such licensee shall pay an additional annual license fee, which shall be set in accordance with Section 31-6(a) of this Code, for each such additional permanent bar. A so-called service bar which is used solely by employees of the licensee shall not be considered a bar for purposes of this Section;

(b) The annual fee for an off sale intoxicating liquor license shall be set in accordance with Section 31-6(a) of this Code;

(c) The fee for a temporary on sale liquor license shall be set in accordance with Section 31-6(a) of this Code;

(d) The annual fee for an on sale 3.2 percent malt liquor license shall be set in accordance with Section 31-6(a) of this Code;

(e) The annual fee for an off sale 3.2 percent malt liquor license shall be set in accordance with Section 31-6(a) of this Code;

(f) The annual fee for a brewery malt liquor off sale license shall be set in accordance with Section 31-6(a) of this Code.

Section 16. That Chapter 8, Section 57, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-57. Refund of fees in certain cases.

In case, during the term of an on sale intoxicating liquor license, an off sale intoxicating liquor license or an on sale 3.2 percent malt liquor license, the place of business of any licensee shall be destroyed or so damaged by fire or otherwise that the licensee shall cease to carry on the licensed business, in case the business of the licensee shall cease by reason of his illness or death or if it shall become unlawful for the licensee to carry on the licensed business under his license, except when such license is revoked, the city council may, upon the happening of any such event, refund to the licensee or to his estate such part of the license fee paid by him as corresponds to the time such license had yet to run; provided, however, that in case of the death of any such licensee, his personal representative is hereby authorized to continue operation of such business for not more than 90 days after the death of such licensee.

Section 17. That Chapter 8, Section 59, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-59. Same--3.2 percent malt liquor licenses.

Every person desiring a 3.2 percent malt liquor license shall file a verified application therefor, in writing, with the city clerk, in the form to be prescribed by the city council.

Such application shall be accompanied by a liability insurance policy if one is required under the provisions of Minnesota Statutes, Chapter 340A.

Section 18. That Chapter 8, Section 62, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-62. Issuance--generally.

The city clerk shall not issue any license under this Division unless directed to do so by resolution duly adopted by the city council. Where a license is made available by revocation, abandonment, surrender, cancellation or for some other cause, such available license may, upon application to the city council, be reissued by the city council as determined by a resolution adopted for such purpose. Any resolution granting a license may be conditioned on final departmental approvals, payment of taxes or any other condition the council deems appropriate. The city clerk shall not issue any license until all such conditions are met.

The alcohol, gambling and tobacco commission shall cause an investigation to be made of all of the representations set forth in the applications. Opportunity shall be given at a regular or special meeting of the alcohol, gambling and tobacco commission to any person to be heard for or against the granting of any license. After such investigation, the city council shall grant or refuse such license in its discretion; provided, that no off sale intoxicating liquor license shall become effective until it, together with any required insurance policy, has the approval of the liquor control commissioner of the state.

The licensed premises shall have the license posted in a conspicuous place.

Section 19. That Chapter 8, Section 67, of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 8-67. Transfer; modification of licensed premises or designated serving area.

(a) No license issued under the provisions of this Subdivision shall be assigned or transferred by the licensee, nor shall a change of address in the location of the licensed premises be permitted, unless a resolution authorizing such assignment, transfer or change of address shall have been first duly passed by the city council. A request for an assignment, transfer or change of address shall be treated in the same manner as an application for a new license under the provisions of this Chapter. Such applications shall be accompanied by a fee which shall be set in accordance with Section 31-6(a) of this Code in the case of an intoxicating liquor license and a fee which shall be set in accordance with Section 31-6(a) of this Code in the case of a 3.2 percent malt liquor license. The fee shall be refunded if the application is withdrawn, or the assignment, transfer or change of address is not granted by the city council. No fee for the assignment, transfer or change of address of an off sale 3.2 percent malt liquor license shall be charged when such application is accompanied by an application for assignment, transfer or change of address of an on sale 3.2 percent malt liquor license;

(b) No licensee shall permanently expand its licensed premises or designated serving area, unless such expansion is approved by the city council. A request for such expansion shall be made in writing to the city clerk accompanied by a fee set in accordance with Section 31-6(a) of this Code. Thereafter, the matter shall be reviewed by the alcohol, gambling and tobacco commission and referred to the city council together with the recommendation of the commission.

Section 20. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 23, 2005)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 14, 2005
Approved November 14, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, November 21, 2005, 6:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 7

Absent: Councilors Gilbert and Johnson -- 2

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MOTIONS AND RESOLUTIONS

BY PRESIDENT NESS:

RESOLVED, by the city council of the city of Duluth, as follows:

Section 1. Recitals.

1.01 The council has established the Duluth economic development authority (DEDA) to promote development and redevelopment of property located in the city of Duluth (the city), including the development of housing and especially housing for persons of low and moderate income.

1.02 In order to promote such development, DEDA has established its Housing development district (the development district) in the city and adopted a development program (the development program) therefor pursuant to Minnesota Statutes, sections 469.090 through 469.1082, Sections 469.001 through 469.049 and Sections 469.124 through 469.134 (collectively, the act).

1.03 On September 13, 2004, pursuant to its Resolution No. 04-0613, the city council approved the establishment of Tax Increment Financing District No. 23 (the TIF district) within the development district and adopted a tax increment financing 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.

1.04 DEDA proposes to amend the tax increment financing plan (the "amended TIF plan") therefor pursuant to Minnesota Statutes, sections 469.174 through 469.179 (the TIF act) for the purpose of providing additional public financing for the public improvements to be constructed pursuant to the amended TIF plan and to provide additional, needed incentive to the private investment in the development district. DEDA has prepared the amended TIF plan in accordance with the TIF, which amended TIF plan is also contained in the aforesaid public document.

1.05 Pursuant to Section 469.175, subdivision 3 of the TIF act, the city held a public hearing on the amended TIF plan, which hearing was held on November 14, 2005, at which the views of all interested parties were heard.

1.06 DEDA has transmitted a copy of the amended TIF plan to the council in a document entitled "First Amendment to the Tax Increment Financing Plan for Tax Increment Financing District No. 23 (Fifth Street Redevelopment Project)," which is now on file in the office of the city clerk in the form of the aforesaid public document.

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 the city 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 enhance the quality of life of the city's residents by redeveloping blighted or polluted areas, (ii) to improve the general economy of the city and the state, (iii) to provide additional housing

opportunities to residents of the area and of the city, especially housing for persons of low and moderate income, (iv) to improve the tax base of the city and the state, and (v) to provide other facilities identified in the development program and amended TIF plan;

(d) The proposed amended TIF plan is in the public interest and will result in increased housing opportunities in the city, especially for persons of low and moderate income and in the preservation and enhancement of the tax base of the city; and

(e) The TIF district and the amended TIF plan are intended and, in the judgment of 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 amended TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district in order to enhance the quality of life of the city's residents by redeveloping blighted and underdeveloped areas, to improve the tax base, to provide additional housing opportunities to residents of the area and of the city, especially housing for persons of low and moderate income, and to improve the general economy of the state.

2.02 The amended TIF plan is necessary to the project proposed by the plan in order to provide additional housing opportunities to persons living and working in the neighborhood, especially persons of low and moderate income, thereby strengthening the neighborhood and the economic base of the area and 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 amended 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 without the amendment to the TIF plan;

(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 as authorized by the amended TIF plan would be less than the increase in the market value estimated to result from development as authorized in the amended TIF plan 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 amended TIF plan; and

(c) The use of tax increment financing as authorized by the amended TIF plan is necessary.

(d) The primary purpose of the project to be financed pursuant to the amended TIF plan and the expenditure of funds thereunder is the benefits to the public flowing therefrom.

2.05 Based on information contained in the development program and the amended TIF plan, the amended 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 amended TIF plan, the amended 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 amended TIF plan, on file in the office of the city clerk as Public Document No. 05-1121-01, is hereby approved.

Resolution 05-0793 was unanimously adopted.

Approved November 21, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0794, by President Ness, approving amendments to development program for Development District No. 17 and first amendment to tax increment financing plan for Tax Increment Financing District No. 22 in Development District No. 17 as proposed by the Duluth economic development authority, was introduced for discussion.

Councilor Stewart stated that he would not be supporting the resolution for the reasons he has previously stated relative to use of tax increment financing for this project.

Resolution 05-0794 was adopted as follows:

BY PRESIDENT NESS:

RESOLVED, by the city council of the city of Duluth, as follows:

Section 1. Recitals.

1.01 The council has established the Duluth economic development authority (DEDA) to promote development and redevelopment of property located in the city of Duluth (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 469.1082 and Sections 469.124 through 469.134 (collectively, the act).

1.03 On March 15, 2004, pursuant to Resolution No. 04-0169, the City Council approved an amendment to the development program for Development District No. 17 and the establishment of Tax Increment Financing District No. 22 (the TIF district) within the development district to permit use of funds for the construction of a medical clinic/office facility and related parking facility within the district.

1.04 DEDA herewith proposes to further amend the development program for Development District 17 to include within the permitted uses of funds the construction of a hotel/condominium complex within the development district, which amended development program is part of Public Document No. 05-1121-02, on file in the office of the city clerk.

1.05 DEDA proposes to amend the boundaries Tax Increment Financing District No. 22 and adopt an amended tax increment financing plan (the amended TIF plan) therefor pursuant to Minnesota Statutes, sections 469.174 through 469.179 (the TIF act) for the purpose of financing further public improvements and encouraging additional investment in the development district. DEDA has prepared the TIF plan in accordance with the TIF, which amended TIF plan is also contained in the aforesaid public document.

1.06 Pursuant to Section 469.175, subdivision 3 of the TIF act, the city held a public hearing on the amended TIF plan, which hearing was held on November 14, 2005, at which the views of all interested parties were heard.

1.07 DEDA has transmitted a copy of the amended TIF plan to the council in a document entitled "Sixth Amendment to Development Program for Development District No. 17 and Tax Increment Financing Plan for Tax Increment Financing District No. 22 (First Street Medical Facilities Development District)," which is now on file in the office of the city clerk in the form of the aforesaid public document.

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 the city 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 enhance the quality of life of the city's residents by redeveloping blighted or polluted areas, (ii) to improve the general economy of the city and the state, (iii) to provide employment

opportunities for residents of the city, (iv) to improve the tax base of the city and the state, and (v) to provide other facilities identified in the development program and amended TIF plan;

(d) The proposed amendment 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;

(e) The TIF district as amended, is intended and, in the judgment of 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 amended TIF plan.

Section 2. Statutory findings.

2.01 There is a need for new development in the development district in order to enhance the quality of life of the city's residents by redeveloping blighted and underdeveloped areas, to improve the tax base, to provide employment opportunities, and to improve the general economy of the state.

2.02 Amendment of the existing plan for the TIF district will provide further, needed impetus for commercial development; increase employment; and help to enhance and preserve historic structures in 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 amended TIF plan that:

(a) The proposed development and redevelopment within the TIF district by the amended TIF plan would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future;

(b) The increased market value of the site within the TIF district of the hotel/condominium project authorized by the amended TIF plan 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 proposed by the amended TIF plan after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the amended TIF plan;

(c) The use of tax increment financing is necessary;

(d) The primary purpose of the project to be financed pursuant to the amended TIF plan and the expenditure of funds thereunder is the benefits to the public flowing therefrom.

2.05 Based on information contained in the development program and the amended TIF plan, the amended 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 amended TIF plan, the amended 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 amended development district plan and the amended TIF plan are approved.

3.02 The geographic boundaries of the development district and TIF district are modified as described in the development program and amended TIF plan, which documents are incorporated herein by reference and which, together with this resolution contain the requirements set forth in Section 469.175 of the TIF act.

Resolution 05-0794 was adopted upon the following vote:

Yeas: Councilors Atkins, Little, Reinert, Stauber and President Ness -- 5

Nays: Councilors Stewart and Stover -- 2

Absent: Councilors Gilbert and Johnson -- 2

Approved November 21, 2005

HERB W. BERGSON, Mayor

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

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JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 28, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1128-01 James and Gail A. Sundstrom petition to construct 125 linear feet of sanitary sewer within Central Avenue Alley beginning 60 feet north of Albion Street and extending northerly. -- Assessor

05-1128-02 Bryan Wutz, et al. (seven signatures), petition to construct a sanitary sewer in Maple Grove Road beginning at existing manhole 200 feet west of Robin Avenue and extending 1,000 feet westerly (1,000 lineal feet). -- Assessor

05-1128-03 Greater Downtown Council communication regarding a proposed increase in the penalty for overtime parking (05-051-O). -- Received

05-1128-15 Betty Holmen Greene communication regarding the proposed reclassification from S to R-1-b, single family property located south of Glenwood Street along the north side of North Ridge Road (05-052-O). -- Received

05-1128-04 Rick Kollath communication regarding a request for legislative authority for city food and beverage tax of limited duration (05-0807R). -- Received

05-1128-06 Shelton Properties, LLC, acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 9751 on October 11, 2005. -- Received

05-1128-05 The following communications regarding approval of a supplemental agreement with the city of Duluth Supervisory Association regarding active and retiree health insurance (05-0741R): (a) Eli Miletich (supported by three signatures); (b) Mary Ogren. -- Received

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REPORTS OF OFFICERS

05-1128-07 Assessor:

(a) For confirmation the assessment roll levied to defray the assessable portion of construction of a bituminous street at 14th Street from Central Entrance to 400 feet easterly (Contract No. 5421 - assessable amount - \$52,464.93);

(b) Letters of sufficiency of petitions to construct watermains and sanitary sewers in:

(1) Chester Way from Missouri Avenue to approximately 405 feet west of center line of Missouri Avenue;

(2) Commonwealth Avenue from approximately 283 feet north of centerline of vacated Lorain Avenue to approximately 333 feet south of centerline of vacated Lorain Avenue. -- Received

05-1128-08 Clerk application to the Minnesota gambling control board for exemption from lawful gambling from Greater Downtown Council on January 18, 2006 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-1128-09 Duluth airport authority: (a) Balance sheet for September 30, 2005; (b) Minutes of October 18, 2005, meeting. -- Received

05-1128-10 Duluth/North Shore Sanitary District minutes of October 12, 2005, meeting. -- Received

05-1128-11 Duluth human rights commission minutes of October 12, 2005, meeting. -- Received

05-1128-12 Parking commission: (a) Minutes of October 11, 2005, meeting; (b) Recommendation regarding a proposed increase in the penalty for overtime parking (05-051-O). -- Received

05-1128-13 Planning commission minutes of October 26, 2005, meeting. -- Received

05-1128-14 Spirit Mountain recreation area authority minutes of: (a) September 15; (b) October 20, 2005, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Louise Levy, chairperson of the tree commission, presented the 2005 Treescaping Awards to Peggy and Jack Aldridge; Bill and Marilyn Duncan; Scott and Suanna Johnson and Sister Teri and Sister Lois from the McCabe Renewal Center.

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Kay L. Lewis supported having working rail lines at the old Clyde Iron site that is being proposed for the new heritage hockey center to assist with traffic congestion and on having a commuter line to the Twin Cities.

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RESOLUTIONS TABLED

Councilor Little moved to remove Resolution 05-0741, approving a supplemental agreement with the city of Duluth Supervisory Association regarding active and retiree health insurance, by Councilor Stauber, from the table, which motion was seconded and failed upon the following vote:

Yeas: Councilors Atkins, Little, Reinert and President Ness -- 4
Nays: Councilors Gilbert, Johnson, Stauber, Stewart and Stover -- 5

- - -

Councilor Reinert moved to remove Resolution 05-0756, authorizing an agreement with the over the Hill Night Riders Snowmobile Club for grooming the cross country snowmobile trail-west for an amount not to exceed \$15,000, from the table, which motion was seconded and unanimously carried.

Resolution 05-0756 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-1128-16, with the Over the Hill Night Riders Snowmobile Club for the grooming and maintenance of the western portion of the cross-city snowmobile trail for an amount not to exceed \$15,000; payable from General Fund 100-500-1920-2560-5441.

Resolution 05-0756 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Reinert moved to remove Resolution 05-0757, authorizing an agreement with the Drift Toppers Snowmobile Club for grooming the cross country snowmobile trail-east for an amount not to exceed \$5,000, from the table, which motion was seconded and unanimously carried.

Resolution 05-0757 was adopted as follows:

BY COUNCILOR REINERT:

RESOLVED, that the proper city officers are authorized to execute an agreement, filed as Public Document No. 05-1128-17, with the Drift Toppers Snowmobile Club for the grooming and maintenance of the eastern portion of the cross-city snowmobile trail for an amount not to exceed \$5,000; payable from Fund 100-500-1920-2560-5441.

Resolution 05-0757 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

RESOLVED, that the assessment roll levied to defray the assessable portion of the following:

(a) Bituminous street at 14th Street from Central Entrance to 400 feet East (Contract #5421; assessable amount: \$52,464.93) (Fund 325); is hereby confirmed.

Resolution 05-0784 was unanimously adopted.
 Approved November 28, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that Resolution 04-0682 adopting license, permit and fee charges for 2005 be amended to add the following fee:

Clerk	
License, permit, fee name	2005 Fee
Alcoholic beverage	
Intoxicating liquor, nonintoxicating liquor and wine	
On sale	
Dancing	
One day/evening - per day	\$100.00

Resolution 05-0789 was unanimously adopted.
 Approved November 28, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that RTW, Inc. be and hereby is awarded a contract for professional services for third party administration of workers' compensation insurance for the human resources division in accordance with specifications on its low specification of \$95,000, terms net 30, FOB destination, payable out of Self Insurance Worker's Compensation Fund 0605, Department/Agency 036, Organization 1651, Object 5441.

Resolution 05-0787 was unanimously adopted.
 Approved November 28, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license subject to departmental approvals:

College of St. Scholastica, 1200 Kenwood Avenue, for December 3, 2005, with Mekdes Ditamo, manager.

Resolution 05-0801 was unanimously adopted.
 Approved November 28, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Fourth Street on Rices Point legally described as: Fourth Street from the south right-of-way line of Birch Street to the north right-of-way line of Lynn Street and that portion of Nelson Street (a.k.a. Cedar Street) 75 feet west of the right-of-way line of Fourth Street; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 as Fourth Street has not served the purpose for which it was intended and will not be used for street purposes, by a unanimous vote, the easement vacation petition (FN 05112) at its November 8, 2005, meeting;

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of Fourth Street from the south right-of-way line of Birch Street to the north right-of-way line of Lynn Street and that portion of Nelson Street (a.k.a. Cedar Street) 75 feet west of the right-of-way line of Fourth Street and as more particularly described on Public Document No. 05-1128-18.

BE IT FURTHER RESOLVED, that this resolution shall become effective upon the recording of the easement agreement with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota.

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 05-0785 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

RESOLVED, that the city council objects to the reclassification to nonconservation and sale of the following tax forfeited parcels by the board of county commissioners of Saint Louis County:

Parcel ID and legal description	Location	Reason
010-0280-00050 Brighton Gardens First Division, Block 1, Lot 5, except highway right-of-way	upper side of the Two Harbors Expressway near the intersection with Chase Avenue (North Shore)	future frontage road adjacent to the Two Harbors Expressway
010-0280-00060 Brighton Gardens First Division, Block 1, Lot 6, except southerly 120 feet and except highway right-of-way	upper side of the Two Harbors Expressway near the intersection with Chase Avenue (North Shore)	drainage-way preservation
010-1750-0010, 00110, 00120, 00130, 00140, 00150, 00220, 00230, 00250, 00260 Fond du Lac, Water Street Division, Lots 10-15, 22, 23, 25, 26 except northeast 20 feet	between Water Street and the Saint Louis River (Fond du Lac)	stream and shoreline protection
010-1750-00610 Fond du Lac, Water Street Division, Lot 60	between Water Street and the Saint Louis River (Fond du Lac)	stream and shoreline protection

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parcel ID and legal description	Location	Reason
010-2290-01050 Homewood Gardens Tracts, Block 10, westerly eight feet of southerly 1/2 of of Lot 8	east side of North Seventh Avenue East between Plum and Kelly streets (Upper East Hillside)	retain for street right- of-way
010-2720-00450 SW1/4 of SW1/4 of SW1/4 of Section 36, T51N, R14W	both sides of Vermilion Road 600 feet south of Claymore Street (Parkview)	preserve Amity Creek, state snowmobile trail, and Superior Hiking Trail routes
010-3258-00010 Miller Creek First Addition, Block 1, Lot 1	south side of Arrowhead Road east of Haines Road at high tension power-line crossing (Duluth Heights)	wetland and tributary to Miller Creek protection

Resolution 05-0813 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officers are hereby authorized to execute an administrative services agreement with SuperiorUSA Benefits Corporation to provide communication, implementation and management of a flexible benefits plan for city employees for year 2006, 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. 05-1128-19 on file with the city clerk, at an estimated cost of \$11,250, which shall be paid from the General Fund 100, Department 700, Division 1431.

Resolution 05-0792 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

BY COUNCILOR ATKINS:

RESOLVED, that St. Louis County social services be and hereby is awarded a contract for furnishing and delivering approximately 49,000 hot meals for a 12 month period for the parks and recreation department in accordance with specifications on its proposal of \$3.39 per regular meal for meals delivered from January 1, 2006, to December 31, 2006; approximate total cost of \$165,967.92 payable out of Senior Nutrition Fund 272, Department/Agency 031, Objects 5310, 5211, 5219; to be encumbered out of year 2006 budget.

Resolution 05-0818 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

BY COUNCILOR STOVER:

RESOLVED, that Resolution 05-0212 amending a contract to Utility Systems of America for wastewater collection system and street improvements in Morgan Park - Phase II be amended to increase the amount by \$325,750.95 for a new total of \$1,348,998.50 to be paid from Sewer Utility Fund 0530 (0028SN) \$120,104.95; Storm Utility Fund 0535 (0028SN) \$197,500; and Street Improvement Fund 0440 (0259TR) \$8,146.

Resolution 05-0765 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application to the Minnesota department of natural resources' Lake Superior coastal program in the amount of \$32,700 for the purposes of expanding the surface water quality awareness outreach program of the regional stormwater protection team (RSPT) in which the city is a participant through establishing partnerships with regional businesses for assistance in funding activities and developing outreach materials.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to accept said grant if tendered by the Minnesota department of natural resources, to execute any documents required to be executed to accept such grant and to obligate up to \$13,200 in matching funds. Additional matching funds will be provided through in-kind services from city staff and staff of RSPT partner organizations. Grant to be deposited in Fund 535, Agency 500, Division 1900, Object 4220-02.

Resolution 05-0788 was unanimously adopted.

Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, the city has received a petition from owners of 100 percent of the abutting property to construct a residential street, sanitary sewer, water and gas, in Spear Avenue from Silcox Avenue to Livingston Avenue. It is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement shall be made.

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 described by Section 62 of the Charter.

Resolution 05-0790 was unanimously adopted.

Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the city has received a petition from owners of 100 percent of the abutting property to construct a permanent alley in First Street Alley from 377 feet to 170 feet easterly of Tenth Avenue East. It is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

FURTHER RESOLVED, that to aid the council in determining whether or not to finally order 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 05-0791 was unanimously adopted.

Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1, a copy of which is on file in the office of the city clerk as Public Document No. 05-1128-20, to Grant No. A67967 with the state of Minnesota, department of natural resources, related to the expansion and enhancement of the duluthstreams.org website, extending the term thereof through June 30, 2006.

Resolution 05-0796 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that pursuant to Section 33-49 of the Duluth City Code, 1959, as amended, the following streets and highways are to be added to the truck route system of the city of Duluth as established by Resolution 78-277, as amended:

Eastbound First Street between Piedmont Avenue and 21st Avenue West.

Resolution 05-0806 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for the public conveyance and safety that Minnesota Bridge No. L8501 on Seven Bridges Road over Amity Creek (City Job No. 0159TR) be reconstructed. This project will not be eligible for state transportation funds unless it is constructed to rural and suburban state aid standards for bridge replacement projects not on the state aid system for an existing average daily traffic count of 50 to 149 vehicles, or unless a variance is granted.

Practical limitations require that narrower bridge width, traffic lane and shoulder widths, steeper recovery area inslopes, shorter vertical curves and smaller radius horizontal curves than dictated by standards be used. This results in a 20 foot overall bridge width in lieu of the required 26 foot width, ten foot traffic lanes with one foot shoulders in lieu of 11 foot lanes with three foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, 159 foot long vertical curve with A.D. of 9.4 in lieu of a 282 foot long vertical curve, and 50 foot, 60 foot and 200 foot radius horizontal curves at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

FURTHER RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9922, whereby the rural and suburban state aid standards for bridge replacement projects not on the state aid system be reduced for this project allowing for a 20 foot overall bridge width in lieu of a 26 foot width, ten foot traffic lanes with one foot shoulders in lieu of 11 foot lanes with three foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, 159 foot long vertical curve with an A.D. of 9.4 in lieu of a 282 foot long vertical curve, and 50 foot, 60 foot and 200 foot radius horizontal curves at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation, and further agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees from all claims, demands, actions or causes of action arising out of or by any reason of the reconstruction of Minnesota Bridge No. L8501 on Seven Bridges Road over Amity Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9922, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 05-0810 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it is deemed necessary for the public conveyance and safety that Minnesota Bridge No. 89451 on Skyline Parkway over Amity Creek (City Job No. 0163TR) be reconstructed. This project will not be eligible for state transportation funds unless it is constructed to rural and suburban state aid standards for bridge replacement projects for a projected average daily traffic count of 150 to 749 vehicles, or unless a variance is granted.

Practical limitations require that narrower bridge width, traffic lane and shoulder widths, steeper recovery area inslopes and smaller radius horizontal curves than dictated by standards be used. This results in a 20 foot overall bridge width in lieu of the required 32 foot width, ten foot traffic lanes with one foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, and 60 foot and 75 foot radius horizontal curves at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

FURTHER RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9920, whereby the rural and suburban state aid standards be reduced for this project allowing for a 20 foot overall bridge width in lieu of a 32 foot width, ten foot traffic lanes with one foot shoulders in lieu of 12 foot lanes with four foot shoulders, 1:3 recovery area inslopes in lieu of 1:4 recovery area inslopes, and 60 foot and 75 foot radius horizontal curves at -0.02 superelevation in lieu of 273 foot radius curves at 0.06 superelevation, and further agrees to indemnify, save and hold harmless the state of Minnesota and its agents and employees from all claims, demands, actions or causes of action arising out of or by any reason of the reconstruction of Minnesota Bridge No. 89451 on Seven Bridges Road over Amity Creek in the city of Duluth in any manner other than in accordance with Minnesota Rule 8820.9920, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 05-0811 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Apex Mechanical be and hereby is awarded a contract for construction services to repair and rebuild the steam vault roof and walls located at Second Avenue West and West First Street and Sixth Avenue West and Superior Street for the public works and utilities department in accordance with specifications on its low bid of \$34,957 payable from Steam Fund 540, Department/Agency 920, Organization 1493, Object 5310.

Resolution 05-0817 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Nord-Sen Metal Industries, Inc. be and hereby is awarded a contract for a Screw Conveyor Corporation Model SCC-9524 double trunk high capacity bucket elevator for public works and utilities in accordance with specifications on its low specification of \$28,822.50, terms net 30, FOB destination, payable out of Steam Fund 0540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 05-0819 was unanimously adopted.
Approved November 28, 2005
HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it appears it may be necessary to construct a watermain and sanitary sewer in Chester Way from Missouri Avenue to approximately 405 feet west of the centerline of Missouri Avenue.

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 2005

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 05-0820 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that it appears that it may be necessary to construct a watermain and sanitary sewer in Commonwealth Avenue from approximately 283 feet north of the centerline of vacated Lorain Avenue to approximately 213 feet south of the centerline of vacated Lorain Avenue.

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.

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 05-0821 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to enter into a license agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 05-0821-21 with the Minnesota department of natural resources for crossing the Lester River in conjunction with the city's east leg gas main Phase V in East Superior Street from 60th Avenue East to Lakewood Road, at a cost not to exceed \$321, payable from Gas Construction Bond Fund 521, Agency 500, Object 5532, Project No. 0030GS.

Resolution 05-0822 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, pursuant to sections 43-5 and 43-11 of the Duluth City Code, 1959, as amended, for the purpose of increasing the revenue of the sewer utility, there is established and shall be collected beginning with the meter readings made on January 1, 2006, and thereafter, a customer charge and user charges, based upon the volume of wastewater discharged to the city's wastewater facilities system and determined as in Section 43-7 of the Duluth City Code, as follows:

	effective January 1, 2006	effective August 1, 2005
Customer charge	\$ 5.89 per month	\$ 5.89 per month
User charge - Class I	\$ 4.04/ccf	\$ 3.75/ccf
User charge - Class II	\$ 5.62/ccf	\$ 5.22/ccf
User charge - Class III	\$ 6.93/ccf	\$ 6.44/ccf
Tate and Lyle	\$11.25/ccf	\$10.76/ccf
Ikonics/Chromaline	see Class III	\$ 6.46/ccf

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

BE IT FURTHER RESOLVED, that any prior rate regulations inconsistent or conflicting with this resolution are hereby rescinded.

Resolution 05-0823 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the following segment of First Street is no longer a one way street: First Street between 19th Avenue West and 30th Avenue West. This resolution to become effective only after said streets have been posted with proper signage indicating the change in designation.

Resolution 05-0805 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are authorized to accept a grant from the Northland Foundation in the amount of \$25,000 for the after school and summer programming for youth in western Duluth project and execute the grant agreement to be substantially in the form of Public Document No. 05-1128-27 on file in the office of the city clerk; grant funds to be deposited in Fund 210, Agency 030, Organization 3107, Revenue Source 4700.

Resolution 05-0783 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to prepare and submit a grant application for a Minnesota Lake Superior coastal program grant in the amount of \$14,250, administered by the Minnesota department of natural resources, and to be used for best management practice development at the Lake Superior Zoo.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to act as legal sponsor of said grant, to accept said grant if tendered by the Minnesota department of natural resources, to execute any documents required to be executed to accept such grant and to obligate \$4,750 in match provided as in-kind services from zoo staff and staff of partner organizations; funds to be deposited in Fund 210, Agency 030, Organization 3110, Revenue Source 4220-02.

Resolution 05-0812 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that Polaris Library Systems be and hereby is awarded a contract for computer servers for the library's Polaris Integrated Library System for the library department in accordance with specifications on its low specification bid of \$19,416 terms net 30, FOB job site, payable out of Naslund Trust Fund 244, Department/Agency 300, Object 5580.

Resolution 05-0815 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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The following resolutions were also considered:

Resolution 05-0804, by Councilor Stauber, adopting license, permit and fee charges for 2006, was introduced for discussion.

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

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Resolution 05-0814, by Councilor Gilbert, amending the Mount Royal C-3 Shopping Center District to allow expansion of the Mount Royal Fine Foods Store (HRTV, LLC), was introduced for discussion.

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

Craig Pearson, architect for the applicant, reviewed the scope of the 18,000 square feet addition, new amenities, site plan, additional parking for employees and having a one-way traffic flow to help the traffic congestion.

Steve Schadewald, store manager, spoke of the long history of the store and elaborated on the new amenities.

Resolution 05-0814 was adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, that approval is hereby granted to allow the 17,558 square foot addition as delineated in the drawings entitled Mount Royal Fine Foods by WCL Associates, Inc., dated 10/10/2005 and by Salo Engineering dated 10/17/2005, as identified as Public Document No. 05-1128-24 and subject to the following conditions:

(a) That all lighting for the building, parking and loading areas be downcast only (with the exception of ornamental lighting);

(b) That the islands in the existing parking lot owned by Mount Royal Fine Foods be landscaped with shrubs and at least one tree every 40 feet with a minimum trunk diameter of 2-1/2 inches;

(c) That, prior to the issuance of a building permit, a stormwater plan be developed and approved by the city engineering division. The plan shall accommodate the existing as well as the addition to the grocery store;

(d) That the semi-truck delivery area be posted with permanent signs visible to drivers that states NO TRUCK IDLING;

(e) That the proposed berm at the rear of the loading area not be constructed in order to preserve more mature vegetation and that additional screening trees be installed where natural vegetation is disturbed;

(f) That all necessary utility relocations be placed in appropriately sized utility easements, as determined by the city engineer.

Resolution 05-0814 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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At this time, 7:35 p.m., the public hearing on the establishment of Harbor View Phase II TIF district began.

Dan Maddy, legal counsel for the Housing and Redevelopment Authority, reviewed the nature and scope of the plan, including the financing plan.

At this time, 7:40 p.m., there was no one else who wished to be heard and the public hearing was declared closed.

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At this time, 7:40 p.m., the public hearing on the establishment of Matterhorn Alps TIF District began.

Dan Maddy, legal counsel for the Housing and Redevelopment Authority, reviewed the nature and scope of the plan, including the financing plan.

Garry Krause expressed concern because the proposed development is landlocked behind the mall with either buildings or asphalt. He noted residents in that area are concerned as to where the youth would go and that a TIF district is not good in this area.

At this time, 7:46 p.m., there was no one else who wished to be heard and the public hearing was declared closed.

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Resolution 05-0808, approving a tax increment financing plan for the Matterhorn Apartments Tax Increment Financing District as proposed by the housing and redevelopment

authority of Duluth, Minnesota, and Resolution 05-0809, approving a tax increment financing plan for the Harbor View Phase II Tax Increment Financing District as proposed by the housing and redevelopment authority of Duluth, Minnesota, by Councilor Gilbert, were introduced for discussion.

Councilor Reinert stated that he supports affordable housing and the HRA, but that he does not support new TIF districts.

Resolutions 05-0808 and 05-0809 were adopted as follows:

BY COUNCILOR GILBERT:

BE IT RESOLVED, by the city council (the council) of the city of Duluth, Minnesota (the city) as follows:

Section 1. Recitals; findings.

1.01 The council has been informed that the housing and redevelopment authority of Duluth (the authority) desires to promote development of property located in the city.

1.02 In order to promote such development, the authority has established Redevelopment Project No. 1 (the project) in the city and adopted a redevelopment plan (the redevelopment plan) therefor pursuant to Minnesota Statutes, sections 469.001 through 469.047 (the act).

1.03 The authority is additionally considering establishment of the Matterhorn Apartments Tax Increment Financing District (the district) within the project and adoption of 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 project. The authority has prepared the TIF plan in accordance with the TIF act.

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the authority has requested the city 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 The authority has transmitted a copy of the TIF plan to the city in a document entitled "The Tax Increment Financing Plan for the Establishment of the Matterhorn Apartments Tax Increment Financing District," which is substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1128-22.

1.06 The council has been provided with a copy of the TIF plan.

Section 2. Statutory findings.

2.01 The land in the project would not be made available for redevelopment without the financial aid to be sought by establishing the district.

2.02 It is the opinion of the council, based on discussions with representatives of the authority regarding projects proposed to be constructed in the district and information contained in the redevelopment plan and the TIF plan: that development and redevelopment within the district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future; that the increased market value of the site to be included in the 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 district after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the TIF plan; and that the use of tax increment financing is necessary. Appendix F to the TIF plan sets out the following:

(a) An estimate of the amount by which the market value of the district will increase without the use of tax increment financing;

(b) An estimate of the increase in the market value that will result from the development or redevelopment to be assisted with the tax increment financing described herein; and

(c) The present value of the projected tax increments for the maximum duration of the District permitted by the TIF plan.

2.03 Based on information contained in the redevelopment plan and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.04 Based on information contained in the redevelopment plan 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 project by private enterprise.

Section 3. Approval.-+

3.01 The TIF plan is approved.

3.02 The geographic boundaries of the project and district are described in the redevelopment plan and the TIF plan, which documents are incorporated herein by reference and which, together with this resolution, contain the requirements set forth in Section 469.028, Subdivision 2 of the act and Section 469.175, Subdivision 3 of the TIF act.

Section 4. Designation of district.

4.01 The proposed district is a housing district as defined in Section 469.174, Subdivision 11 of the TIF act because: it consists of a portion of the project intended for occupancy, in part, by persons or families of low and moderate income, as defined in Minnesota Statutes, Chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation or the regulations promulgated under any of those acts; it satisfies the requirements of Section 469.1761 of the TIF act; and tax increment generated from the district will be used solely in accordance with Section 469.176, Subdivision 4d of the TIF act.

Resolution 05-0808 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Reinert -- 1

Approved November 28, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR GILBERT:

BE IT RESOLVED, by the city council (the council) of the city of Duluth, Minnesota (the city) as follows:

Section 1. Recitals; findings.

1.01 The council has been informed that the housing and redevelopment authority of Duluth (the authority) desires to promote development of property located in the city.

1.02 In order to promote such development, the authority has established Redevelopment Project No. 1 (the project) in the city and adopted a redevelopment plan (the redevelopment plan) therefor pursuant to Minnesota Statutes, Sections 469.001 through 469.047 (the act).

1.03 The authority is additionally considering establishment of the Harbor View Phase II Tax Increment Financing District (the district) within the project and adoption of 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 project. The authority has prepared the TIF plan, which is on file in the office of the city clerk as Public Document No. 05-1128-23, in accordance with the TIF act.

1.04 Pursuant to Section 469.175, Subdivision 3 of the TIF act, the authority has requested the city hold a public hearing on the TIF plan and approve the TIF plan, which hearing was held this date, at which the views of all interested parties were heard.

1.05 The authority has transmitted a copy of the TIF plan to the city in a document entitled "The Tax Increment Financing Plan for the Establishment of the Harbor View Phase II Tax Increment Financing District," which is substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1128-23.

1.06 The council has been provided with a copy of the TIF plan.

Section 2. Statutory findings.

2.01 The land in the project would not be made available for redevelopment without the financial aid to be sought by establishing the district.

2.02 It is the opinion of the council, based on discussions with representatives of the authority regarding projects proposed to be constructed in the district and information contained in the redevelopment plan and the TIF plan: that development and redevelopment within the district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future; that the increased market value of the site to be included in the 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 district after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the TIF plan; and that the use of tax increment financing is necessary. Appendix F to the TIF plan sets out the following:

(a) An estimate of the amount by which the market value of the district will increase without the use of tax increment financing;

(b) An estimate of the increase in the market value that will result from the development or redevelopment to be assisted with the tax increment financing described herein; and

(c) The present value of the projected tax increments for the maximum duration of the district permitted by the TIF plan.

2.03 based on information contained in the redevelopment plan and the TIF plan, the TIF plan conforms to the general plan for the development and redevelopment of the city as a whole.

2.04 Based on information contained in the redevelopment plan 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 project by private enterprise.

Section 3. Approval.

3.01 The TIF plan is approved.

3.02 The geographic boundaries of the project and district are described in the redevelopment plan and the TIF plan, which documents are incorporated herein by reference and which, together with this resolution, contain the requirements set forth in Section 469.028, Subdivision 2 of the act and Section 469.175, Subdivision 3 of the TIF act.

Section 4. Designation of district.

4.01 The proposed District is a housing district as defined in Section 469.174, Subdivision 11 of the TIF act because: it consists of a portion of the project intended for occupancy, in part, by persons or families of low and moderate income, as defined in Minnesota Statutes, Chapter 462A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation or the regulations promulgated under any of those acts; it satisfies the requirements of Section 469.1761 of the TIF act; and tax increment generated from the district will be used solely in accordance with Section 469.176, Subdivision 4d of the TIF act.

Resolution 05-0809 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Stauber, Stewart, Stover and President Ness -- 8

Nays: Councilor Reinert -- 1

Approved November 28, 2005

HERB W. BERGSON, Mayor

BY COUNCILOR REINERT:

RESOLVED, that the city of Duluth accepts a bequest by Oscar John Slotness of 8.1 percent of his estate.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized, in accordance with the terms of the Last Will and Testament of Oscar John Slotness, to use the funds so bequeathed for the senior dining lunch program at the Rainbow Center operated by the city of Duluth, department of parks and recreation; funds to be deposited in Fund 273, Agency 031, Revenue Source 4660.

Resolution 05-0795 was unanimously adopted.

Approved November 28, 2005
HERB W. BERGSON, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR GILBERT

05-052 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED SOUTH OF GLENWOOD STREET ALONG THE NORTH SIDE OF NORTH RIDGE ROAD (CITY OF DULUTH).

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

Betty Holmen Greene and Don Dass expressed their concerns about the amount of stormwater runoff from Northland Estates onto the land and streets below it and how it has increased. They noted the severe affect of freezing water on the streets and for safety purposes there has been the need for graders to break it up. There was a request that action on this ordinance be delayed until a resolution can be passed allowing for the free conveyance of tax forfeited land that can be used for stormwater management.

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The following entitled ordinances were read for the second time:

BY COUNCILOR GILBERT

05-049 (9757) - AN ORDINANCE PLACING CURRENT NONCONFORMING LOTS IN COMPLIANCE WITH SECTION 50-25 OF THE LEGISLATIVE CODE OF THE CITY OF DULUTH.

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

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BY COUNCILOR GILBERT

05-050 (9758) - AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN DECORATIVE STREET LIGHTING, DATA CONDUITS AND SNOW MELT SYSTEM WITHIN THE RIGHT-OF-WAY OF EAST FIRST STREET BETWEEN FOURTH AVENUE AND SIXTH AVENUE EAST.

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

Kay L. Lewis expressed concerns that with the lighting of this area, that moderation be utilized with downward, "task level" lighting for safety purposes.

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

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BY COUNCILOR STOVER

05-051 - AN ORDINANCE AMENDING DULUTH CITY CODE SECTION 33-46; INCREASING PENALTY FOR OVERTIME PARKING.

Councilor Stover felt that if it came to a \$12 parking ticket in Duluth, that it is very inexpensive compared to other cities in the state.

Councilor Stover moved passage of the ordinance and the same failed upon the following vote (Public Document No. 05-1128-25):

Yeas: Councilor Stover -- 1

Nays: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart and President Ness -- 8

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At this time, 8:07 p.m., the public hearing on the Duluth Entertainment Convention Center (DECC) expansion began.

Dan Russell, executive director of the DECC, Greg Fox, chairperson of the Duluth state convention center administrative board, Tracy Lundeen, Show Pro Productions, Craig Olson, president of Duluth Building Trades, Bob Beaudin, DECC building committee, Ken Johnson, S.J.A. architects, David Ross, executive director of the Duluth Chamber of Commerce, Terry Mattson, president of Visit Duluth, Yvonne Prettner Solon, District 7 state senator, Mike Jaros, District 7B state representative, expressed support for the proposed DECC expansion proposal, citing reasons of: this has been discussed and planned for approximately 5-6 years; The University of Minnesota-Duluth (UMD) has given this 100 percent support versus looking at building a complex at the campus; the current arena is the oldest in the WCHA and one of the oldest in the country; the ice sheet is the smallest in the league; UMD has committed \$16 million over the term of the bonds; there have been many presentations to clubs and organizations; there have been public presentations at the DECC at many functions; this expansion also meets many convention and conference needs; the DECC is contributing \$14 million over the term of the bonds; it is anticipated that, based on the past, the 25 year bonds could likely be paid off in 17 years; after the bonds are paid off; UMD would play free and "signage rights" would return to the DECC; the overall impact of activities at the DECC impacts the whole community because individuals who come into Duluth shop at all different kinds of stores; when the DECC is busy, businesses have increased activity; this expansion is coming five years too late because of the demand for scheduling events; the construction of this project would have a project labor agreement and employ about 300; in 2004 and 2005 construction costs rose 10.5 percent, which for this project, would be \$6 million dollars in one year; a model of the expansion has been built so the public can better understand it; brochures have been produced that explain the funding sources and expenses and the problems with the current building; the Duluth legislative delegation, the senate and housing bonding committee and the governor have given the project a favorable reception; the ability to bring in events, concerts, etc., at a reasonable cost, is dependent upon the size of the facility; in comparing Duluth to the Twin Cities, it is like combining its convention center, Target Center and Exel Center all together, we have all those in one facility here at the DECC; the Duluth Chamber of Commerce surveyed its membership and of the returned surveys, 96.3 percent were in favor of it and the chamber's executive committee also recommends it; the board of directors of Visit Duluth, which represents 450 tourism/hospitality businesses, unanimously supports the project, including the taxation component; this is a phenomenal project between the DECC, UMD and the city because rather than addressing separately the DECC's expansion needs and the building of an ice sheet on the UMD campus, by combining it saves money and preserves the business and entertainment district in the center of Downtown; a vibrant Downtown helps to attract more visitors; the increased tax would only be 75 cents per \$100 and this is the top priority at the legislature next year.

Kay L. Lewis was not in support of the expansion because she felt this area is already saturated with high density and it is difficult to get people in and out; this would compete with other venues, such as the Kroc Center, the Duluth Heritage Hockey Center and the proposed entertainment at the Armory. She noted that in planning for the Bayfront area, parking for a new structure was not planned for and open land and easy pedestrian access are what is needed down there.

At this time, 8:45 p.m., the public hearing was declared closed and the regular order of business resumed.

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Resolution 05-0807, by President Ness, requesting legislative authority for city food and beverage tax of limited duration, was introduced for discussion.

Councilor Stewart felt that: this is a tax paid by the individual consumers, not the businesses that collect it; this is subsidizing hockey, music concerts and other DECC events at taxpayers' expense; this is a luxury, not a core service and the city has been crucified for contemplating raising property taxes for core services; this is a huge project and that if the people want it, they will support it; a referendum would give the little guy a "say" and that taxes to support luxuries should go to referendum.

Councilor Stewart moved to amend the resolution, by adding a subparagraph (d), that would read:

“(d) This .75 percent local food-beverage sales tax shall be submitted to the voters of the city of Duluth in a referendum prior to its implementation,”
which motion was seconded.

The amendment failed upon the following vote:

Yeas: Councilor Stewart -- 1

Nays: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stover and President Ness -- 8

Resolution 05-0807 was adopted as follows:

BY PRESIDENT NESS:

The city finds:

The city administration and council have established as the city's first bonding priority the construction of a new arena at the Duluth Entertainment Convention Center (DECC). The city administration and council must establish a source of revenue to finance the city's matching share for state bond proceeds, which must be allocated by action of the state legislature for the DECC arena project.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth requests legislative authority as follows:

(a) City of Duluth be authorized to impose, in addition to any other authorized tax, an additional .75 percent food and beverage tax on sales transactions which are described in Minnesota Statutes Section 297A.01, subd. 3(c);

(b) All of the proceeds generated by this .75 percent additional food and beverage local sales tax are to be dedicated to defease bond issued by the city to provide the local match for state bond proceeds allocated to construct a new arena at the Duluth Entertainment Convention Center;

(c) This .75 percent local food and beverage sales tax shall terminate automatically, without any further action, at the time the bonds issued by the city to satisfy the local matching share of the DECC arena project have been retired.

BE IT FURTHER RESOLVED, that the city staff and elected officials will take the lead role in advancing these initiatives during the 2006 legislative session.

Resolution 05-0807 was unanimously adopted.

Approved November 28, 2005

HERB W. BERGSON, Mayor

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9757

BY COUNCILOR GILBERT:

AN ORDINANCE PLACING CURRENT NONCONFORMING LOTS
IN COMPLIANCE WITH SECTION 50-25 OF THE LEGISLATIVE
CODE OF THE CITY OF DULUTH.

The city of Duluth does ordain:

Section 1. That the following two described parcels are hereby deemed to be legal, nonconforming lots and are deemed not to be in violation of Section 50-25 of the Duluth City Code, 1959, as amended:

Southerly 92 feet of Lot 16, Block 25, London Addition to Duluth;

Lot 16, except the southerly 92 feet, Block 25, London Addition to Duluth.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 8, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 28, 2005
Approved November 28, 2005
HERB W. BERGSON, Mayor

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ORDINANCE NO. 9758

BY COUNCILOR GILBERT:

AN ORDINANCE GRANTING ST. MARY'S DULUTH CLINIC MEDICAL CENTER A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN DECORATIVE STREET LIGHTING, DATA CONDUITS AND SNOW MELT SYSTEM WITHIN THE RIGHT-OF-WAY OF EAST FIRST STREET BETWEEN FOURTH AVENUE AND SIXTH AVENUE EAST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to St. Mary's Duluth Clinic Medical Center, their successors and interests, referred to herein as the permittees, to occupy, erect and maintain a decorative street lights, data conduits and snow melt system in that part of East First Street as the same was dedicated to the use of the public and the plat of Portland Division, on file and of record in the office of the register of deeds in and for the St. Louis County, Minnesota, described as follows:

(a) Decorative street and sidewalk lighting: the southerly 12 feet of East First Street adjoining Lots 2-16, Block 24; Lots 1-13, Block 25, and vacated Fifth Avenue East, Portland Division;

(b) Data conduits: the southerly four feet of East First Street adjoining Lots 13-16, Block 24; Lots 1-13, Block 25, and vacated Fifth Avenue East, Portland Division; AND, that portion of East First Street located 1.9 feet east of the east line and 17.4 feet west of the west line of Lot 15, Block 25, and Lot 15, Block 29, Portland Division;

(c) Snow melt system: the southerly 11.4 feet of East First Street adjoining, Lots 2-4, Block 24, Portland Division.

Section 2. That before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance, a certificate of insurance approved as to form by the city attorney evidencing that such person or organization has in force insurance in the minimum amounts of \$300,000 for bodily injuries resulting in any year and \$50,000 property damage in any one year protecting such person or organization and the city of Duluth against liability for injuries or damages resulting from the placement of such objects or materials on public sidewalks or boulevard areas. The permission granted by such ordinance shall be conditioned upon such person or organization continuing to supply the city with evidence that such insurance remains in effect and all insurance required herein shall contain a provision that no policy may be canceled until ten days after written notice is given to the city clerk. Such policy shall name the city as an additional insured; and shall agree to pay the cost of publishing this ordinance and a recording of a certified copy thereof at the registrar of titles of St. Louis County, Minnesota.

Section 3. That said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. That upon the giving of the notice of termination as aforesaid, the permittees shall remove said lighting, data conduits, snow melt system and all fixtures and

appurtenances of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. That by the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such decorative street lights, data conduits and snow melt system shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said East First Street and agree that the city of Duluth shall not be liable for damage caused to such decorative street lights, data conduits and snow melt system 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, watermains, pipes, conduits or other public utilities made necessary by the presence of such lighting, data conduits, snow melt system in said East First Street.

Section 6. That the construction of the lighting, data conduits, snow melt system be limited to and in substantial compliance with the plans submitted by LHB entitled "Duluth Clinic-Concurrent Use Request (Lighting, Data Conduits, Snow Melt System)," sheets 1, 2 and 3 of 3, Project No. 02228 and on file in the office of the city clerk as Public Document No. 05-1128-26.

Section 7. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 8, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed November 28, 2005
Approved November 28, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 1, 2005, 5:10 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1201-01 The PFM Group: (a) Presale analysis; (b) Official statement; (c) Bid results; (d) Postsale analysis; regarding sale of \$3,515,000 G.O. sewer utility revenue bonds, Series 2005F; \$12,525,000 taxable G.O. tax increment bonds, Series 2005G; \$1,110,000 G.O. equipment certificates of indebtedness, Series 2005H; \$3,070,000 G.O. improvement refunding bonds, Series 2005I; \$1,490,000 G.O. zoo refunding bonds, Series 2005J; \$1,760,000 G.O. refunding bonds, Series 2005K. -- Received

05-1201-02 SMDC Health System communication regarding proposed issuance of G.O. tax increment bonds, Series 2005G (05-0803R). -- Received

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MOTIONS AND RESOLUTIONS

Resolution 05-0797, providing for the issuance, sale and delivery of \$3,515,000 general obligation sewer utility revenue bonds, Series 2005F; establishing the terms and form thereof; and awarding the sale thereof; Resolution 05-0798, providing for the issuance, sale and delivery of \$1,110,000 general obligation equipment certificates of indebtedness, Series 2005H; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof; Resolution 05-0799, providing for the issuance, sale and delivery of \$3,020,000 general obligation improvement refunding bonds, Series 2005I; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, Resolution 05-0800, providing for the issuance, sale and delivery of \$1,485,000 general obligation zoo refunding bonds, Series 2005J; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, and Resolution 05-0802, providing for the issuance, sale and delivery of \$1,765,000 general obligation refunding bonds, Series 2005K; establishing the terms and form thereof; creating a debt service fund therefor; and awarding the sale thereof, by Councilor Stauber, were introduced for discussion.

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

Jessica Cameron, representing the The PFM Group, reviewed the results of the bond sales and recommended the council accept all the bids.

Resolutions 05-0797, 05-0798, 05-0799, 05-0800 and 05-0802 were adopted as follows:

BY COUNCILOR STAUBER:

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 payment of costs of improvements to the municipal sewer utility (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 the sewer utility 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. 9750 adopted October 11, 2005, ordered the issuance, sale and delivery of general obligation sewer utility revenue bonds in the maximum amount of \$7,600,000 of the City, for the payment of the costs of improvements to the municipal sewer utility and for payment of part of the interest cost of the bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

1.03 The city council has determined that it is necessary and expedient that the City issue such bonds in two or more series and hereby authorizes and directs the issuance of its \$3,515,000 General Obligation Sewer Utility Revenue Bonds, Series 2005F (the "Bonds"), pursuant to Ordinance No. 9750.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of RBC Capital Markets of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3,485,230.18, 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 bid. 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 as of the date of delivery, 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 and shall bear interest as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2007	\$160,000	3.50%	2015	\$240,000	3.90%
2008	185,000	3.50%	2016	250,000	4.00%
2009	190,000	3.50%	2017	260,000	4.05%
2010	195,000	3.50%	2018	275,000	4.15%
2011	205,000	3.75%	2019	285,000	4.20%
2012	210,000	3.75%	2020	300,000	4.25%
2013	220,000	3.75%	2021	310,000	4.30%
2014	230,000	3.80%			

2.02 (a) The Bonds maturing in the years 2007 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected

by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

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, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on

each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION SEWER UTILITY REVENUE BOND, SERIES 2005F

R-__ \$_____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2005	

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 the Date of Original Issue, 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, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$3,515,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to a resolution adopted on December 1, 2005, by the governing body of the City (the "Resolution"). The Bonds are issued for improvements to the municipal sewer utility pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections 115.46 and 444.075 and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to Ordinance No. 9750 adopted October 11, 2005, for the purpose of providing funds for improvements to such municipal sewer utility and for payment of part of the interest cost of such bond issue. The Bonds are payable 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 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 Bonds.

The Bonds of this series maturing in the years 2007 through 2014 are not subject to redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, and on any date thereafter, in whole or 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.

Not less than 30 days nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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 the 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, Minnesota, by its city council, has caused this Bond to be executed in its name by the facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, 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 Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/05	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

the within Bond and all rights thereunder and does hereby irrevocably constitute
a n d a p p o i n t
_____ 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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 3. Revenues, Accounts and Covenants.

3.01 (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 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 Utility Sewer 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.

(b) The City has created a separate construction account within the Public Utility Sewer Fund to which there shall be credited \$3,515,000 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 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 "Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the sewer utility. The treasurer shall credit to the Debt Service Fund all proceeds of the Bonds in excess of \$3,515,000, less amounts used to pay a part of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56, plus the amount of accrued interest on the Bonds. The treasurer shall transfer from the Sewer Utility Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the city council.

(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 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 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the city council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 4. Tax Covenants; Miscellaneous.

4.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest on the Bonds will be excluded from gross income for federal income taxes including, without limitation, restricting, to the

extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Bonds or \$100,000. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Bonds and money in the Debt Service 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.

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Equipment Certificates of Indebtedness, Series 2005H (the "Certificates"), General Obligation Improvement Refunding Bonds, Series 2005I (the "Series 2005I Bonds"), General Obligation Zoo Refunding Bonds, Series 2005J (the "Series 2005J Bonds"), and General Obligation Refunding Bonds, Series 2005K (the "Series 2005K Bonds"). The City has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to Treasury Regulation Section 1.150-1(c)(4)(iii), the City elects to treat the Bonds, the Certificates, the Series 2005I Bonds, the Series 2005J Bonds and the Series 2005K Bonds as part of the same issue.

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 as Public Document No. 04-0219-02.

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 05-0797 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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. 05-0773 declaring the intention of the City to issue such certificates of indebtedness in the amount of approximately \$1,110,000 to finance the purchase of capital equipment authorized by the Act. It is hereby certified that the amount of the certificates of indebtedness to be issued by the City pursuant to this resolution is less than 0.25 percent of the market value of the taxable property of the City.

1.03 The city council hereby determines that it is necessary and expedient to issue \$1,110,000 General Obligation Equipment Certificates of Indebtedness, Series 2005H, 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 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Certificates at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Certificates. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Certificates are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Certificates, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of RBC Capital Markets of Minneapolis,

Minnesota (the "Purchaser"), to purchase the Certificates at a cash price of \$1,121,823.85, 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 bid reasonable and proper and the bid 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 bid. 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 the date of delivery, 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 19 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2006	\$205,000	4.00%
2007	215,000	4.00%
2008	220,000	4.00%
2009	230,000	4.00%
2010	240,000	4.00%

2.02 The Certificates are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on June 19 and December 19 in each year (each referred to herein as an "Interest Payment Date"), commencing June 19, 2006. 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Certificate shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Certificate, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Certificates need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each

Certificate shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Certificates eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Certificates shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Certificate registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City of each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by Certificate holders and payments on the Certificates are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Certificates and the registration of transfers of the Certificates entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Certificate at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Certificates of the like aggregate principal amount, as requested by the transferor.

2.08 Each Certificate delivered upon transfer of or in exchange for or in lieu of any other Certificate shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Certificate. Each Certificate shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Certificates called for redemption or to make any such exchange or transfer of the Certificates during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Certificates.

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

2.10 The principal of and interest on the Certificates shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United 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 2005H

R-__ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	December 19, ____	December __, 2005	

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 the Date of Original Issue, 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 19 and December 19 of each year (each referred to herein as an "Interest Payment Date") commencing on June 19, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$1,110,000, 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 December 1, 2005 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Certificates, as such principal and interest respectively come due. The Certificates are not subject to redemption and prepayment before maturity.

The Certificates of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Certificate is transferable by the registered owner hereof upon surrender of this Certificate for transfer at the

principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Certificate, one or more new fully registered certificates in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Certificate, of the same maturity and bearing interest at the same rate.

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

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

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Certificate to be executed in its name by the facsimile 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 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.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Bond Registrar

By _____
Authorized Representative

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 Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Certificate shall be valid

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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.

Date	Registered Owner	Signature of Bond Registrar
12/___/05	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

(Name and Address of Assignee)

_____ Social Security or Other
_____ Identifying Number of Assignee

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

Dated: _____.

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

Signature Guaranteed:

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

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Fund to which there shall be credited \$1,100,000 from the proceeds for the Certificates, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for “capital equipment,” as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least five years, and costs of issuance of the Certificates, as such payments become due.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than 5% in excess of the amounts of principal and interest on the Certificates as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2005	2006	*\$240,047
2006	2007	263,760
2007	2008	259,980
2008	2009	261,240
2009	2010	262,080

*tax levy of \$261,870 less \$21,823 deposited in the Debt Service Fund

(b) A separate debt service account is hereby created and designated as the “2005 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 proceeds of the Certificates in the amount of \$21,823.85, plus the amount of accrued interest, if any, 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 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 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 on file in the office of the city clerk as Public Document No. 04-0219-02.

Section 6. Certificates of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Certificates herein authorized have been duly entered on the county auditor's register.

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

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Certificates and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Certificates, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 05-0798 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$6,850,000 General Obligation Improvement Bonds, Series 1997A, dated September 1, 1997 (the "1997 Bonds"). The 1997 Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$3,020,000 General Obligation Improvement Refunding Bonds, Series 2005I (the "Bonds"), to refund that portion of the 1997 Bonds maturing on and after February 1, 2007 (the "Refunded Bonds"), of which \$3,425,000 in principal amount is prepayable on February 1, 2006 (the "Redemption Date").

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of RBC Capital Markets of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$3,057,292.70, 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 bid. 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 as of the date of delivery, 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 and shall bear interest as follows:

Year	Amount	Interest Rate
2007	\$505,000	4.00%
2008	550,000	4.00%
2009	465,000	4.00%
2010	480,000	4.00%
2011	500,000	4.00%
2012	520,000	4.00%

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2006. 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 or facsimile 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND, SERIES 2005I

R-__ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____		

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 the Date of Original Issue, 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, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$3,020,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 1, 2005 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$6,850,000 General Obligation Improvement Bonds, Series 1997A, dated September 1, 1997. The principal

hereof and interest hereon are payable in part from special assessments levied against properties specially benefitted by local improvements and in part from ad valorem taxes. The principal and interest on the Bonds will be payable from a special fund of the City entitled "2005 Improvement Refunding Bond Account" in the Special Assessment Debt Service Fund.

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the 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, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, 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 Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/05	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
u n t o

(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
a n d a p p o i n t

_____ 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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 3. Covenants, Accounts and Representations.

3.01 (a) The Bonds are payable from the 2005 Improvement Refunding Bond Account (the "Debt Service Fund") hereby created within the City's Special Assessment Debt Service Fund, and the proceeds of special assessments levied for the projects listed in Sections 1.02 and 1.03 of resolution 97-0760 authorizing and approving the 1997 Bonds adopted September 4, 1997 (the "1997 Resolution") and the taxes levied pursuant to Section 3.04 hereof are pledged to the Debt Service Fund.

(b) Proceeds of the Bonds in the amount of \$3,025,000 paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated to the debt service fund heretofore established for the 1997 Bonds (the "1997 Debt Service Fund") in such amount which together with available funds therein shall be used solely to (a) pay the principal of and interest due on the 1997 Bonds on February 1, 2006, and (b) redeem and prepay the Refunded Bonds on the Redemption Date. Upon redemption of the Refunded Bonds on the Redemption Date, the 1997 Debt Service Fund shall be terminated, and all monies remaining therein not required to refund the Refunded Bonds shall be transferred to the Debt Service Fund. The city treasurer is authorized to pay the costs of issuance of the Bonds.

(c) There is hereby appropriated to the Debt Service Fund any amount of the proceeds of the Bonds paid by the Purchaser in excess of the amounts deposited into the

1997 Debt Service Fund and paid for costs of issuance of the Bonds, and all accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.02 The city council hereby declares that it has assessed against benefitted property not less than 20 percent of the cost of the projects financed by the 1997 Bonds. The City further declares that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

3.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the 1997 Debt Service Fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the 1997 Resolution commencing with levy year 2006.

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 follows:

Levy Year	Collection Year	Tax Levy
2005	2006	*\$775,643
2006	2007	579,375
2007	2008	570,780
2008	2009	567,000
2009	2010	567,840
2010	2011	567,840

*Amount levied in the 1997 Resolution for the levy year 2005 for the 1997 Bonds, which will be available for payment of the principal and interest on the Bonds in 2006 and 2007.

Said levies are such that if collected in full they will produce at least five percent 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 from the projects described in Sections 1.02 and 1.03 of the 1997 Resolution upon benefitted properties, and (ii) to the extent of an irrevocable appropriation to said debt service account of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not special assessments), and may direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All proceeds of said special assessments and said taxes are hereby appropriated and shall be paid when collected into the 2005 Improvement Refunding Bond Account within the Special Assessment Debt Service Fund. If the balances in the 2005 Improvement Refunding 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 2005 Improvement Refunding Bond Account when the balances therein are sufficient.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with

covenants in the 1997 Resolution and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to pay all of the principal of and interest on the 1997 Bonds due on February 1, 2006, and the principal of the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file with the city clerk as Public Document No. 05-1201-03, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent of the Refunded Bonds and to publish notice as provided in the 1997 Resolution.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. 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 as Public Document No. 04-0219-02.

Section 6. Tax Covenants.

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

6.02 (a) The proceeds of the 1997 Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 90 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

(b) In addition, the proceeds of the Bonds and money in the Debt Service 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 Code.

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

6.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Sewer Utility Revenue Bonds, Series 2005F (the "Series 2005F Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2005H (the "Certificates"), General Obligation Zoo Refunding Bonds, Series 2005J (the "Series 2005J Bonds"), and General Obligation Refunding Bonds, Series 2005K (the "Series 2005K Bonds"). The City has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to Treasury Regulation Section 1.150-1(c)(4)(iii), the City elects to treat the Bonds, the Certificates, the Series 2005F Bonds, the Series 2005H Bonds, the Series 2005J Bonds and the Series 2005K Bonds as part of the same issue.

Resolution 05-0799 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

BE IT RESOLVED by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$3,285,000 General Obligation Zoo Refunding Bonds, Series 1997E, dated September 1, 1997 (the "1997 Bonds"). The 1997 Bonds were authorized and issued pursuant to the City Charter and Minnesota Statutes, Chapter 475.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that in order to reduce debt service costs the City issue \$1,485,000 General Obligation Zoo Refunding Bonds, Series 2005J (the "Bonds"), to refund that portion of the 1997 Bonds maturing on and after February 1, 2007 (the "Refunded Bonds"), of which \$1,460,000 in principal amount is prepayable on February 1, 2006 (the "Redemption Date").

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,478,666.90, 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 bid. 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 as of the date of delivery, 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 and shall bear interest as follows:

Year	Amount	Interest Rate
2007	\$245,000	3.20%
2008	245,000	3.25%
2009	245,000	3.30%
2010	255,000	3.40%
2011	250,000	3.50%
2012	245,000	4.00%

2.02 The Bonds are not subject to redemption prior to maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2006. 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 or facsimile 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

(b) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the first publication or the mailing (if there is no publication) of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 The Bonds shall be printed or typewritten in substantially the following form:

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

CITY OF DULUTH
GENERAL OBLIGATION ZOO REFUNDING BOND, SERIES 2005J

R-__ \$ _____

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____		

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 the Date of Original Issue, 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, 2006. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, 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 \$1,485,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 1, 2005 (the "Resolution"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$3,285,000 General Obligation Zoo Refunding Bonds, Series 1997E, dated September 1, 1997. The Bonds are payable primarily from annual ad valorem taxes. The principal and interest on the Bonds will be payable from a special account of the City entitled "2005 Zoo Refunding Bonds Account" in the Debt Service Fund.

The Bonds are not subject to redemption prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the 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, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, 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 Wells Fargo Bank, National Association as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/05	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

(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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC),

ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 3. Covenants, Accounts and Representations.

3.01 (a) 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 separate debt service account to be designated the 2005 Zoo Refunding Bonds Debt Service Account ("Debt Service Fund") within the City's debt service fund, to be administered and maintained by the city 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.

(b) To the Debt Service Fund there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remaining in the 1997 General Obligation Zoo Refunding Bonds Debt Service Fund (the "1997 Debt Service Fund") after payment of the Refunded Bonds; (ii) any collections of all ad valorem taxes hereafter levied for the payment of the Bonds and interest thereon; (iii) all ad valorem taxes collected after the date of this resolution, if any, pursuant to levies made in resolution 97-0760 authorizing and approving the 1997 Bonds adopted September 4, 1997 (the "1997 Resolution"); (iv) accrued interest, if any, and the rounding amount of \$666.90 received upon delivery of the Bonds; and (v) any and all other monies which are properly available and are appropriated by the City to the Debt Service Fund. The amount of any surplus remaining in the Debt Service Fund when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

(c) The proceeds of the Bonds in the amount of \$1,460,000.00 paid by the Purchaser upon closing and delivery of the Bonds are hereby irrevocably appropriated to the 1997 Debt Service Fund in such amount which together with available funds therein shall be used solely to (a) pay the principal of and interest due on the 1997 Bonds on February 1, 2006, and (b) redeem and prepay the Refunded Bonds on the Redemption Date. Upon redemption of the Refunded Bonds on the Redemption Date, the 1997 Debt Service Fund shall be terminated, and all monies remaining therein not required to refund the Refunded Bonds shall be transferred to the Debt Service Fund. The city treasurer is authorized to pay the costs of issuance of the Bonds.

(d) There is hereby appropriated to the Debt Service Fund any amount of the Bonds proceeds paid by the Purchaser in excess of the amounts deposited in the 1997 Debt Service Fund and paid for costs of issuance of the Bonds and all accrued interest paid by the Purchaser upon closing and delivery of the Bonds.

3.02 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the Refunded Bonds that an irrevocable appropriation to the 1997 Debt Service Fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by resolution 97-0760 authorizing and approving the Refunded Bonds adopted September 4, 1997 (the "1997 Resolution"), commencing with levy year 2006.

3.03 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2005	2006	*\$322,308
2006	2007	297,547
2007	2008	294,321
2008	2009	296,331
2009	2010	281,978
2010	2011	267,540

*Amount levied in the 1997 Resolution for levy year 2005 for the 1997 Bonds, which will be available for payment of the principal and interest on the Bonds in 2006 and 2007.

(b) All proceeds of said taxes set out in Sections 3.03(a) are hereby appropriated and shall be paid when collected into the 2005 Zoo Refunding Bonds Account within the Debt Service Fund.

Section 4. Refunding, Findings, Prepayment of Refunded Bonds.

4.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the 1997 Resolution and is necessary and desirable for the reduction of debt service cost to the City.

4.02 It is hereby found and determined that the Proceeds and other available funds of the City will be sufficient to pay all of the principal of and interest on the 1997 Bonds due on February 1, 2006, and the principal of the Refunded Bonds on the Redemption Date.

4.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file with the city clerk as Public Document No. 05-1201-04, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent of the Refunded Bonds and to publish notice as provided in the 1997 Resolution.

4.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all Refunded Bonds by depositing with the Bond Registrar on or before the Redemption Date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it shall nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

Section 5. 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 as Public Document No. 04-0219-02.

Section 6. Tax Covenants.

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

6.02 (a) The proceeds of the 1997 Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 90 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

(b) In addition, the proceeds of the Bonds and money in the Debt Service 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 Code.

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

6.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Sewer Utility Revenue Bonds, Series 2005F (the "Series 2005F Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2005H (the "Certificates"), General Obligation Improvement Refunding Bonds, Series 2005I (the "Series 2005I Bonds"), and General Obligation Refunding Bonds, Series 2005K (the "Series 2005K Bonds"). The City has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to Treasury Regulation Section 1.150-1(c)(4)(iii), the City elects to treat the Bonds, the Certificates, the Series 2005F Bonds, the Series 2005I Bonds and the Series 2005K Bonds as part of the same issue.

Resolution 05-0800 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

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 Minnesota Laws 1974, Chapter 130, the City previously issued \$2,720,000 General Obligation Bonds, Series 1996B, dated July 15, 1996 (the "1996 Bonds"), for the purpose of financing project design and engineering costs of Lake Superior Center and a portion of the cost of improvements to the City's recreation facilities.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund certain maturities of the 1996 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 \$1,765,000 General Obligation Refunding Bonds, Series 2005K (the "Bonds"), to refund the principal portion of the 1996 Bonds maturing on and after February 1, 2006, of which \$1,815,000 in principal amount is outstanding (the "Refunded Bonds"), in order to reduce debt service cost to the City. The Refunded Bonds maturing on and after February 1, 2008, are subject to prepayment and redemption on February 1, 2007. (February 1, 2007 is herein referred to as the "Redemption Date.")

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Piper Jaffray of Minneapolis, Minnesota (the "Purchaser"), to purchase the Bonds at a cash price of \$1,753,192.23, 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 bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

2.01 The Bonds shall be dated as of the date of delivery, 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 mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2007	\$125,000	3.25%	2013	\$165,000	4.00%
2008	135,000	3.25%	2014	170,000	4.00%
2009	145,000	3.25%	2015	180,000	4.00%
2010	145,000	3.40%	2016	190,000	4.00%
2011	155,000	3.50%	2017	200,000	4.00%
2012	155,000	3.60%			

2.02 (a) The Bonds maturing in the years 2007 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect

therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

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 August 1, 2006. 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 hereby appoints Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

2.11 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 REFUNDING BOND, SERIES 2005K

R-__ \$_____

Interest Rate Maturity Date Date of Original Issue CUSIP
February 1, _____

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 the Date of Original Issue, 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 August 1, 2006. 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 Wells Fargo Bank, 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 \$1,765,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 12 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on December 1, 2005 (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. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

The Bonds of this series maturing in the years 2007 through 2014 are not subject to redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, and on any date thereafter, in whole or 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.

Not less than 30 days nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository

Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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 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 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, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, 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 as Public Document No. 05-1201-05. 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 2005 Refunding Bonds Debt Service Account ("Debt Service Fund") to be administered and maintained by the Treasurer as a bookkeeping account in the City's debt service fund, separate and apart from all other accounts 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. To the Debt Service Fund 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 attributable to the Refunded Bonds; (ii) any balance remaining on the Redemption Date in the debt service accounts created in the City's resolution authorizing the issuance and sale of the 1996 Bonds (Resolution No. 96-0674R)(the "Prior Resolution") after payment of principal and interest on the Refunded Bonds on the Redemption Date; (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 Fund; (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 Resolution hereafter collected pursuant to levies made in the Prior Resolution; and (viii) any and all other monies which are properly available and are appropriated by the City to the Debt Service Fund including taxes levied in Section 5.02 hereof. The amount of any surplus remaining in the Debt Service Fund when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

(b) 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 Fund 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 for the Refunding Bonds (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of principal and interest due on the Refunded Bonds through the 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(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the Refunded Bonds for the payment of principal and interest due on the Refunded Bonds through the Redemption Date.

(iii) From the Escrow Account there shall be paid: (a) all principal of and interest to be paid on the Refunded Bonds to and including the Redemption Date; and (b) the principal of the Refunded Bonds due by reason of redemption on the Redemption Date.

(iv) The Escrow Account for the Refunding Bonds is irrevocably appropriated to the payment of the principal of and interest on the Refunded Bonds to and including the Redemption Date and to prepayment of the Refunded Bonds due by reason of redemption on the Redemption Date. The monies in the Escrow Account for the Refunding Bonds 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund.

(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.

(c) The construction funds created for the 1996 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 as follows:

Levy Year	Collection Year	Tax Levy
2005	2006	*\$219,177
2006	2007	194,682
2007	2008	211,940
2008	2009	206,992
2009	2010	212,316
2010	2011	206,619
2011	2012	211,260
2012	2013	209,580
2013	2014	212,940
2014	2015	215,880
2015	2016	218,400

*Amount levied in the Prior Resolution for levy year 2005 for the 1996 Bonds, which will be available for payment of the principal and interest on the Bonds in 2006 and 2007.

Said levies are such that if collected in full they will produce at least five percent 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 fund of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes, and may direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

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 date of issuance of the Bonds, the issuance of the Bonds will result in a reduction of debt service cost to the City. In accordance with Section 475.67, Subdivision 12 of the Act, as of the date of issuance of the Bonds, 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 for the Refunded Bonds will be sufficient, together with the permitted earnings on the investment of the Escrow Account, to pay the principal and interest on the Refunded Bonds to and including the Redemption Date and to prepayment of the Refunded Bonds due by reason of redemption on the 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 notice of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or the designee thereof is hereby authorized and directed 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 within 30 days after issuance of the Bonds.

6.03 The city clerk or his designee is authorized and directed to cause to be provided a material event notice regarding the defeasance of the Refunded Bonds in accordance with the continuing disclosure certificate of the City dated August 14, 1996, and delivered in connection with the 1996 Bonds.

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 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 have been duly entered on his 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.

9.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following obligations: General Obligation Sewer Utility Revenue Bonds, Series 2005F (the "Series 2005F Bonds"), General Obligation Equipment Certificates of Indebtedness, Series 2005H (the "Certificates"), General Obligation Improvement Refunding Bonds, Series 2005I (the "Series 2005I Bonds"), and General Obligation Zoo Refunding Bonds, Series 2005J (the "Series 2005J Bonds"). The City has pledged its full faith and credit and taxing powers for each series of the bonds. Pursuant to Treasury Regulation Section 1.150-1(c)(4)(iii), the City elects to treat the Bonds, the Certificates, the Series 2005F Bonds, the Series 2005I Bonds and the Series 2005J Bonds as part of the same issue.

9.04 (a) The City covenants and certifies to and for the benefit of the owners of the Bonds that no use will be made of the proceeds of the Bonds, which will cause the Bonds to be arbitrage bonds within the meaning of Section 148(a) of the Code and the Treasury Regulations promulgated thereunder. Pursuant to such covenant, the City hereby agrees to comply throughout the term of the issue of the Bonds with the requirements of Section 148 of the Code and any Treasury Regulations promulgated thereunder; to this end, the City shall:

(i) maintain records identifying all "gross proceeds" (as defined in Section 148(f)(6)(B) of the Code) attributable to the Bonds, the yield at which such gross proceeds are invested, any arbitrage profit derived therefrom (earnings in excess of the yield on the Bonds) and any earnings derived from the investment of such arbitrage profit;

(ii) make, or cause to be made as of the end of each Bond Year, the annual determinations of the amount, if any, of excess arbitrage required to be paid to the United States by the City (hereinafter, the "Rebate Amount");

(iii) pay, or cause to be paid, to the United States at least once every five Bond Years the amount, if any, which is required to be paid to the United States, including the last installment which shall be made no later than 60 days after the day on which the Bonds are paid in full;

(iv) not invest, or permit to be invested, "gross proceeds" in any acquired non-purpose obligations so as to deflect arbitrage otherwise payable to the United States as a "prohibited payment" to a third party;

(v) retain all records of the annual determinations of the foregoing amounts until six years after the Bonds have been fully paid; and

(vi) in order to comply with the foregoing paragraph, the City shall determine the Rebate Amount within 30 days after the close of each Bond Year and upon payment in full of the Bonds; upon each such determination, the City shall deposit in the Rebate Fund the Rebate Amount so determined; the City shall separately account for the earnings from the investment of the Rebate Amount and such earnings shall become part of the Rebate Amount.

(b) For purposes of this section, "Bond Year" shall mean the 12-month period beginning on the date of issuance of the Bonds or such other 12-month period designated by the Board which is permitted by the Code or any Treasury Regulation promulgated thereunder.

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 clerk as Public Document No. 04-0219-02.

Resolution 05-0802 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

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Resolution 05-0803, by Councilor Stauber, providing for the issuance, sale and delivery of \$12,785,000 taxable general obligation tax increment bonds, Series 2005G; establishing the terms and form thereof; creating a bond fund therefor; and awarding the sale thereof, was introduced for discussion.

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

Genie Stark, finance department director, explained that since the bonds have a taxable status, the bond issue is approximately \$1,000,000 more. She continued by saying that there will be about \$300,000 of debt service each year on the bonds and about \$100,000 - \$180,000 in operating expense each year for the medical district parking ramp that the city will start funding in 2008.

Several councilors expressed concern on the increased costs and not being informed on the costs as the project has developed.

Councilor Stewart reminded councilors that when they approved this project, they did not know where the money was to come from, and sometimes the council needs to say no and take the time to explore the facts.

Ms. Stark explained that because the city guaranteed 70 parking spaces to the developer for the hotel, the bonds for the parking ramp became taxable.

Several councilors stated that they should have known about the taxable status of the bonds when they approved the resolution to sell the bonds.

President Ness stated that hopefully St. Mary's Medical Center/Duluth Clinic (SMCD), through negotiations, will be willing to help with some of the operating costs of the parking ramp.

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Councilors Little and Atkins left their seats during the discussion.

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Resolution 05-0803 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

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1.01 (a) The Duluth Economic Development Authority (“DEDA”), the City and St. Mary’s/Duluth Clinic Health System have agreed to cooperate in developing the parking ramp to be constructed in connection with the St. Mary’s/Duluth Clinic Health Systems Digestive Disease/Cancer Center Project. DEDA established a Development Program and a Plan for Development District No. 17 and has created Tax Increment Financing District No. 22 located in Development District No. 17 (“TIF District No. 22”). Such Development Plan and the Tax Increment Financing Plan for TIF District No. 22 provides for the use of tax increment from TIF District No. 22 for public development costs associated with the construction and improvement of City parking facilities. The City intends to finance a portion of the public development costs associated with the parking ramp to be constructed by the City within TIF District No. 22 (the “Parking Ramp”), and related project facilities costs for rock removal (collectively, the “Project”), with taxable general obligation tax increment bonds in the amount of \$12,785,000.

(b) Pursuant to Minnesota Statutes Section 469.178 (the “Act”), the City is authorized to issue its general obligation bonds for the purpose of financing public development costs associated within TIF District No. 22 and Development District No. 17, and the City hereby authorizes the issuance of \$12,785,000 Taxable General Obligation Tax Increment Bonds, Series 2005G (the “Bonds”), for the purpose of providing funds to pay the public development costs for the Project pursuant to Section 4.01(a) hereof. Pursuant to the Act and Sections 4.02, 4.03 and 4.04 hereof, the City will pledge certain tax increment, net revenues of the Parking Ramp and annual ad valorem real estate taxes for payment of the principal and interest on the Bonds.

1.02 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Griffin, Kubik, Stephens & Thompson, Inc. of Chicago, Illinois (the “Purchaser”), to purchase the Bonds at a cash price of \$12,679,994.80, 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 bid. 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 as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, and shall be lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the amounts and years stated and shall bear interest at the annual rates as set forth below:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2008	\$410,000	5.250%	2018	\$ 680,000	5.250%
2009	430,000	5.250%	2019	715,000	5.250%
2010	450,000	5.250%	2020	755,000	5.250%
2011	475,000	5.250%	2021	795,000	5.375%
2012	500,000	5.250%	2022	835,000	5.375%
2013	525,000	5.250%	2023	880,000	5.375%
2014	555,000	5.250%	2024	925,000	5.500%
2015	585,000	5.250%	2025	980,000	5.500%

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Year	Amount	Interest Rate	Year	Amount	Interest Rate
2016	615,000	5.250%	2026	1,030,000	5.500%
2017	645,000	5.250%			

2.02 (a) The Bonds maturing in the years 2008 through 2014 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2015 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2014, 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.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

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, 2006. 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 designated below at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 3.01, 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 Wells Fargo Bank, 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"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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 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 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 mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

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

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

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

R-_____ \$_____

CITY OF DULUTH
TAXABLE GENERAL OBLIGATION TAX INCREMENT BOND, SERIES 2005G

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____	December __, 2005	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Duluth, St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2006. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as bond registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor Bond Registrar as may be designated by the City Council. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$12,785,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Section 469.178, and all other laws and home rule charter provisions of the City thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on December 1, 2005 (the "Resolution"), for the purpose of financing the public development costs associated with construction of a parking ramp to be constructed by the City within Tax Increment Financing District No. 22 (the "Parking Ramp"), and related project facilities (the "Project"), to be constructed in connection with the St. Mary's/Duluth Clinic Health Systems Digestive Disease/Cancer Center Project, and for payment of part of the interest cost of said bond issue. The principal hereof and interest hereon are payable in

part from tax increment revenue from Tax Increment Financing District No. 22, in part from net revenues of the Parking Ramp, and in part from annual ad valorem real estate taxes, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

The Bonds of this series maturing in the years 2008 through 2014 are not subject to redemption before maturity, but those maturing in the year 2015 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2014, and on any date thereafter, in whole or 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.

Not less than 30 days nor more than 60 days 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; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. 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 the 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

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, Minnesota, by its city council, has caused this Bond to be executed in its name by the facsimile 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.

WELLS FARGO BANK, 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 Wells Fargo Bank, 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 Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/__/05	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
u n t o

(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)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") , to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

Section 4. Revenues, Accounts and Covenants.

4.01 The City has created a separate bond proceeds construction account in Fund 435, the Medical District Expansion Fund, to which there shall be credited \$11,922,143.00 of the proceeds of the Bonds. The funds from this account shall be used solely to pay public development costs of the Project, as set out in this Resolution and in accordance with the Tax Increment Plan for TIF District No. 22, and the costs of issuance of the Bonds; and the money in said account shall be used for no other purpose except as otherwise provided by law.

4.02 Until the Bonds are fully paid or duly called for redemption or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the City's debt service fund created by Section 54(a) of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable on the Bonds.

(a) There is hereby pledged to the Debt Service Fund certain tax increments from TIF District No. 22 received by the City pursuant to the Tax Increment Pledge Agreement dated as of December 19, 2005, between the City and DEDA (the "Pledge Agreement"), which pledge is hereby accepted by the City, and the City officers are hereby authorized to execute the Pledge Agreement. Based on the estimated market value and current tax rates of property within TIF District No. 22 and the obligations under the Pledge Agreement, the City covenants and agrees that not less than 20% of the costs of the Project financed with the Bonds will be paid from tax increment. The treasurer shall credit the amount paid under the Pledge Agreement as received to the Debt Service Fund.

(b) The treasurer shall transfer prior to each Interest Payment Date from the Medical Facility Parking Ramp Operating Account in the General Fund to the Debt Service Fund net revenues from the Parking Ramp then available and needed to pay the principal of the Bonds and interest thereon due on such Interest Payment Date. Such transfers shall be made at the times determined by the treasurer, in accordance with policies established by resolutions of the city council.

(c) The treasurer shall credit to the Debt Service Fund \$754,085.92 for capitalized interest, \$3,765.88 for the rounding amount, plus the amount of accrued interest paid by the Purchaser, all tax increment payable pursuant to the Pledge Agreement, the net revenues pledged from the Parking Ramp pursuant to Section 4.02(b) and the annual ad valorem real estate taxes levied pursuant to Section 4.04 hereof.

4.03 The city council covenants and agrees to segregate and account for the revenues of the Parking Ramp as provided in this Section. The City will place all such charges and revenues from the Parking Ramp, when collected, and all money received from the sale of any facilities or equipment of the Parking Ramp in a separate Medical Facility Parking Ramp Operating Account within the General Fund maintained by the City. 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 Parking Ramp, 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 of the Parking Ramp which are herein pledged and appropriated first to pay the principal of and interest on the Bonds when due.

Surplus revenues from time to time for the Parking Ramp, in excess of payments due from and reserves required to be maintained in the Medical Facility Parking Ramp Operating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Account, may be used for necessary capital expenditures for improvement to the Parking Ramp, for the prepayment and redemption of the Bonds, and thereafter for any other proper municipal purpose.

4.04 (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 follows:

Levy Year	Collection Year	Gross Tax Levy	Estimated Tax Increment	Estimated Net Revenues	Net Tax Levy
2005	2006	\$ 805,244	\$ 0	\$ 0	*\$805,244
2006	2007	1,146,272	220,361	315,000	610,911
2007	2008	1,144,671	220,361	315,000	609,310
2008	2009	1,141,967	220,361	315,000	606,606
2009	2010	1,143,411	220,361	315,000	608,050
2010	2011	1,143,477	220,361	315,000	608,116
2011	2012	1,142,164	220,361	315,000	606,803
2012	2013	1,144,724	220,361	315,000	609,363
2013	2014	1,145,629	220,361	315,000	610,268
2014	2015	1,144,881	220,361	315,000	609,520
2015	2016	1,142,479	220,361	315,000	607,118
2016	2017	1,143,674	220,361	315,000	608,313
2017	2018	1,142,939	220,361	315,000	607,578
2018	2019	1,145,524	220,361	315,000	610,163
2019	2020	1,145,905	220,361	315,000	610,544
2020	2021	1,143,037	220,361	315,000	607,676
2021	2022	1,143,162	220,361	315,000	607,801
2022	2023	1,140,747	220,361	315,000	605,386
2023	2024	1,145,078	220,361	315,000	609,717
2024	2025	1,140,983	220,361	315,000	605,622

*To be paid from capitalized interest, and investment earnings thereon, deposited in the Debt Service Fund

Said levies are such that if collected in full they, together with the estimated tax increment and estimated net revenues pledged for payment of the principal and interest on the Bonds, will produce at least five percent 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 tax increment from TIF District No. 22 pursuant to the Pledge Agreement exceeds the estimated amounts of tax increment set forth above, (ii) to the extent the funds expected to be received from net revenues from the Parking Ramp exceeds the estimated amounts of net revenues set forth above, and (iii) to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the portion of such principal and interest payable from ad valorem taxes (and not tax increment

and net revenues expected to be available as described above), and may direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All proceeds of said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balances therein are sufficient.

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 as Public Document No. 04-0219-02.

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.

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 Bonds, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 05-0803 was unanimously adopted.

Approved December 1, 2005

HERB W. BERGSON, Mayor

- - -

The meeting was adjourned at 6:20 p.m.

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

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 5, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on September 12, 19, 22 and 26, 2005, were approved unanimously.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1205-05 Betty Greene communication regarding proposed request for free conveyance of tax forfeited land located between south Ridge Road and 40th Avenue East (05-0837R and 05-052-O). -- Received

05-1205-06 Dick Heim communication regarding proposed amendment to development agreement with CC San Marco, LLC (05-0828R). -- Received

05-1205-07 The following communications regarding proposed support of the child care program (05-0842R): (a) Todd Fedora; (b) Dennis Frazier; (c) John Morrison; (d) Stephen L. Phillips. -- Received

- - -

REPORTS OF OFFICERS

05-1205-01 Assessor:

(a) For confirmation the assessment roll levied to defray the assessable portion of Highland Street Alley sanitary sewer, Contract No. 5392 (assessable - \$59,931.38);

(b) Letters of sufficiency of petitions to construct sanitary sewers:

(1) 125 feet within Central Avenue Alley beginning 60 feet north of Albion Street and extending northerly;

(2) Maple Grove Road beginning at existing manhole 200 feet west of Robin Avenue and extending 1,000 feet westerly (1,000 lineal feet). -- Received

05-1205-02 Community development division manager for public notification a copy of Northern Communities Land Trust (NCLT) request for waivers to HUD conflict of interest rules. -- Received

05-1205-03 City engineer report of satisfactory completion of local improvements including street, water, natural gas, sanitary sewer and storm sewer system in Hovland Lane (east from Kenwood Avenue) and acceptance of transfer of said local improvement unto the city, in trust for the use and benefit of the public, for inclusion into the public utility system of the city of Duluth, pursuant to Chapter 45, Article VII, of the Duluth City Code. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

05-1205-04 Duluth transit authority: (a) Income statement for August 2005; (b) Minutes of October 5, 2005, meeting. -- Received

- - -

At this time, 7:03 p.m., the public hearing on the 2006 budget and levy was called to order.

Peg Spehar, budget division manager, reviewed the purpose of the public hearings.

No one appeared who wished to be heard and the public hearing was adjourned at 7:05 p.m.

- - -

At this time, 7:05 p.m., the public hearing on the 2006-2010 capital improvement plan was called to order.

No one appeared who wished to be heard and the public hearing was adjourned at 7:07 p.m.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

KL Lewis questioned why there were cost over runs on the medical district parking ramp and asked the council to have businesses requesting business subsidies itemize their job classifications so that the public will know exactly what types of jobs are being created.

- - -
RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 05-0804, adopting license, permit and fee charges for 2006, from the table, which motion was seconded and unanimously carried.

Councilor Ness moved to amend the resolution by decreasing the fee of the parks and recreation department's new busking permit from "\$30" to "\$10," which motion was seconded and unanimously carried.

Resolution 05-0804, as amended, was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that pursuant to sections 2-15, 2-16, 2-17, 6-3, 6-12, 6-14, 6-39, 6-77, 6-82, 8-40, 18-4, 21-6, 24-22, 29A-30, 31-6(a), 33-126, 35-9.1, 35-11, 35-15, 43-12.1, 48-3, 48-14, 48-207, 48-210 and 49-2, Duluth City Code, 1959, as amended, the following license, permit and fee charges for 2006 shall be adopted:

Assessor	
License, Permit, Fee Name	2006 Fee
Abatement processing fee	
Homestead	\$25.00
Valuation	\$50.00
Certificate of real estate value (CRV) duplicate	\$1.00
CD data	\$155.00
EOY microfiche	\$155.00
Map	
8.5 x 11; 8.5 x 14; 11 x 17	\$1.00
11 x 17 copy of milar	\$2.00
28 x 41	\$2.00
Fax a map copy	\$3.00
Member access to internet website	\$240.00
Ownership search	
Notification	\$25.00
Rezoning	\$25.00
Property record - full page (free to property owner)	\$2.00

Attorney	
License, Permit, Fee Name	2005 Fee
Research - after first 1/4 hour (per hour)	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Building Safety		
License, Permit, Fee Name		2005 Fee
Board of zoning appeals filing fee		\$120.00
Certificate of occupancy		\$5.00
Demolition/razing/wrecking permit		
	For every 100 cubic feet of volume	\$.25
	Minimum fee	\$15.00
Housing Code books		\$9.30
Mobile home permit		
	Inspection fee	\$25.00
	Installation fee	\$50.00
Rental housing (three year licenses)		
	Each bed in rooming unit	\$20.00
	Each building - for a new license for an existing structure or renewal of an existing license (includes initial inspection and one reinspection)	\$200.00
	Each dwelling or housekeeping unit	\$20.00
	Each failure to appear for reinspection	\$75.00
	Inspections made in response to citizen complaints	-0-
	Issuing new license in conjunction with certificate of occupancy	\$25.00
	Per unit investigation fee for each occupied rental unit being operated as rental housing that is not licensed	\$200.00
	Reinspection after license suspended/revoked	\$150.00
	Reinstating an expired, revoked or suspended license	\$500.00
	Reissuance of existing license with new owner and/or manager name and address for the remainder of license period	\$25.00
	Services rendered pursuant to a contract	as per contract
	Second or more reinspection and/or initial inspections requested by owner or authorized agent of a structure	\$150.00
	Voluntary inspection requested by the owner or his or her agent	\$200.00
Subpoena fee		
	Building official	
	Additional hourly rate	\$46.00
	Initial fee	\$186.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Building Safety	
License, Permit, Fee Name	2005 Fee
Code plan review	
Additional hourly rate	\$25.00
Initial fee	\$101.00
Inspector (27)	
Additional hourly rate	\$25.00
Initial fee	\$101.00
Inspector (29)	
Additional hourly rate	\$26.00
Initial fee	\$104.00
Inspector (31)	
Additional hourly rate	\$30.00
Initial fee	\$118.00
Zoning (30)	
Additional hourly rate	\$28.00
Initial fee	\$114.00
Clerical/administrative (129)	
Additional hourly rate	\$23.00
Initial fee	\$94.00
Clerical/information (126)	
Additional hourly rate	\$20.00
Initial fee	\$83.00
Water resource management district	
Special use permit	\$150.00
Use permit	\$50.00
Variance	\$150.00

Citywide	
License, Permit, Fee Name	2005 Fee
Audio tape/CD-ROM copies (per tape/CD-ROM)	\$7.00
Microfilm copies - 18"x24" (per page)	\$3.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Citywide	
License, Permit, Fee Name	2005 Fee
Microfilm copies - 8"x12" (per page)	\$2.00
Photocopies (per page)	\$.25
Research - per hour (first 1/4 hour free) [excluding attorney and library]	\$15.00
NSF checks	\$25.00
Special assessment incidental fee (per parcel)	\$122.75
Zoning booklets	\$10.75

Clerk	
License, permit, fee name	2005 Fee
Adult bookstore - annual	\$30.00
Alcoholic beverage	
Intoxicating liquor	
Bottle club - annual	\$300.00
Brewery malt liquor off sale - annual	\$200.00
Club - annual	
Less than 200 members	\$300.00
201-500 members	\$500.00
501-1,000 members	\$650.00
1,001-2,000 members	\$800.00
2,001-4,000 members	\$1,000.00
4,001-6,000 members	\$2,000.00
6,001 or more members	\$3,000.00
Late penalty fee	
Off sale	\$100.00
On Sale	\$250.00
Wine	\$75.00
Off sale - annual	\$1,000.00
On sale	
Additional bar	\$500.00
Annual	\$2,650.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Clerk	
License, permit, fee name	2005 Fee
Dancing	
Annual	\$900.00
One day/evening - per day	\$100.00
Seasonal	\$300.00
Special Sunday license - annual	\$125.00
Temporary - on sale	
First day/evening	\$250.00
Each additional day/evening	\$125.00
Transfer	\$300.00
Wine - on sale	
Annual	\$700.00
Bed and breakfast - annual	\$350.00
Dancing	
Annual	\$750.00
One day/evening - per day	\$100.00
Seasonal	\$300.00
Investigations	
In state	\$500.00
Outside of state	\$10,000.00
Late hours entertainment - annual	\$200.00
Nonintoxicating liquor	
Late penalty fee	
Off sale	\$25.00
On sale	\$50.00
Off sale - annual	\$130.00
On sale	
Annual	\$350.00
Dancing	
Annual	\$750.00
One day/evening - per day	\$100.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Clerk		
License, permit, fee name		2005 Fee
	Seasonal	\$300.00
	Temporary - on sale	
	First day/evening	\$100.00
	Each additional day/evening	\$20.00
	Transfer	\$100.00
	Permanent expansion	\$100.00
	Special meeting request fee - per applicant	\$100.00
	Temporary expansion	
	First day/evening	\$300.00
	Each additional day/evening	\$150.00
Banner license		
	Non-skywalk	\$75.00
	Skywalk	\$50.00
Bowling alley - annual		
	First lane	\$60.00
	Each additional lane	\$20.00
C-3 shopping center district revision		\$160.00
Certified copies		\$10.00
Cigarette license - annual		\$120.00
Coin operated device - annual		
	Card	\$15.00
	Location	\$15.00
	Prorated monthly fee	\$1.50
	Supplier license	\$10.00
Concurrent use permit		\$200.00
Council minutes - per meeting		\$5.00
Council proceedings - annual		\$60.00
Dance hall		
	Annual	\$200.00
	One dance event	\$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Clerk		
License, permit, fee name		2005 Fee
Emergency wrecker service		
	Annual	\$375.00
	Vehicle replacement fee	\$5.00
Gambling manager - annual		\$50.00
Garbage collector license - annual		\$250.00
Gasoline filling station		
	First hose - annual	\$60.00
	Each additional hose - annual	\$15.00
	Initial service inspection fee	\$100.00
	New construction during license year	\$70.00
Grooming shop - annual		\$70.00
Horse and carriage livery service		
	Annual	\$130.00
	Per carriage/per year	\$20.00
	Per horse/per year	\$10.00
Hotel/motel/motor court - annual		
	First 25 rooms	\$70.00
	Each additional room	\$2.00
Jar operator - annual		\$20.00
Kennel - annual		
	Boarding	
	3-11 animals	\$70.00
	12 or more animals	\$110.00
	Breeding	
	2-5 animals	\$70.00
	6-11 animals	\$110.00
	12 or more animals	\$250.00
Legislative Code		
	CD-ROM	\$125.00
	Hard copy	\$250.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Clerk		
License, permit, fee name		2005 Fee
	Supplement (changes only)	
	CD-ROM	\$60.00
	Hard copy	\$125.00
Massage establishment - annual		\$100.00
Massage therapist - annual		\$20.00
Motor vehicle dealer - annual		
	Main lot	\$325.00
	Each additional lot	\$100.00
Motor vehicle rental - annual		\$225.00
Nuisance wildlife removal business - annual		\$70.00
Parade, race, community/special event		\$75.00
Pawnbroker - annual		\$325.00
Peddler		\$30.00
Pedestrian transit zone		
	Initial fee	\$100.00
	Annual renewal fee	\$25.00
Pet license - annual		
	Altered	\$8.00
	Animal shelter license	\$2.50
	Duplicate tag	\$3.00
	Maximum exception	\$8.00
	Unaltered	\$8.00
Pet shop - annual		\$70.00
Pool, billiard snooker & bumper pool - annual		
	First table	\$60.00
	Each additional table	\$20.00
Precinct finder		\$10.00
Precinct map		\$8.00
Precious metal dealer - annual		\$325.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Clerk	
License, permit, fee name	2005 Fee
Recreation/sightseeing rides	
Annual	\$120.00
Per vehicle/per year	\$40.00
Vehicle(s) added during current license year inspection fee (per vehicle)	\$30.00
Resident permit parking - annual	
Resident	\$5.00
Visitor	
Regular	\$2.00
Special	\$1.00
Rezoning petition	\$400.00
Shooting range	
Annual	\$100.00
Initial or new construction fees	\$275.00
Special use permit	
Filing fee	\$250.00
Low density planned developments and community unit plans	
Initial fee	\$500.00
Plan alteration review	\$200.00
Plan unit development	\$500.00
Taxicab	\$130.00
License transfer	\$5.00
Vehicle permit	\$15.00
Vehicle permit transfer	\$5.00
Vacation petition filing fee	
Easement	\$400.00
Vacation - street	
Less than or equal to 200 feet	\$400.00
Greater than 200 feet	\$700.00
Veterinary hospital - annual	\$70.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Fire	
License, Permit, Fee Name	2005 Fee
Blasting permit	
Late fee	\$300.00
Regular	\$200.00
Bon fire permit	\$125.00
Burning permit	\$50.00
Christmas trees/wreaths permit deposit	\$100.00
Commercial use/occupancy permits (three year)	
Occupancy base fees (the minimum amount shown, or, if the inspection is performed by the city under a contract with the state or any other governmental agency, any amount that does not exceed the fee for the same service charged by the party with which the city has contracted, whichever is greater)	
Assembly occupancy	\$100.00
Combustible storage occupancy	\$100.00
Factory occupancy	\$100.00
Fire sprinklers or alarms systems (not otherwise requiring a permit)	\$100.00
Hazardous occupancy	\$100.00
Residential occupancy	
R-1 (same as state fee)	\$100.00
Additional per unit (37-99 units)	\$7.00
Additional per unit (100 or more units)	\$8.00
R-3	\$100.00
Additional per unit	\$20.00
R-4	\$100.00
Additional per unit	\$20.00
Other fees	
Inspections made in response to citizen's complaint	-0-
Issuing new permit in conjunction with issuing a certificate of occupancy	\$25.00
Reinspection upon request of any owner/occupant whose permit has been suspended or revoked	\$100.00
Reinstating a suspended or revoked permit	\$100.00
Reissuing an existing permit with the name and address of a new owner for the remainder of permit period for an occupancy with a valid permit	\$25.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Fire	
License, Permit, Fee Name	2005 Fee
Second and subsequent reinspection and/or any initial inspection requested by the owner/occupant of a structure or his/her authorized agent	\$100.00
Fireworks/pyrotechnics display	\$200.00
Fuel tank inspection permit (per tank)	\$50.00
Sale of fireworks permit - annual	\$100.00

Library	
License, Permit, Fee Name	2005 Fee
Barcode/security label destruction service charge	\$3.00
Billing service charge	\$2.00
Card replacement	\$2.00
**Computer lab rental	\$110.00
Conference room rental	
Commercial (per day)	\$100.00
Noncommercial	
Four hours or less	\$45.00
Per day	\$55.00
Deposit card fee	\$50.00
Extended use fines (per day)	
Adult items	\$.25
Art prints	\$1.00
Civil service books	\$1.00
Juvenile items	\$.10
Toys	\$.50
Videos, software, story kits	\$2.00
Fax service - per page	\$1.00
Final notice service charge	\$3.00
Gold room rental	
Commercial (per day)	\$150.00
Noncommercial	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Library		
License, Permit, Fee Name		2005 Fee
	Four hours or less	\$55.00
	Per day	\$70.00
Green room rental		
	Commercial (per day)	\$250.00
	Noncommercial	
	Four hours or less	\$95.00
	Per day	\$120.00
Lost/damaged materials fee		cost of replacement and processing
Non-Minnesota resident borrower's card		
	First family member - annual	\$45.00
	Each additional family member - annual	\$10.00
Photocopies/printing (coin-operated machines) - per page		\$.10
Research		
	After first 1/2 hour (per hour)	\$15.00
	Mailed photocopies (per page)	\$1.00
Sale of used adult books - minimum		\$.50
Sale of used children's books - minimum		\$.50
Sale of used magazines - minimum		\$.50
Space/room rental equipment fee		\$10.00
**Change in license, permit or fee		

MIS		
License, Permit, Fee Name		2005 Fee
Aerial photo data GIS mapping products		
	Up to 11"x17" map products	
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$20.00
	Unrectified aerial photo (black and white 1995)	\$4.00
	Up to 22"x34" standard map products	
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$25.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

MIS		
License, Permit, Fee Name		2005 Fee
	Unrectified aerial photo (black and white 1995)	\$10.00
34"x44" standard map products		
	Contours - Ortho photo with ten foot contours (scale 1:1200 or 1:2400)	\$30.00
	Unrectified aerial photo (black and white 1995)	\$15.00
Custom mapping		
	Minimum charge	\$50.00
	Per hour	\$50.00
Standard map products and additional copies: available maps (scale 1:1200 or 1:2400)		
	Up to 11"x17"	\$10.00
	14"x22" utility map (scale: 1:3600 only)	\$4.00
	17"x22"	\$15.00
	22"x34"	\$15.00
	34"x44"	\$20.00
	35"x90" city map	\$30.00
Digital rectified aerial photo, predefined 1/2 Sec. (1/2 mile x 1 mile)		
	Black and white or color, PLUS elevation model	\$365.00
	Black and white	\$315.00
	Color	\$315.00
Elevation model - all derived products, predefined 1/2 Sec. (1/2 mile x 1 mile)		\$220.00
Labels - selecting/printing		
	Quantity of 500	\$170.00
	**Quantity of 2,000 or more (plus cost of labels)	\$250.00
Raw Imagery - Without Rectification, PLSS Sec. (1 mile x 1 mile)		\$110.00
Reproducible Mylar - Predefined 1/2 Sec. (1/2 mile x 1 mile)		\$315.00
Specialized computer information		
Custom query		
	Minimum	\$200.00
	CD-ROM media (minimum fee plus \$20)	\$220.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

MIS		
License, Permit, Fee Name		2005 Fee
	Label request fee (minimum fee plus \$10)	\$210.00
	Repeat query	\$25.00
	Standard query	\$50.00
	Web-based Query	
	Annual maintenance and subscription	\$240.00
	Set up and handling	\$25.00
**Change in license, permit or fee		

Parks and Recreation		
License, Permit, Fee Name		2005 Fee
Adult special league - annual		
	Sport	
	Adult softball (per team)	\$525.00
	Basketball (per team)	\$565.00
	Bocce (per team)	\$30.00
	Broomball (per team)	\$940.00
	Classic softball (per team)	\$1,050.00
	Flag football (per person)	\$55.00
	No check hockey (per team)	\$1,300.00
	Touch football (per team)	\$575.00
	Volleyball (per team)	\$395.00
	*Team forfeit fee	\$20.00
	*Team roster late fee (per day)	\$5.00
Athletic field rental		
	Lights (per hour/per field)	\$40.00
	Per field/per day	\$40.00
Banner permit		\$10.00 up to a maximum of \$50.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation	
License, Permit, Fee Name	2005 Fee
Bayfront Festival Park	
Playfront parking lot - per vehicle during special events	\$3.00
Use of entire park	
Damage/cleanup deposit (refundable if park left in acceptable condition)	\$1,000.00
Per paid admission on each ticket sold in excess of total daily rental payment (Payment due seven days after event)	\$.50
Set up/take down fee (advance payment required)	\$500.00
Usage fee, per day (advance payment required)	\$1,000.00
Vendor space, per day (based on 10'x10' minimum size space) (payment due seven days after event)	\$10.00
Use of Lois M. Paulucci Music Pavilion	
Alcohol consumption permit	\$35.00
Damage deposit (refundable)	\$50.00
Per hour rental (up to five hours)	
40-199 persons	\$45.00
200-499 persons	\$85.00
Building rental	
Alcohol permit	\$80.00
Community recreation center conference room (for meetings up to two hours)	\$25.00
Damage/cleanup deposit (refundable if building left in acceptable condition)	
*With alcohol	\$200.00
Without alcohol	\$100.00
Evenings/weekends/weekdays	
First hour	\$55.00
Per hour, after first	\$25.00
Late Fee	\$25.00
Use of licensed kitchen	\$55.00
*Buskering permit	\$10.00
Duluth logo souvenirs	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation	
License, Permit, Fee Name	2005 Fee
Baseball cap	\$13.00
Can cooler	\$6.00
Ceramic mug	\$6.00
Ceramic mug with coffee package	\$9.00
Clear footed glass	\$7.00
Denim shirt	\$25.00
Fleece	\$35.00
Golf balls (pkg of 3)	\$7.00
Golf shirt	\$23.00
Grey sweatshirt	\$35.00
Key tag	\$3.00
Knit cap	\$10.00
T-shirt	\$12.00
Watch	\$25.00
White sweatshirt	\$22.00
General recreation	
3 on 3 basketball (per player) - annual	\$25.00
Adventure recreation day camp (per person/one week)	\$150.00
Chester Bowl	
Daily pass	\$5.00
Family season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$75.00- \$140.00
Single season pass (can buy down cost of pass by volunteering with ski operations, concessions, etc.)	\$45.00- \$85.00
Ski rental	\$40.00
Cooking class (per person/per day)	\$2.00
Pizza parties (per person/per day)	\$3.00
Youth dances (per person/per day)	\$5.00
Golf courses - Lester Park and Enger Park	
Daily golf ticket - pretax	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation		
License, Permit, Fee Name		2005 Fee
	18 hole	\$25.12
	18 hole junior	\$13.02
	9 hole	\$14.88
	9 hole junior	\$9.30
	9 hole senior	\$12.09
	Fall special	\$14.88
	Twilight	\$12.09
Golf cart rental - pretax		
	18 hole	\$25.12
	9 hole	\$14.88
	Daily private	\$12.09
	**Season private	\$186.05
	**Season unlimited	\$697.67
**Season pass - pretax		
Restricted		
	5 day	\$350.00
	Collegiate	\$310.00
	Junior	\$170.00
Family		
	Junior family upgrade to limited	\$160.00
Unlimited		
	Junior	\$310.00
Lake Superior Zoological Gardens admission		
Community celebrations		
Bubba and Berlin's Birthday Bash		
	0-12 years old	-0-
	**13 years and older	\$8.00
Easter Egg Hunt		
	0-12 years old	-0-
	**13 years and older	\$8.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation	
License, Permit, Fee Name	2005 Fee
Zoo Year's Eve - all ages	-0-
Group rates - groups of ten or more who have made prior arrangements and where one payment is made for the entire group	
0-2 years old	-0-
3-12 years old	\$2.50
**13 years or older	\$7.00
School sponsored tours - per person	
Grades 0-8	\$2.50
**Grades 9-12	\$7.00
**Chaperone	\$7.00
Groups with bona fide special needs or disabilities	
Per person	\$2.50
**Chaperone	\$7.00
Regular rates	
0-2 years old	-0-
3-12 years old	\$3.00
**13 years or older	\$8.00
Special rates for zoo staff training and education and service projects provided to the zoo may be granted by the director of the zoo after approval by the zoo management team.	
Northland Senior Games - annual/per person	
Banquet	
Guest	\$17.00
Participant	\$12.00
Bowling and tennis	\$6.00
Cards only	\$6.00
Early entry fee	
Non-residents	\$30.00
Residents	\$25.00
Entry fee	
Non-residents	\$35.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation		
License, Permit, Fee Name		2005 Fee
	Residents	\$30.00
	*Softball	
	Additional events for softball players only (per event)	\$6.00
	Team fee (t-shirt not included)	\$125.00
	T-shirt (additional)	\$10.00
Picnic/wedding		
	Alcohol consumption	\$35.00
	Permit	
	40 to 199 persons (up to five hours)	\$45.00
	200 to 499 persons (up to five hours)	\$85.00
	500+ persons (up to five hours)	\$100.00
	*Rose Garden (two hour time slot)	\$50.00
Recreation centers/team events		
	Dodge ball (per person)	\$25.00
	Floor hockey (per person)	\$25.00
	Indoor soccer (per person)	\$25.00
	Youth basketball (per person)	\$25.00
Recreational fire		\$15.00
Senior programs (per person)		
	Billiards tournament	\$8.00
	Citywide picnic	\$10.00
	Educational seminars	\$7.00
	Holiday banquet	\$14.00
	Special parties	\$4.00
Sound amplification		\$15.00
Stage rental		\$350.00
Van rides - one way		\$1.00
Vendor space - parks (per day)		\$10.00
Washington Center		
	Gym rental (per hour)	\$30.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Parks and Recreation	
License, Permit, Fee Name	2005 Fee
Lap swim (per person/per month)	\$25.00
Pool rental	
Per hour/per group	\$45.00
**Per hour/per person	\$1.50
Swimming lessons (per person)	\$20.00
* New license, permit or fee **Change in license, permit or fee	

Planning and Development	
License, Permit, Fee Name	2005 Fee
C-3 and C-5 plan review	\$250.00
EAW's (city as RGU)	\$500.00
Grant intermediary fee	
DTED/contamination clean-up	\$250.00
DTED/MIF - city	\$150.00
JOBZ application and monitoring fee (refundable if denied by council)	\$500.00
Platting	
Final review	
Five or less lots	\$100.00
Six to 70 lots	\$175.00
Over 70 lots (per lot)	\$2.50
Preliminary review	\$500.00
Tax forfeit reclassification	\$150.00
Zoning text change	\$250.00

Police	
License, Permit, Fee Name	2005 Fee
Animal shelter	
Daily board fee	\$25.00
Impound fee	\$35.00
Nonresident owner surrender	\$85.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Police		
License, Permit, Fee Name		2005 Fee
	Quarantine fee	\$150.00
	Rabies deposit	\$25.00
	Resident owner surrender	\$75.00
	Animals sold to institutions	\$200.00
Background investigation fee		\$8.00
Closed investigative product/data		
	Per CD-ROM	\$1.00
	Per image	\$1.50
	Per page	\$2.00
Crime scene unit audio and video recordings		
	Per tape or CD	\$2.00
	Staff time (per hour)	\$50.00
Criminal history		\$25.00
Deer hunting qualification certificate		\$20.00
Fingerprinting		
	First card	\$10.00
	Each additional card	\$5.00
Intrusion detection device permit		\$25.00
No parking signs - for construction sites (per sign)		\$2.00
Pawnbroker transaction surcharge (per transaction)		\$2.00

Public Works and Utilities		
License, Permit, Fee Name		2005 Fee
Aerial photo		
	2002	\$5.00
	Pre-2002	\$3.00
Building moving permit		
	Over private property	\$5.00
	Over public property	
	1,000 square feet or under of area on first floor	\$30.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Public Works and Utilities		
License, Permit, Fee Name		2005 Fee
	Over 1,000 square feet of area on first floor	\$60.00
Certificate of unpaid bills		\$15.00
Driveway crossing (miscellaneous permit)		
	Base fee	\$20.00
	Inspection fee	\$15.00
Excavation permit		\$55.00
Fire service application	varies from \$642-\$1,533	
Gas furnace comfort policy fee - annual		
	Electronic ignition	\$110.00
	Standing pilot	\$99.00
Gas furnace/appliance service		
Midnight - 8:00 a.m.		
	First hour OR no show fee	\$90.00
	Each additional 15 minutes	\$22.50
Week days		
	First 1/2 hour OR no show fee	\$30.00
	Each additional 15 minutes	\$15.00
Week nights		
	First 1/2 hour OR no show fee	\$45.00
	Each additional 15 minutes	\$22.50
Inflow and infiltration noninspection/noncompliance surcharge (per month)		\$50.00
Land disturbance permit		
	Accessory building with footprint of 1,000 square feet or less where erosion control permit is required	\$50.00
	Commercial, industrial, multi family construction or demolition on parcels of 10,000 square feet or greater	\$200.00
	Grading permit where no structure is being built	\$50.00
	Plan review on parcels greater than 10,000 square feet but less than one acre where the engineer waives the permit	\$50.00
	Reinspection (<i>note: permit fee includes one inspection</i>)	\$30.00
	Single family dwelling construction	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Public Works and Utilities	
License, Permit, Fee Name	2005 Fee
On parcels less than 10,000 square feet where no permit is required by engineer	-0-
On parcels less than 10,000 square feet where permit is required due to special conditions	
First 3,000 square feet	\$75.00
Each additional 1,000 square feet	\$25.00
Maximum charge	\$250.00
On parcels equal to or greater than 10,000 square feet	
First 3,000 square feet	\$75.00
Each additional 1,000 square feet	\$25.00
Maximum charge	\$250.00
Occupy or obstruct street	
Base fee	\$15.00
Per \$.05 increment of hourly charge per parking meter	
Per day	\$0.25
Per month	\$5.00
Per week	\$1.25
Per month, per square feet of area	\$0.07
Minimum fee	\$10.00
Yearly	\$200.00
Sewer connection - property not previously assessed (per foot of frontage; varies depending on lot size)	\$65.00
Sidewalk repair or replacement (private construction) - base fee	\$15.00
Transportation permit	
Regular	\$10.00
Seasonal contractor	\$50.00
Violations/noncompliance service charge	
Dispatch of service vehicle	\$35.00

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Public Works and Utilities		
License, Permit, Fee Name		2005 Fee
Restoration of service		
	Between 12:00 a.m.-8:00 a.m.	\$60.00
	Between 4:30 a.m.-12:00 a.m.	\$45.00
	Between 8:00 a.m.-4:30 p.m.	\$35.00
Water connection - property not previously assessed (per foot of frontage; varies depending on lot size)		\$65.00
Water hydrant, use of		\$90.00
Water service tapping fee		\$250.00
Watercourse obstruction		\$50.00

Treasurer		
License, Permit, Fee Name		2005 Fee
Assessment search/certificate		
	First description	\$12.50
	Each additional description	\$12.50
**Delinquent garbage accounts collection fee		\$30.00
Vehicle excise tax (per state authorization)		\$20.00
**Change in license, permit or fee		

RESOLVED FURTHER, that the following fees are hereby eliminated:

Eliminated Fees			
Dept./Div.	License, Permit, Fee Name	Current Fee	
Library	Computer lab rental		
		Per computer with Internet access (11 available)	\$10.00
		Room rental	\$100.00
	Photocopies/printing (coin-operated machines) - per page		
		Reader/printer photocopy	\$.25
Parks and Recreation	General recreation		
		Summer program registration	\$10.00
	Picnic/wedding		
		Kits	\$5.00

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

RESOLVED FURTHER, that these fees shall become effective on January 1, 2006.

Resolution 05-0804, as amended, was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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**MOTIONS AND RESOLUTIONS
CONSENT AGENDA**

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

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

BY COUNCILOR STAUBER:

RESOLVED, that the operation budget for the fiscal year January 1, 2006, to December 31, 2006, in the amount of \$10,775,104 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 15 of each year.

Resolution 05-0830 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the operation budget for the fiscal year January 1, 2006, to December 31, 2006, in the amount of \$3,142,230 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 15 of each year.

Resolution 05-0831 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the operation budget for the fiscal year January 1, 2006, to December 31, 2006, for Duluth Steam District No. 2 in the amount of \$7,927,348 is hereby approved.

Resolution 05-0832 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council (the council) of the city of Duluth, Minnesota (the city), as follows:

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301, and Minnesota Statutes, Chapter 475, 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.

Section 2. The city council declares the intent of the city to issue certificates of indebtedness in 2006 in the amount of approximately \$1,750,000 to finance the purchase of capital equipment authorized by the act, together with an additional amount to pay costs of issuance of the certificates of indebtedness and discount in an amount estimated to be not more than \$60,000.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 05-1205-08), which list of equipment is hereby approved for purchase in 2006.

Section 4. The terms and conditions of the certificates of indebtedness and the sale thereof shall be established by further resolution of the council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to reimburse expenditures incurred with respect to such capital equipment purchase program.

Resolution 05-0835 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STAUBER:

RESOLVED, that the assessment roll levied to defray the assessable portion of construction of a sanitary sewer in Highland Street Alley from 59th Avenue West westerly (Contract #5392; assessable amount - \$59,931.38) is confirmed.

Resolution 05-0836 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, it appears that it may be necessary to construct 125 feet of sanitary sewer in Central Avenue Alley beginning 60 feet north of Albion Street extending northerly.

It is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

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 05-0825 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, it appears that it may be necessary to construct 1,000 feet of sanitary sewer in Maple Grove Road beginning 200 feet west of Robin Avenue and extending westerly.

It is the intent of the city council to cause this improvement to be made, provided that further information demonstrated that the improvement should be made.

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 05-0826 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

BE IT RESOLVED, that the proper city officials are authorized to accept from the Spirit Valley Neighborhood Development Association donations of equipment to be used by the police department, such donations to occur through the end of 2006.

BE IT FURTHER RESOLVED, that all donated items shall be reported to the city auditor for fixed asset reporting and accounting purposes and a list of all items received and the fair market value shall be reported to the council at the end of the donation cycle.

Resolution 05-0824 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

The following resolutions were also considered:

Resolution 05-0834, by Council Stauber, approving capital improvement plan and calling for public hearing on intention to issue improvement bonds under Minnesota Statutes, Section 475.521, was introduced for discussion.

Councilor Stauber moved amend the plan to switch the emergency sirens into the 2006 budget and move the Endion Point Campground bathrooms into the 2007 budget, which motion was seconded for discussion.

Administrative Assistant Almanza reviewed a memo from Fire Chief Strongitharm which stated that the sirens are all in working order.

Councilor Stauber withdrew his amendment.

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

- - -

Resolution 05-0827, transferring funds in the amount of \$210,470 between the 2000, 2003 and 2004 HUD community development block grant (CDBG) programs; and Resolution 05-0828, authorizing an amendment to the development agreement with CC San Marco, LLC, related to the San Marco residential development, by Councilor Gilbert, were introduced for discussion.

Keith Hamre, community development division manager, reviewed the history of the San Marco residential development and stated that the developer will look for a different source of money for the acquisition of the Downtown Service Garage.

Councilor Atkins moved to return the resolutions to the administration, which motion was seconded and unanimously carried.

- - -

Resolution 05-0837, by Councilor Gilbert, requesting the free conveyance of tax forfeited land located between South Ridge Road and 40th Avenue East, near Northland Estates, for stormwater drainage and steep slope protection, was introduced for discussion.

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

Betty Holmen Greene thanked the planning department for bringing this resolution and ordinance forward for consideration as it is a positive benefit to the people who live down the slope from the Northland Estates.

Resolution 05-0837 was adopted as follows:

BY COUNCILOR GILBERT:

RESOLVED, that the Saint Louis County Board of Commissioners is hereby requested to free convey to the city of Duluth the following tax forfeited parcels for storm water drainage and steep slope protection.

Legal Description	Location
Northland Estates Division, Outlot A (PID 3452-00470)	east of South Ridge Road and south of North Ridge Road (Lakeside-Lester Park)
Northland Estates Division, Outlot C (PID 3452-00490)	at the southeast intersection of Glenwood Street and South Ridge Road (Lakeside-Lester Park)
Northland Estates Division, Outlot D (PID 3452-00500)	east of North Ridge Road and west of 40th Avenue East extended (Lakeside-Lester Park)
north 1/2 of southeast 1/4 of northwest 1/4 of northwest 1/4, except east 237 feet of south 110 feet, Section 7, T50N, R13W (PID 2680-00440)	east of North Ridge Road and west of 40th Avenue East extended (Lakeside-Lester Park)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Legal Description	Location
all of southwest 1/4 of northwest 1/4, except 1-40/100 acres for Northland Country Club, except south 1/2 of southeast 1/4 of southwest 1/4 of northwest 1/4, except the following: beginning 700 feet east of northwest corner running thence west to northwest corner thence south 350 feet thence northeasterly to point of beginning 2-81/100 acres and except part platted as Northland Division and Northland Division, First Addition, and except part platted as Northland Terrace, First Addition, T50N, R13W (PID 2680-00460)	south of South Ridge Road and north of Rockview Court (Lakeside-Lester Park)

Resolution 05-0837 was unanimously adopted.
 Approved December 5, 2005
 HERB W. BERGSON, Mayor

- - -

Resolution 05-0842, by President Ness, supporting child care program, was introduced for discussion.

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

Dennis Frazier, social worker with St. Louis County, has seen quality day care diminish, especially for poor families with needs for their children and expressed concern that there have been huge budget cuts in Minnesota.

Theresa Fox reviewed her experiences with families and the need for quality programs for children.

President Ness stated that is resolution is regarding Minnesota's approach to child care issues such as access to health care and services.

Councilor Little stated that child care issues are very important and supports the program, but voiced concern that the resolution states the city supports the union in this effort when the city does not know what actions will be taken by the unions.

Councilor Stauber stated that the timing of the resolution is poor because of the organizing effort of the unions for adequate wages in child care.

Resolution 05-0842 was adopted as follows:

BY PRESIDENT NESS:

The Duluth City Council finds:

That child care is critical to the success of the Minnesota family investment program in assisting individuals to obtain employment and a child's early education; and

That quality child care is critical to working families; and

That licensed child care providers statewide earn \$2.83 an hour on average according to the Minnesota department of human services; and

That licensed child care providers caring for children receiving child care subsidies established by the state of Minnesota have seen substantial cuts in funding resulting in 10,000 families in Minnesota no longer receiving child care assistance; and

That, according to children's defense fund, nearly 25 percent of Minnesota parents reported that they have had to quit or turn down a job because of difficulties with child care arrangements; and

That, according to a study done by the Federal Reserve Bank of Minneapolis, for every dollar that is spent on early childhood education, nearly \$13 in benefits goes to the general public; and

That, St. Louis County and Child Care Providers Together (CCPT)/AFSCME AFL-CIO are helping raise awareness of the need for improvements in the child care system.

NOW, THEREFORE, BE IT RESOLVED, the city council commends the work of St. Louis County and CCPT/AFSCME AFL-CIO on raising the awareness of the importance of child care in our community.

BE IT FURTHER RESOLVED, the city council supports the efforts of St. Louis County and CCPT/AFSCME AFL-CIO to improve the child care system as a whole both in St. Louis County and statewide.

Resolution 05-0842 was adopted upon the following vote:

Yeas: Councilors Atkins, Gilbert, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Little and Stauber -- 2

Abstention: Councilor Johnson -- 1

Approved December 5, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1205-09, with Granite Works, Inc., pursuant to which Granite Works, Inc., will be paid an amount not to exceed \$20,000, for installation of a public sewer main in Morgan Park adjacent to the Granite Works site, payable from Fund 255, Agency 020, Organization 5530.

Resolution 05-0829 was unanimously adopted.

Approved December 5, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

05-054 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2005 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY COUNCILOR STAUBER

05-055 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2006 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

BY COUNCILOR STAUBER

05-056 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2006.

- - -

BY COUNCILOR STAUBER

05-057 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2006.

- - -

BY COUNCILOR STAUBER

05-058 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2006.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GILBERT

05-052 (9759) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED SOUTH OF GLENWOOD STREET ALONG THE NORTH SIDE OF NORTH RIDGE ROAD (CITY OF DULUTH).

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

The meeting was adjourned at 7:50 p.m.

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

ORDINANCE NO. 9759

BY COUNCILOR GILBERT:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE 1959, AS AMENDED, ZONING DISTRICT MAP NO. 43 AS CONTAINED IN THE APPENDIX TO CHAPTER 50, TO PROVIDE FOR THE RECLASSIFICATION FROM S, SUBURBAN, TO R-1-B, SINGLE FAMILY RESIDENTIAL, PROPERTY LOCATED SOUTH OF GLENWOOD STREET ALONG THE NORTH SIDE OF NORTH RIDGE ROAD (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That Plate No. 43 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)

(Reference File No. 05111)

[see Map No. 43 at end of meeting]

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: January 8, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 5, 2005
Approved December 5, 2005
HERB W. BERGSON, Mayor

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 15, 2005, 5:10 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

05-059 - AN ORDINANCE PERTAINING TO RESTAURANTS; AMENDING SECTION 8-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The meeting was adjourned at 5:12 p.m.

JEFFREY J. COX, City Clerk

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 19, 2005, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on October 11, 20, 24, November 7, 14, 21 and 28, 2005, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

05-1219-01 Michael Saxton petition to reconstruct Sundby Road from Page Street northerly 1,415± feet. -- Assessor

05-1219-30 Mark Ridgewell communication regarding BZA variances (05-0699R and 05-0700R). -- Received

05-1219-02 David A. Sackette request to change the name of a portion of road in the Sackette Addition from Denim Drive to Wisteria Lane. -- Planning commission

05-1219-12 Roni Town communication regarding proposed CDBG funding (05-0865R). -- Received

05-1219-11 The following communications regarding the proposed amendment to the 2005 budget (05-043-O) and proposed 2006 tax levy (05-056-O): (a) Jerome R. Carlson (3); (b) Dennis P. and Rosemarie Mitchell. -- Received

05-1219-13 The following communications regarding proposed retiree health care task force recommendations (05-0884R): (a) Kathleen Bergman; (b) Jerome R. Carlson (2); (c) Alison Clarke; (d) Duluth Area Chamber of Commerce; (e) Duluth Steam Cooperative Association; (f) John Foucault; (g) Wlady L. Hoder; (h) Sandy Maturi; (i) Judith Rudman. -- Received

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REPORTS OF OFFICERS

05-1219-03 Assessor affidavits of mailing of notices of public hearings by the special assessment board on Tuesday, December 13, 2005, in Room 106A, City Hall, at:

(a) 3:30 p.m. regarding the proposed construction of watermain and sanitary sewer near vacated Lorain Avenue;

(b) 4:00 p.m. regarding the proposed construction of sanitary sewer in Maple Grove Road beginning 200 feet west of Robin Avenue and extending 100 feet westerly. -- Clerk

05-1219-04 Clerk application to the Minnesota gambling control board for exemption from lawful gambling license from Miller-Dwan Foundation on September 29, 2006 (raffle). -- Received

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Assistant City Attorney Christensen reviewed the status of the negotiations with Charter Communications, Inc., relative to the cable television franchise renewal (Public Document No. 05-1219-31).

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REPORTS OF BOARDS AND COMMISSIONS

05-1219-05 Commission on disabilities minutes of November 2, 2005, meeting. -- Received

05-1219-06 Duluth state convention center administrative board minutes of October 25, 2005, meeting. -- Received

05-1219-07 Housing and redevelopment authority minutes of August 30, 2005, meeting. -- Received

05-1219-08 Library board minutes of: (a) September 27; (b) October 25, 2005, meetings. -- Received

05-1219-09 Parks and recreation commission minutes of October 12, 2005, meeting. -- Received

05-1219-10 Seaway Port authority of Duluth: (a) Financial statement of September 30, 2005; (b) Minutes of: (1) July 21, (2) August 25; (3) October 5, 2005, meetings. -- Received

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RESOLUTIONS TABLED

Councilor Stauber moved to remove Resolution 05-0741, approving a supplemental agreement with the city of Duluth supervisory association regarding active and retiree health insurance, from the table, which motion was seconded and unanimously carried.

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

- - -

Councilor Stauber moved to remove Resolution 05-0834, approving capital improvement plan and calling for public hearing on intention to issue improvement bonds under Minnesota Statutes, Section 475.521, from the table, which motion was seconded and unanimously carried.

Councilor Stauber reviewed that the council does not have the authority to change "line" items in the capital improvement list/budget and can only approve or disapprove the amount of the budget. He stated that because the administration moved the emergency siren improvement from 2006 to 2007 that he would move to amend the 2006 budget ordinance to reduce by the amount that was designated for the Indian Point Campground washrooms, which was the replacement for the emergency sirens.

Fire Chief Strongitharm reported that a grant has been applied for to purchase new emergency hazard warning sirens and that all the existing 30 year old sirens have been repaired, tested and are working.

Resolution 05-0834 was adopted as follows:

BY COUNCILOR STAUBER:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the city), as follows:

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the act), the city council has authorized preparation of a capital improvement plan for the years 2006 through 2010 which has been presented to the city council in a document entitled "Capital Improvement Budget and Five Year Plan 2006-2010," dated October 2005 (the plan);

(b) The city council has caused due notice to be given and has this day held a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The city council has considered the following for each project discussed in the plan and for the overall plan:

(1) The condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the city;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the plan and Section 1.01(c) hereof, the city council finds that the plan is desirable and beneficial to the city and its residents;

(b) The city council finds that the proposed improvements under the plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The plan is approved.

Section 2. Intent to issue bonds and reallocation of bond proceeds.

2.01 (a) The city council is considering the issuance of capital improvement bonds under the act and Minnesota Statutes, Chapter 475, in an amount not to exceed \$915,000 (the bonds), for the purpose of providing funds for continuation of the restoration of the granite and brick facades of City Hall; roofing projects at Fire Station No. 2 and the public works maintenance facility; remodeling of city offices in City Hall; fire department facilities repairs and maintenance including driveways, window and brick repairs and overhead door replacements; replacing the public works Lakeside Toolhouse with a new maintenance facility; upgrading an existing public works garage to comply with OSHA and code standards for the storage of cold asphalt; and payment of discount and costs of issuance;

(b) The city hereby expresses its intent to issue the bonds for the project in an aggregate principal amount not to exceed \$915,000, pursuant to the plan, the act and Minnesota Statutes, Chapter 475;

(c) The city will issue the bonds if no petition requesting a vote on the issuance of the bonds signed by voters equal to five percent of the votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 2.03 of this resolution.

2.02 The city council shall hold a public hearing on the issuance of the bonds at 7:00 p.m. on January 23, 2006. The city clerk is authorized and directed to cause the notice of public hearing, substantially in the form on file in the office of the city clerk as Public Document No. 05-1219-14, to be published in the official newspaper of the city or a newspaper of general circulation in the jurisdiction of the city not less than 14 days nor more than 28 days prior to the date set for the public hearing.

2.03 The administrative staff of the city and its agents are hereby authorized to take such further action necessary to carry out the intent and purpose of this resolution and the requirements of the act.

Resolution 05-0834 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

Councilor Gilbert moved to remove resolutions 05-0699 and 05-0700, affirming and reversing, respectively, the decision of the board of zoning appeals to deny a variance to reduce the minimum corner side yard setback requirement from 20 feet to ten feet for the construction of a 904 square foot addition to an existing 576 square foot detached garage on property located at 322 North 80th Avenue West (David Mark Ridgewell), from the table, which motion was seconded and unanimously carried.

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

Mark Ridgewell, appellant, commented on his communication which reflects what he feels is the hardship in this case, also suggesting that the Code should be changed to a ten foot setback in a R-1-c District (Public Document No. 05-1219-30).

Councilor Stewart and President Ness commented on the possibility of a Code amendment by noting that the Code changes that were referred to by Mr. Ridgewell are worth considering and looking at, but that they would come at a future time and that the current standards relative to a variance hardship are out of sync with what is really going on with the development.

Resolution 05-0699 failed upon the following vote (Public Document No. 05-1219-15):

Yeas: Councilors Gilbert, Johnson, Stewart and President Ness – 4

Nays: Councilors Atkins, Little, Reinert, Stauber and Stover – 5

- - -

Councilor Atkins moved to retable Resolution 05-0700, 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 were enacted by one unanimous motion.)

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

BY COUNCILOR STAUBER:

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 (Public Document No. 05-1219-16) of the Duluth economic development authority for the year 2006.

Resolution 05-0853 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the proper city officials are authorized to execute and implement a supplemental agreement to the collective bargaining agreement between the city of Duluth and Local 66 of A.F.S.C.M.E. covering years 2004-2006 regarding standby scheduling of engineering personnel; said supplemental agreement to contain the terms and be in substantially the form of that agreement on file with the city clerk as Public Document No. 05-1219-17.

Resolution 05-0874 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STAUBER:

RESOLVED, that the deadline for Duluth Amateur Hockey Association to raise sufficient funds in order to qualify for receipt of matching funds from the city, as set out in Resolution 05-0088, is changed from December 31, 2005, to June 30, 2006.

Resolution 05-0878 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that West Side Equipment Company, Inc., be and hereby is awarded a contract for furnishing and delivering one vehicle lift for the fleet operations division in accordance with specifications on its low specification bid of \$88,714.50, terms net 30, FOB destination, \$88,714.50 payable out of Fleet Fund 660, Department/Agency 015, Object 5580; to be encumbered out of the 2006 budget.

Resolution 05-0846 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement (Public Document No. 05-1219-18) with the Duluth Entertainment Convention Center, relating to the operation of the pedestrian draw bridge over Minnesota Slip; payments thereunder, in the estimated amount of \$32,400, to be paid from General Fund 0100, Department/Agency 500, Organization 1925, Object 5455.

Resolution 05-0847 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the Greater Downtown Council and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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

Resolution 05-0859 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

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.

Licensee	Gambling site
Irving Community Association	Charlie's Club, 5527 Grand Avenue
American Legion Post #71	5814 Grand Avenue
Welch Center	Tappa Keg Inn, 7036 Grand Avenue Alpine Bar & Lounge, 1308 Commonwealth Avenue

Resolution 05-0860 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the Duluth News Tribune be and hereby is designated the official newspaper of the city of Duluth for the year 2006, and the contract for publishing the proceedings of the city council of the city of Duluth, hereby is awarded to the Duluth News Tribune on its bid for said publications of \$1.98 per inch, these being the legal rates for the state of Minnesota. The estimated total annual cost \$20,000. The billing is to be on the inch rate; term: net 30 and payable out of various funds, departments/agencies, organizations and objects; to be encumbered out of year 2006 budget.

Resolution 05-0870 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STEWART:

RESOLVED, that Anderson Gravel and Demolition be and hereby is awarded a contract for asbestos abatement and demolition of buildings at 4 Piedmont and 1601 West Superior Street for the architect division in accordance with specifications on its low specification of \$27,450, terms net 30, FOB destination, payable out of General Fund 0100, Department/Agency 100, Organization 1504, Object 5453.

Resolution 05-0876 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

WHEREAS, the state of Minnesota, department of natural resources, division of waters, administers financial assistance for coastal management purposes, through Minnesota's Lake Superior coastal program; and

WHEREAS, the city of Duluth desires financial assistance under Minnesota's Lake Superior coastal program.

RESOLVED, that the proper city officials are hereby authorized to apply for, and to accept if offered, \$70,000 in Lake Superior coastal program funds from the state of Minnesota department of natural resources to assist in creating 11,000 parcels as part of the city's proposed parcel map of the entire city, said sum, if received, to be deposited in Fund 0210-030-2154.

FURTHER RESOLVED, that the city does hereby agree to act as a legal sponsor of such grant and hereby agrees that, if such grant is offered and accepted, it will obligate the following sums from the following sources to serve as the local match to said grant funds:

- \$5,000 from the Water Utilities Fund 510-500-1915-5310;
- \$5,000 from the Gas Utilities Fund 520-500-1915-5310;
- \$5,000 from the Sewer Utilities Fund 530-500-1915-5310;
- \$5,000 from the Stormwater Utilities Fund 535-500-1915-5310;
- \$50,000 in in-kind services from MIS.

Resolution 05-0877 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

BE IT RESOLVED, that the Duluth City Council hereby approves the transfer of the following on sale intoxicating liquor license and application for an on sale Sunday license and a 2:00 a.m. beverage license for the period ending August 31, 2006, subject to departmental approvals, and the payment of sales and property taxes:

J&J Miller, Inc. (Copasetic Lounge), 322 East Central Entrance, with Joel Miller, 50 percent stockholder, and Gerald Miller, 50 percent stockholder, transferred from PK & JS, Inc. (Twins Bar), 501 East Fourth Street.

Resolution 05-0880 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

BE IT RESOLVED, by the governing body of the city of Duluth, St. Louis County, Minnesota, as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999 submitted a petition to the Minnesota pollution control agency (the MPCA) requesting creation of the Duluth/North Shore Sanitary District (the sanitary district) pursuant to Minnesota Statutes, Sections 115.18 through 115.37 (the act). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the municipalities.)

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the order). The order was published in the State Register on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the board of managers) as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 115.23, subdivision 7, of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, each of whom is a voter residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

Orlando (Lars) G. Fladmark, of the town of Duluth, Minnesota, whose term shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

commence on the first business day of January 2006 and shall expire on the first business day of January 2009;

Scott Smith, of the city of Duluth, Minnesota, whose term shall commence on the first business day of January 2006 and shall expire on the first business day of January 2009;

Katherine Kuettel, of the city of Duluth, Minnesota, whose term shall commence once all of the municipalities adopt resolutions concurring in her election and shall expire on the first business day of January 2008.

Section 3. Election of board of managers. Election of the above-named persons to the board of managers of the sanitary district is hereby approved and such persons are hereby elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to each board member elected a certificate of the board member's election.

Resolution 05-0839 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of Albert M. Katz to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2008, replacing Jane Gilbert, is confirmed.

Resolution 05-0840 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR JOHNSON:

RESOLVED, that the appointment by Mayor Bergson of John Hinzmann, Jr., to the board of zoning appeals, for a term expiring July 31, 2008, replacing Donna Scorse, who resigned, is confirmed.

Resolution 05-0882 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of Fourth Street on Rices Point legally described as: Fourth Street from the south right-of-way line of Birch Avenue to the north right-of-way line of Lynn Avenue and that portion of Nelson Avenue (a.k.a. Cedar Avenue) 75 feet west of the right-of-way line of Fourth 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, by a unanimous vote, the easement vacation petition (FN 05112) at its November 8, 2005, meeting; and

WHEREAS, pursuant to Resolution 05-0785, approved on November 28, 2005, the requested vacation was approved but said resolution failed to preserve the below-referenced utility easement;

RESOLVED, that Resolution 05-0785, approved on November 28, 2005, is hereby rescinded.

BE IT FURTHER RESOLVED, that the city council of the city of Duluth approves the vacation of Fourth Street from the south right-of-way line of Birch Avenue to the north right-of-way line of Lynn Avenue and that portion of Nelson Avenue (a.k.a. Cedar Avenue) 75 feet west of the right-of-way line of Fourth Street subject to retention of a 20 foot wide utility easement in

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Elm Avenue the centerline of which lies eight feet south of and parallel with the centerline of Elm Avenue, and as more particularly described on Public Document No. 05-1219-19.

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 05-0841 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1219-20, to the CDBG City Homes III Project Agreement No. 19688 with Northern Communities Land Trust (NCLT) extending the date for project completion to December 31, 2006, and extending corresponding reporting dates, at no change in project compensation under the terms of the agreement.

Resolution 05-0849 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1219-21, to the HOME Program City Homes III Agreement No. 19687 with Northern Communities Land Trust (NCLT) extending the date for project completion to December 31, 2006, at no change in project compensation under the terms of the agreement.

Resolution 05-0852 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, the proper city officials are hereby authorized to enter into an amendment substantially in the form on file in the office of the city clerk as Public Document No. 05-1219-22 to the HOME program housing development projects - Phoenix House agreement (City Contract No. 19494) with Life House, extending the project completion date to December 31, 2006.

Resolution 05-0854 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

RESOLVED, that the proper city officials are authorized to make the following transfer of funds between the Federal Fund 0262-020-5434, 2000, 2003 and 2004 HUD-funded community development accounts as set forth below:

Project #	Project	Budget amount	New amount	Amount of increase or decrease
2000 CDBG transfers				
CD00CD-PFAC-PF01	Lincoln Park Phase I	\$188,649	\$187,935	(\$714)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Project #	Project	Budget amount	New amount	Amount of increase or decrease
CD00CD-PFAC-PF02	Fond du Lac sewers	\$200,000	\$134,731	(\$65,269)
2003 CDBG transfers				
CD03CD-PFACPF05	Lincoln Park sidewalk safety	\$43,595	\$43,437	(\$158)
CD03CD-ECDV-ED06	Growing neigh business	\$22,700	\$21,283	(\$1,417)
CD03CD-HOUS-HS06	San Marco project	\$24,700	\$135,170	\$110,470
2004 CDBG transfers				
CD04CD-HOUS-2239	NSH affordable housing	\$113,550	\$86,900	(\$26,650)
CD04CD-ECDV-1037	Harbor View youth employ	\$23,000	\$22,626	(\$374)
CD04CD-PFAC-PF04	Citywide street	\$16,643	\$15,768	(\$875)
CD04CD-PSCV-1929	L.S. Cnty Health Ctr	\$67,400	\$67,186	(\$214)
CD04CD-PSCV-2512	Money management	\$9,600	\$9,534	(\$66)
CD04CD-ADMC-AD03	Contingency	\$28,285	\$13,552	(\$14,733)

Resolution 05-0855 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

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. 05-1219-23, to the development agreement with CC San Marco, LLC, relating to the San Marco residential development increasing the amount payable thereunder by \$110,470 for a total amount payable of \$235,170, payable from 262-020-5434-CD03CD-HOUS-HS06.

Resolution 05-0856 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth (the city) act as the legal sponsor for project(s) contained in the redevelopment grant program to be submitted on December 31, 2005, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for a grant in the amount of up to \$750,000 for funding of this project on behalf of Cirrus Design Corporation and to accept said grant if

awarded.

BE IT FURTHER RESOLVED, that the city 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. The source of match shall be provided by St. Louis County community development block grant (CDBG) economic development set-aside accounts from FY 2004, 2005 and 2006, and St. Louis County economic development funds.

BE IT FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, the city may enter into a grant agreement with the state of Minnesota for the above referenced project(s) and that the city certifies that it will comply with all applicable laws and regulation as stated in the grant agreement(s).

Resolution 05-0861 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement, containing substantially the terms of that on file with the city clerk as Public Document No. 05-1219-24, with WLSSD for the collection of its capacity availability fee in exchange for payment of a commission to be deposited in Fund 100, Agency 100, Organization 1504, Revenue Source 4359.

Resolution 05-0873 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 05-0819 awarding a contract to Nord-Sen Metal Industries, Inc., be amended to increase the amount by \$7,585 for a new total of \$36,407.50, for accessories for the coal elevator payable out of Steam Fund 0540, Department/Agency 920, Organization 1499, Object 5530.

Resolution 05-0843 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0437 awarding a contract to Ayres Associates for professional engineering services for design and construction services for Lincoln Park Central East street improvement project, be amended to increase the amount by \$114,395 for a new total of \$281,333, payable out of Street Improvement Program Fund 0440, Department/Agency 038, Object 5530, Project #2005SIP-0347TR.

Resolution 05-0844 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that Resolution 04-0466 awarding a contract to Krech, Ojard and Associates for professional services for design and construction phases for reconditioning of West Third Street from 21st Avenue West to Carlton Street, be amended to increase the amount by \$185,000 for a new total of \$403,993, payable out of Special Assessment Fund

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

0410, Department/Agency 038, Organization 5393, Object 5530, Project #SA2005-5393.
 Resolution 05-0845 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are hereby authorized to accept conveyance of an easement for street and roadway purposes, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 05-1219-25, from CNN Properties, LLC, in, under, over, upon, across and along property located in St. Louis County, Minnesota, described as follows:

Lot Ten (10), Block One Hundred Seventeen (117) and Lot Ten (10), Block One Hundred Eighteen (118), WEST DULUTH SECOND DIVISION, said easement being more particularly described as follows, to-wit:

That part of Lot Ten (10), Block One Hundred Seventeen (117), WEST DULUTH SECOND DIVISION lying northwest of the following described line:

Commencing at the northwest corner of Lot Ten (10), Block One Hundred Seventeen (117); thence easterly along the north line of said Lot Ten (10) a distance of 25 feet to point of beginning; thence deflecting to the right and continuing southwesterly in a straight line to the southwest corner of said Lot Ten (10) and there terminating; and

That part in Lot Ten (10), Block One Hundred Eighteen (118), WEST DULUTH SECOND DIVISION lying northeast of the following described line:

Commencing at the northeast corner of Lot Ten (10), Block One Hundred Eighteen (118); thence westerly along the north line of said Lot Ten (10) a distance of 25 feet to point of beginning; thence deflecting to the left and continuing southeasterly in a straight line to the southeast corner of said Lot Ten (10) and there terminating.

Resolution 05-0858 was unanimously adopted.

Approved December 19, 2005
 HERB W. BERGSON, Mayor

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BY COUNCILOR STOVER:

RESOLVED, that the following is the revised list of high priority bridges and the city of Duluth intends to replace, rehabilitate or remove these bridges as soon as possible when funds are available.

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
L6122	Superior Street	\$406,916	\$181,088		\$225,828	2005
L8479	Anderson Road	\$879,266	\$200,000		\$678,726	2005
88069	Arrowhead Road	\$100,000	\$83,334		\$16,666	2005
88231	Arrowhead Road	\$100,000	\$83,334		\$16,666	2005
92277	26th Avenue West	\$1,295,000	\$1,176,440		\$118,560	2006
89451	Skyline	\$160,000	\$120,000		\$40,000	2006

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

Old Bridge Number	Road or Street	Total Project Cost	State Bridge Funds	Federal Funds	Local or State Aid Funds	Proposed Construction Year
93402	Second Street	\$400,000	\$350,000		\$50,000	2006
L5833	Triggs Avenue	\$140,000	\$116,000		\$24,000	2009
L8496	Toledo Street	\$140,000	\$116,000		\$24,000	2009
L8501	7 Bridges Road	\$160,000	\$120,000		\$40,000	2006
L8511	Columbus Avenue	\$200,000	\$160,000		\$40,000	2010
91143	Third Street	\$680,000	\$544,000		\$136,000	2007
91294	Mall Drive	\$300,000	\$240,000		\$60,000	2009
L8485	Bristol Street	\$300,000	\$250,000		\$50,000	2010
L9419	Oxford Street	\$310,000	\$260,000		\$50,000	2007
L8477	Tenth Street	\$1,399,853	\$258,410	\$934,443	\$58,000	2006
L3140	63rd Avenue West	\$420,000	\$160,000		\$260,000	2007
69812	27th Avenue West	\$780,000	\$300,000		\$480,000	2008
L8491	38th Avenue West	\$135,000	\$85,000		\$50,000	2008
L8516	Fairmont Street	\$130,000	\$100,000		\$35,000	2009
88550	Central Avenue	\$200,000	\$75,000		\$125,000	2010

Resolution 05-0871 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to execute and implement an agreement, containing substantially the terms of that agreement on file with the city clerk as Public Document No. 05-1219-26, between the city and Short Elliott Hendrickson, Inc., for professional engineering services connected with final closure of Dump Site No. 1, not to exceed \$54,000; payment from Self Insurance Fund 610-036-1651-5319.

Resolution 05-0872 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STOVER:

RESOLVED, that the proper city officials are authorized to execute a capacity allocation agreement, a copy of which is on file with the city clerk as Public Document No. 05-1219-27, with the Western Lake Superior Sanitary District allocating to the city a share of the district's wastewater treatment capacity for 2006 through 2010.

Resolution 05-0879 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following handicapped parking zone is hereby established: front of 528 North 23rd Avenue West.

Resolution 05-0881 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR REINERT:

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of understanding with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 05-1219-28, which allows DEDA to participate during 2006 in the city's self insurance fund program; DEDA funds in the amount of \$6,500 to be deposited in 610-036-1656-4904.

Resolution 05-0838 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0833, by Councilor Stauber, allocating \$100,000 additional funds to the Great Lakes Aquarium and distributing the estimated 2006 tourism taxes of hotel-motel and food and beverage, was introduced for discussion.

Councilors Gilbert and Stover opposed the part of the resolution appropriating additional funds to the Great Lakes Aquarium (GLA), citing reasons of: this implies that the city will annually provide this subsidy; this amount will increase each year; the city has no review of their budget; without this expenditure, more funds could be put into the general fund; the aquarium is a tax exempt entity and should be soliciting grants and other projects affecting more tourists could be done with these funds.

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

Patrick Schoff, member of the Lake Superior Authority, noted that the GLA has grant proposals out for approximately \$1.8 million and that they have received grants.

Ken Buehler, executive director of the St. Louis County Heritage and Arts Center (the Depot), expressed appreciation for the funding that is being proposed for the Depot. He noted that this amount is the same as last year, the events that occurred this past year and the pursuit of rail service to the Twin Cities.

Councilor Gilbert moved to split the resolution to address the additional funding to the GLA separately from the balance of the resolution, which motion was seconded and failed.

Resolution 05-0833 was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, there is available fund balance in the tourism tax fund of the city of Duluth; and

WHEREAS, the city desires to assist the Great Lakes Aquarium in stabilizing their finances;

NOW, THEREFORE, BE IT RESOLVED, that \$100,000 in additional funds be allocated to the Great Lakes Aquarium beyond the amount accorded below; this source coming from the unreserved, undesignated fund balance in the tourism tax fund.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

FURTHER RESOLVED, that the 2006 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3% Hotel-Motel	1% Hotel-Motel	1.5% Food & Beverage	Additional 2.5% Hotel-Motel	TOTAL
Duluth public arts commission			\$20,000	\$10,000	\$30,000
Sister cities			\$22,000	\$12,000	\$34,000
DECC	\$816,300				\$816,300
Convention & Visitors Bureau	\$439,600	\$150,100	\$554,200	\$137,500	\$1,281,400
Historical Union Depot		\$88,200	\$54,600	\$14,200	\$157,000
Donations			\$50,000		\$50,000
To general fund	\$66,100	\$198,800	\$541,800	\$224,800	\$1,031,500
Spirit Mountain debt service			\$225,000		\$225,000
To debt service			\$891,200	\$620,500	\$1,511,700
Great Lakes Aquarium		\$14,400	\$141,200	\$15,200	\$170,800
TOTALS	\$1,322,000	\$451,500	\$2,500,000	\$1,034,200	\$5,307,700

Resolution 05-0833 was adopted upon the following vote:

Yeas: Councilors Atkins, Johnson, Reinert, Stauber, Stewart and President Ness -- 6

Nays: Councilors Gilbert, Little and Stover -- 3

Approved December 19, 2005

HERB W. BERGSON, Mayor

Resolution 05-0863, by Councilor Stauber, appropriating tourism tax fund balance in the amount of \$31,116 for the purchase of green covers, was introduced for discussion.

Councilor Stauber expressed opposition to the resolution because: this spring the council was told that the golf courses would turn a profit; two professionals were hired at \$90,000 each, instead of the one that was previously hired; the loan on the golf course improvements was extended; the mayor lowered the cost for season passes; the tourism tax should not be used here because local residents use these courses, not the tourists and the golf courses should pay for these items, not the taxpayers.

Resolution 05-0863 was adopted as follows:

BY COUNCILOR STAUBER:

WHEREAS, there is an available fund balance in the tourism taxes fund of the city of Duluth; and

WHEREAS, the city desires to improve its tourist related facilities by purchasing green covers for the city's golf courses.

NOW, THEREFORE, BE IT RESOLVED, that \$31,116 be allocated to Golf Fund 503 from existing fund balances in Tourism Tax Fund 258 for the purchase of green covers.

Resolution 05-0863 was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Atkins and Stauber -- 2
Approved December 19, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR STEWART:

RESOLVED, that the city is hereby authorized to execute agreements with Blue Cross and Blue Shield of Minnesota under which that company will provide administrative services and stop loss insurance to the city group health plan during calendar year 2006 for an administrative fee of \$27.85 per single employee or per family per month and a fee for stop loss coverage of \$11.53 per single employee per month and \$30.80 per family per month, for an estimated cost of \$1,090,038, and under which that company will provide a Blue Print for Health-Care Support program for an estimated cost of \$172,636, for a total estimated cost of \$1,262,674, which all shall be paid from the group health fund.

Resolution 05-0885 was unanimously adopted.

Approved December 19, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

BE IT RESOLVED, that the city of Duluth (the city) act as the legal sponsor for project(s) contained in the redevelopment grant program to be submitted on December 31, 2005, and that the mayor and the city clerk are hereby authorized to apply to the department of employment and economic development for a grant in the amount of up to \$1,150,000 for funding of this project on behalf of the Duluth Heritage Sports Center.

BE IT FURTHER RESOLVED, that the city 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 city hereby commits to provide up to \$1,150,000 in matching funds, payable from the Community Investment Trust Fund 256, the capital improvements general fund, the insurance proceeds received due to the Peterson fire to fund the local share of the project and the street improvement program fund (pursuant to our five-year capital improvement fund).

BE IT FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, may enter into a grant agreement with the state of Minnesota for the above referenced project(s) and that the city certifies that it will comply with all applicable laws and regulation as stated in the grant agreement(s).

Resolution 05-0862 was unanimously adopted.

Approved December 19, 2005
HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

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 1 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 slum 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 FY 2006 action plan portion of the FY 2005-2009 city of Duluth Consolidated Plan for Housing and Community Development 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 05-0865 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 hereby makes a finding that expenditures as set forth in resolutions 05-0866 and 05-0867 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

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 and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 05-0864 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0865, by Councilor Gilbert, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2006 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies, was introduced for discussion.

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

Terri Roeber expressed support for funding the Housing Access Center program, citing the need for housing assistance.

Suzanna Didier expressed support for funding the Grant School Collaborative, citing the need for youth programs.

Rachel Kincad expressed support for funding the Life House, citing the need for youth programs.

Maria Danz expressed support for funding the Womens Community Development Organization, citing the need for transitional housing services.

Resolution 05-0865 was adopted as follows:

BY COUNCILOR GILBERT:

WHEREAS, City Council Resolution No. 05-0864, adopted December 19, 2005, approved the FY 2006 action plan portion of the Duluth consolidated plan for housing and community development FY 2005-2009; 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).

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:

2006 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262 PROJECT CD06CD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

SUB PROJECT	ACTIVITY	AMOUNT	PROJECTS
HOUSING PROJECTS			
HOUS	2239	\$ 97,150	Single-family purchase/rehabilitation program - NHS
HOUS	1291	\$ 21,600	HOPE VI individual development account - Community Action Duluth
HOUS	1734	\$ 741,010	Duluth property rehabilitation program - HRA/NCLT
HOUS	1091	\$ 242,000	Duluth weatherization program - AEOA
HOUS	2270	\$ 150,000	Deconstruction/reconstruction - NCLT
HOUS	4143	\$ 25,000	Supportive housing development - ASI
ECONOMIC DEVELOPMENT PROJECT			
ECDV	1244	\$ 47,096	Lifecyclers - CHUMWorks
PUBLIC FACILITY IMPROVEMENT PROJECTS			
PFAC	PF01	\$ 286,725	West Duluth police station
PFAC	PF02	\$ 177,900	Downtown accessibility - Phase III
PFAC	PF03	\$ 64,000	CD target area street assistance program
PFAC	PF04	\$ 91,016	Interior floor renovation - Sacred Heart Music Center
PFAC	PF06	\$ 25,350	West Third Street lighting project
PFAC	PF08	\$ 80,000	Morgan Park street improvements -Phase III
PUBLIC SERVICE PROJECTS			
PSVC	1244	\$ 57,000	Duluth hunger project - CHUM
PSVC	1929	\$ 59,800	Primary health care for low-income people - LSCHC
PSVC	1348	\$ 12,000	Clothes That Work - Damiano Center
PSVC	1735	\$ 32,000	Tenant/landlord counseling - HAC
PSVC	1974	\$ 15,000	Youth center - Life House
PSVC	2001	\$ 11,000	Renaissance transitional living program - LSS
PSVC	2509	\$ 24,700	Shelter program - Safe Haven Shelter for Battered Women
PSVC	251A	\$ 23,500	Family transitional housing - Salvation Army
PSVC	2109	\$ 12,000	Veterans Outreach North
PSVC	2804	\$ 23,500	Transitional housing - WCDO
PSVC	1168	\$ 25,900	Bridging the Digital Divide - Boys and Girls Club

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

SUB PROJECT	ACTIVITY	AMOUNT	PROJECTS
PSVC	1645	\$ 13,900	Youth enrichment program - Grant Collaborative
PSVC	2805	\$ 24,000	Activity center - Neighborhood Youth Services
PSVC	2755	\$ 17,900	Youth development - Valley Youth Center
PSVC	2810	\$ 26,000	Mentor Duluth - YMCA
PSVC	2811	\$ 15,900	Girls and youth program - YWCA
PSVC	1346	\$ 23,500	Opportunities Cooking - Damiano Center
PSVC	2412	\$ 23,500	Career development - Project SOAR
PLANNING/PROGRAM ADMINISTRATION			
ADMC	AD01	\$ 438,000	Program administration
ADMC	AD02	\$ 50,000	Neighborhood planning
ADMC	ADO3	\$ 62,653	Contingency
		\$3,040,600	Total

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING		
Year 2006	CDBG grant - city	\$2,940,600
Year 2004	CDBG grant - city	\$ 100,000
Total		\$3,040,600

BE IT FURTHER RESOLVED, that the proper city officials are authorized to make the following transfers in prior year community development accounts:

2004 CD04CD				
PFAC-PFO3	Downtown accessibility Phase II	\$101,000	-\$30,702	\$ 70,298
ADMC-AD03	Contingency	\$ 13,552	-\$13,552	\$ -0-
2220	Deferred revenue	\$ 55,746	-\$55,746	\$ -0-
\$100,000 - 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.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

execute the appropriate agreements with these agencies upon receipt of HUD funds.
 Resolution 05-0865 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, City Council Resolution No. 05-0854, adopted December 19, 2005, approved the FY 2006 action plan portion of the Duluth consolidated plan for housing and community development FY 2005-2009; 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).

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:

2006 HOME PROGRAM - FUND 260, PROJECT CD06HM			
SUB PROJECT	ACTIVITY	PROJECTS	AMOUNT
GN06	1734	MURL housing program - HRA	\$ 92,460
GN06	2271	New construction - NCLT City Homes Phase V	\$192,460
GN06	1735	Homeowner property rehabilitation - HRA/NCLT	\$242,450
GN06	4143	Supportive housing development - ASI	\$ 42,460
GNO6	AD01	Program administration	\$ 76,600
CH06	2270	City Homes - Phase VI pre-development - NCLT	\$ 16,000
CH06	1050	Technical assistance for CHDO - AICHO	\$ 9,300
CH06	1226	San Marco Apartments - CCHC	\$123,346
CH06	2805	Pre-development - WCDO	\$ 13,000
		Total	\$808,076

BE IT FURTHER RESOLVED, the following are hereby designated as the financial sources for the above program:

Year 2006 HOME grant	\$766,190
Program income - HOME	41,886
Total	\$808,076

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 05-0866 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR GILBERT:

WHEREAS, City Council Resolution No. 05-0864R, adopted December 19, 2005, approved the FY 2006 Action Plan portion of the Duluth Consolidated Plan for Housing and Community Development FY 2005-2009; 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

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:

2006 ESG PROGRAM - FUND 260, PROJECT CD06ES		<u>AMOUNT</u>
<u>SUBPROJECT</u>	<u>PROJECTS</u>	
	1244 CHUM Stabilization Services for Homeless	\$ 29,000
	2804 Transitional Housing - WCDO	\$ 18,650
	2509 Safe Haven Shelter	\$ 20,100
	1974 Life House, Harbor House	\$ 14,750
	2109 Veterans Outreach North	\$ 5,400
	2511 Salvation Army	\$ 24,700
	1050 AICHO - Dabinoo'Igan	\$ 4,000
	2001 LSS, Renaissance Trans. Living Program	\$ 2,150
AD01	Administration	\$ 6,250
Total		\$125,000

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

	<u>Source of Funding</u>		
2006 ESGP Grant			\$125,000

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.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 05-0867 was unanimously adopted.
 Approved December 19, 2005
 HERB W. BERGSON, Mayor

- - -

BY COUNCILOR ATKINS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that draft contract on file in the office of the city clerk as Public Document No. 05-1219-29, with, and accept funds from, St. Louis County to provide Minnesota family investment programs and diversionary work program employment and training services, in the amount of \$1,036,032 for the period January 1, 2006, to December 31, 2006. Monies received under this agreement will be deposited in Fund 268.

Resolution 05-0848 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0884, by President Ness, accepting the report of the post employment health care benefits task force and beginning implementation of its recommendations, was introduced for discussion.

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

Ken Loeffler-Kemp, AFSCME business agent, spoke in support of the resolution while also noting the suggestions and concessions made by employees.

Marlene Hart, Minnesota Citizen Federation of Northeast Minnesota, spoke in support of the resolution, noting in particular the support for purchasing prescriptions from Canada and coordinating the management of the program with St. Louis County.

Tom Maida, vice president of the Duluth Police Union local, voiced support for the resolution.

Resolution 05-0884 was adopted as follows:

BY PRESIDENT NESS:

The city of Duluth finds as follows:

(a) By resolution, the post employment health care benefits task force was appointed by the Duluth City Council to report findings and recommendations to the city regarding the impending financial problems and challenges related to delivery of retiree health care benefits;

(b) The task force presented a complete and comprehensive plan for solving the problem to the council on December 12, 2005;

(c) Task force members Don Bye, David Lindstrom, John Nys, Allan Winters and task force chair Arend Sandbulte have collectively dedicated over 1,000 hours of volunteer time to this report;

(d) The Duluth City Council recognizes and appreciates the experience, dedication, knowledge and expertise of the task force members and their extraordinary efforts on behalf of the city and its citizens;

(e) According to the most recent actuarial valuation, the current unfunded liability facing the city is about \$280 million dollars and, if responsible corrective action is not taken, this number is expected to grow to over \$300 million by January 1, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby accepts and endorses the post employment health care benefits task force report as presented on December 12, 2005.

BE IT FURTHER RESOLVED, that the Duluth City Council requests that the mayor and his administration also endorse the report and work closely with the council to implement its recommendations or equivalent.

BE IT FURTHER RESOLVED, that the council seeks to implement the task force's recommendations or equivalent by December 31, 2006.

BE IT FURTHER RESOLVED, that the council requests that the administration prepare monthly progress reports that addresses each task force recommendation for each month of 2006.

BE IT FURTHER RESOLVED, that the council asks for the good faith, cooperation and shared sacrifice from all interested parties in order to address this issue.

BE IT FURTHER RESOLVED, that the council views past, present and future employees of the city of Duluth as partners in solving the most pressing local financial issue of

our time; we recognize the significant personal sacrifices being called for and we greatly appreciate any efforts to help solve this problem; and in this spirit, the council anticipates a strong and positive working relationship with all parties to quickly and decisively take action to create a sustainable benefit plan for years to come.

Resolution 05-0884 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

BY COUNCILOR LITTLE:

RESOLVED, that the city of Duluth accepts the gift of \$10,000 from the estate of Mary Lou Krotty and conditions thereon as expressed in the will, for use for the city animal shelter and, on behalf of the city, thanks Mary Lou Krotty for her generous gift and her interest in the city animal shelter; gift to be deposited in Fund 210-030-3120-4660.

Resolution 05-0875 was unanimously adopted.

Approved December 19, 2005

HERB W. BERGSON, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

BY COUNCILOR STEWART

05-060 - AN ORDINANCE AMENDING CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED; ADDING ARTICLE XXXIV - MINIMUM REQUIREMENTS FOR A DEVELOPMENT AGREEMENT.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR STAUBER

05-054 (9760) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2005 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

Councilor Stauber stated that he would not support the ordinance because: the administration overspent the current approved budget; this change again is coming to the council at the "11th hour" to cover overspending; the administration is stating that the hiring freeze necessitated more overtime and the state auditor has repeatedly raised a "red flag" on the amount of overtime.

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

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

Nays: Councilors Atkins, Little and Stauber -- 3

- - -

BY COUNCILOR STAUBER

05-055 (9761) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2006 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilors Stauber and Little stated that they would not support the ordinance, citing reasons of: no appropriation as been set aside for the employee retirees health care liability and the amount of overtime that is budgeted.

Administrative Assistant Almanza stated that there are funds set aside in the health care reserve fund and when the legislation is approved to establish an irrevocable trust, the funds would be transferred.

Councilor Stauber moved to amend the ordinance by removing \$215,000 from the capital improvement program, Fund 700, which motion was seconded and discussed.

Councilor Stauber stated that the \$215,000 appropriated for the improvements to the Indian Point Campground washroom facilities could be better used somewhere else.

The amendment failed as follows:

Yeas: Councilors Atkins, Little and Stauber -- 3

Nays: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6

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

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

BY COUNCILOR STAUBER

05-056 (9762) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2006.

Councilor Stauber expressed that he would not support this ordinance because the rate of this increase is greater than the CPR index for urban consumers and there is room for efficiencies.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

BY COUNCILOR STAUBER

05-057 (9763) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2006.

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

BY COUNCILOR STAUBER

05-058 (9764) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH SEAWAY PORT AUTHORITY, FOR THE YEAR 2006.

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

BY COUNCILOR STEWART

05-059 (9765) - AN ORDINANCE PERTAINING TO RESTAURANTS; AMENDING SECTION 8-13 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

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

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9760

BY COUNCILOR STAUBER:

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR THE YEAR 2005 INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 9707 passed and approved December 20, 2004, is hereby amended by appropriating an additional \$600,000 from the general fund's excess revenues in investment earnings in the amount of \$600,000 as follows:

Department 100 - fire	\$150,000
Department 200 - police	\$250,000
Department 500 - public works	\$200,000

Section 2. That this ordinance shall take effect immediately upon its passage. (Effective date: December 19, 2005)

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

Yeas: Councilors Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 6
Nays: Councilors Atkins, Little and Stauber-- 3

Passed December 19, 2005
Approved December 19 2005
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 9761

BY COUNCILOR STAUBER:

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2006 APPROPRIATION MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2006, 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 administrative assistant or his designee.

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

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

approval of the finance director.

Section 2. That the finance director be authorized to approve the payments of \$3,975,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$3,887,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$88,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the administrative assistant or his designees 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. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 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 2006.

010 - LEGISLATIVE AND EXECUTIVE		
1101	City council - total	\$ 148,300
1102	Mayor's office - total	175,000
1103	Administrative assistant	391,800
1104	Attorney's office - total	1,346,800
1105	Human rights office - total	156,500
	Total legislative and executive	\$2,218,400

015 - ADMINISTRATIVE SERVICES		
1510	Human resources - total	\$ 704,000
1511	Budget - total	241,700
1512	City clerk - total	567,000
1514	Management information systems - total	1,425,900
1515	Facilities management - total	4,378,300
1516	Architect's office	205,300
	Total administrative services	\$7,522,200

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

020 - PLANNING AND DEVELOPMENT DEPARTMENT		
	Urban development - total	\$586,400
	Total planning department	\$586,400

030 - FINANCE		
1322	City assessor's office - total	\$ 811,900
1324	City auditor's office - total	1,300,500
1325	Purchasing office - total	311,200
1327	City treasurer's office - total	369,600
	Total finance and records	\$2,793,200

100 - FIRE DEPARTMENT		
1501	Fire administration - total	\$ 431,300
1502	Firefighting operations - total	13,236,300
1503	Fire prevention and training - total	510,300
1504	Building safety - total	1,839,900
	Total fire department	\$16,017,800

200 - POLICE DEPARTMENT		
1610	Police support services - total	\$ 6,517,000
1620	Police uniform division - total	8,553,800
	Total police department	\$15,070,800

300 - LIBRARY		
1702	Library services - total	\$3,809,200
1703	Buildings and equipment - total	237,800
	Total library	\$4,047,000

400 - PARKS AND RECREATION		
1812	Recreation and senior services - total	\$1,501,100
1814	Zoo - total	1,053,500
	Total parks and recreation	\$2,554,600

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

500 - PUBLIC WORKS		
1900	Director's office - total	\$ 62,000
1920	Maintenance - total	7,098,100
1930	Transportation engineering services - total	2,468,500
	Total public works	\$9,628,600

700 - TRANSFERS AND OTHER FUNCTIONS		
	Total transfers and other functions	\$14,570,400

PUBLIC ENTERPRISE		
503	Golf Fund - total	\$2,098,700

PUBLIC UTILITIES		
510	Water fund - total	\$12,992,300
520	Gas fund - total	54,529,000
530	Sewer fund - total	17,185,200
535	Stormwater fund - total	4,561,400
540	Steam fund - total	4,492,600

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

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

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

Section 10. That this ordinance shall take effect January 1, 2006.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Reinert, Stewart, Stover and President Ness -- 7

Nays: Councilors Little and Stauber -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 19, 2005
Approved December 19, 2005
HERB W. BERGSON, Mayor

- - -

ORDINANCE NO. 9762

BY COUNCILOR STAUBER:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2006.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2006 for general operations is hereby determined to be the sum of \$11,102,100 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$6,917,200.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$3,532,100.

Section 4. For the pay of debt for the Duluth transit bonds, there will be levied the sum of \$157,800.

Section 5. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$495,000.

Section 6. That this ordinance shall take effect January 1, 2006.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stewart, Stover and President Ness -- 8

Nays: Councilor Stauber -- 1

Passed December 19, 2005
Approved December 19, 2005
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9763

BY COUNCILOR STAUBER:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH
TRANSIT AUTHORITY, FOR THE YEAR 2006.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2006 for Duluth transit authority taxing district's operations is hereby determined to be the sum of \$1,316,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

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

Section 3. That this ordinance shall take effect January 1, 2006.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 19, 2005
Approved December 19, 2005
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 9764

BY COUNCILOR STAUBER:

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY

TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH
SEAWAY PORT AUTHORITY, FOR THE YEAR 2006.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2006 for Duluth Seaway Port authority taxing district's operations is hereby determined to be the sum of \$775,400 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458.15, there will be levied for the purpose of providing the Duluth Seaway Port authority special taxing district the sum of \$775,400.

Section 3. That this ordinance shall take effect January 1, 2006.

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

Passed December 19, 2005
Approved December 19, 2005
HERB W. BERGSON, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 9765

BY COUNCILOR STEWART:

AN ORDINANCE PERTAINING TO RESTAURANTS; AMENDING
SECTION 8-13 OF THE DULUTH CITY CODE, 1959, AS
AMENDED.

The city of Duluth does ordain:

Section 1. That Section 8-13 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-13. Definitions.

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

Alcoholic beverages. Distilled, fermented, spirituous, vinous, and malt beverages containing .5 percent or more of ethyl alcohol by weight which are potable for consumption by human beings.

At retail. Such term means for use or consumption by the purchaser and not for resale.

Bed and breakfast establishment. Any bed and breakfast inn authorized by Section 50-35 of this Code or other residential, owner occupied, historically or architecturally unique, overnight lodging facility that serves meals to its guests and which is authorized or allowed by local law and is found by the alcoholic beverage board to be the functional equivalent of a bed and breakfast inn.

Club. Any corporation duly organized under the laws of the state for civic, fraternal, social or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization which shall have more than 50 members and which shall, for more than a year, have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, whose affairs and management are conducted by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees is paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Exclusive liquor store. An establishment used exclusively for the sale of intoxicating liquor for consumption off or away from the licensed premises where sold, and the sale of ice, soft drinks, and cigarettes.

Hotel. Any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains not less than 50 guest rooms with bedding and other suitable and necessary furnishings in each room, which is provided with a suitable lobby, desk and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and the usual service and which maintains, under the same management and control as the rest of the establishment and has as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time and where the general public is, in consideration of payment therefor, served with meals at tables.

Intoxicating liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Manufacturer. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces intoxicating liquors for sale.

Malt liquor. Any beer, ale or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

3.2 percent malt liquor. Any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Off sale. The sale of alcoholic beverages in original packages in retail stores for consumption off or away from the premises where sold.

On sale. The sale of alcoholic beverages by the glass for consumption on the premises only.

Package or original package. Any container or receptacle holding alcoholic beverages, which container or receptacle is corked or sealed.

Public place. Any place that the general public can occupy as a matter of right or any place that is open to the general public by invitation, either for business purposes or otherwise.

Restaurant. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals and for seating not less than 25 guests at one time and where, in consideration of payment therefor, meals are regularly served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests and a principal part of the business of which is the serving of foods. One or more bowling alleys may be included in the licensed premises of a restaurant if table service is available throughout the licensed premises.

Sale, sell, dispense or sold. All barter and all manners or means of furnishing alcoholic beverages for a consideration. Such term shall include all transactions, whether for cash, credit or other considerations and shall include transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is called a "donation" or used to purchase any ticket, token, or other object redeemable for alcoholic beverages.

Wholesaler. Any person engaged in the business of selling alcoholic beverages to retail dealers.

Wine. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2005

sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined by Minnesota Statutes, Chapter 340A.101, Subd. 9.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 22, 2006)

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

Yeas: Councilors Atkins, Gilbert, Johnson, Little, Reinert, Stauber, Stewart, Stover and President Ness -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 19, 2005
Approved December 19, 2005
HERB W. BERGSON, Mayor

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OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Wednesday, December 28, 2005, 4:05 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gilbert, Johnson, Stauber, Stewart, Stover and President Ness -- 6

Absent: Councilors Atkins, Little and Reinert -- 3

- - -

RESOLUTION TABLED

Councilor Gilbert moved to remove Resolution 05-0700, reversing the decision of the board of zoning appeals to deny a variance to reduce the minimum corner side yard setback requirement from 20 feet to ten feet for the construction of a 904 square foot addition to an existing 576 square foot detached garage on property located at 322 North 80th Avenue West, from the table, which motion was seconded and carried upon a unanimous vote.

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MOTIONS AND RESOLUTIONS

President Ness moved to suspend the rules to consider Resolution 05-0886, affirming the board of zoning appeals to deny a variance to reduce the minimum corner side yard setback requirement from 20 feet to ten feet for the construction of a 904 square foot addition to an existing 576 square foot detached garage on property located at 322 North 80th Avenue West, at this time, which motion was seconded and unanimously carried.

Responding to Councilor Stewart regarding the process for reconsidering issues that have already been voted on, City Attorney Brown stated that since no one on the prevailing side of the resolution that was defeated at the last council meeting is willing to reconsider the resolution, any councilor can introduce a new resolution at any time to consider the issue again.

Councilor Gilbert moved to amend the resolution to add the words "and any previous resolution in conflict with this resolution is overruled" at the end of the second paragraph, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

Nays: Councilor Stauber -- 1

Absent: Councilors Atkins, Little and Reinert -- 3

Resolution 05-0886, as amended, was adopted as follows:

BY PRESIDENT NESS:

BE IT RESOLVED, that the council has heard the appeal of David Mark Ridgewell of the decision of the board of zoning appeals denying the applicant's variance request and finds that there does not exist factors or circumstances that are unique to the subject property which cause the applicant, through no act of his own, from enjoying a reasonable use of the property because the site is of sufficient dimension to allow a reasonably sized addition to the existing structure to meet the setback requirements imposed on it by the Code.

BE IT FURTHER RESOLVED; that the board of zoning appeals' decision of September 27, 2005, is hereby affirmed by the city council and any previous resolution in conflict with this resolution is overruled.

Resolution 05-0886, as amended, was adopted upon the following vote:

Yeas: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

Nays: Councilor Stauber -- 1

Absent: Councilors Atkins, Little and Reinert -- 3

Approved December 28, 2005

HERB W. BERGSON, Mayor

- - -

Resolution 05-0700 failed upon the following vote (Public Document No. 05-1228-01):

Yeas: Councilor Stauber -- 1

Nays: Councilors Gilbert, Johnson, Stewart, Stover and President Ness -- 5

Absent: Councilors Atkins, Little and Reinert -- 3

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Resolution 05-0887, by President Ness, of intent to transfer land to Salvation Army, was introduced for discussion.

Councilors discussed why it is necessary for this resolution to be considered at this meeting since the deadline for submission of the Salvation Army's application for the Kroc Center is not until February 1, 2006. Several councilors stated they were uncomfortable voting for this resolution without hearing from the Salvation Army and knowing exactly what activities the proposed Kroc Center will provide for.

President Ness moved to table the resolution, which motion was carried upon the following vote:

Yeas: Councilors Gilbert, Johnson, Stover and President Ness -- 4

Nays: Councilors Stauber and Stewart -- 2

Absent: Councilors Atkins, Little and Reinert -- 3

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The meeting was adjourned at 4:20 p.m.

JEFFREY J. COX, City Clerk